

NOVA SCOTIA COURT OF APPEAL

Citation: Aulenback v. Trans Canada Credit Corp., 2006 NSCA 128

Date: 20061121

Docket: CA 266242

Registry: Halifax

Between:

Percy W. Aulenback

Appellant

v.

Trans Canada Credit Corporation and 3038081 Nova Scotia Limited

Respondents

Judges: Roscoe, Bateman and Oland, JJ.A,

Appeal Heard: November 21, 2006, in Halifax, Nova Scotia

Written Judgment: November 23, 2006

Held: Appeal dismissed with costs to the respondents in the amount of \$750 each plus disbursements per reasons for judgment of Roscoe, J.A., Bateman and Oland, JJ.A. concurring.

Counsel: Victor J. Goldberg and Martha Mann, for the appellant
Mark A. Taylor, for the Trans Canada Credit Corporation
Jason T. Cooke, for 3038081 Nova Scotia Limited

Reasons for judgment: (Orally)

[1] This is an appeal from a decision of Justice A. David MacAdam dismissing the appellant's application to set aside a foreclosure sale several months after the sale had been confirmed by the Supreme Court. The decision under appeal is reported as 2006 NSSC 141; [2006] N.S.J. No. 188 (Q.L.)

[2] The background facts are set out in Justice MacAdam's decision and need not be duplicated here.

[3] The appellant's main contention is that the Sheriff erred in selling the three properties subject to the foreclosed mortgages *en bloc* rather than selling each of the properties separately and that Justice MacAdam erred in not declaring the sale to be a nullity.

[4] It is clear from his decision that the chambers judge carefully considered the evidence and the appellant's arguments and properly applied the relevant legal principles. We have reviewed the record and considered the oral and written submissions of counsel and conclude that the chambers judge did not make any error justifying appellate intervention.

[5] The appeal is therefore dismissed with costs to the respondents in the amount of \$750 each plus disbursements.

Roscoe, J.A.

Concurring:

Bateman, J.A.

Oland, J.A.