

NOVA SCOTIA COURT OF APPEAL

Citation: Thomas v. Cottam; Thomas v. Taylor, 2006 NSCA 134

Date: 20061213

Docket: CA 268483
and CA 268484

Registry: Halifax

Between:

Wayne Michiel Thomas, Deborah Morash and Marilyn Peters

Appellants

v.

Moira Claire Cottam, The Attorney General of Nova Scotia and The Attorney
General of Canada

Respondents

AND

Between:

Wayne Michiel Thomas, Deborah Morash and Marilyn Peters

Appellants

v.

Sonja Taylor, The Attorney General of Nova Scotia and The Attorney General of
Canada

Respondents

Judge: The Honourable Justice Roscoe

Appeal Heard: December 8, 2006

Subject: Real Property, **Quieting Titles Act**, R.S.N.S. 1989 c.382, s. 10,
application to be added as defendant.

Summary: The applicants sought to be added as defendants in two applications
by the plaintiffs for certificates of title pursuant to the **Quieting Titles
Act**. Their contention that they should be added as defendants was
based on four claims:

- a. rectification of a 1907 deed;
- b. public dedication of the lands;
- c. adverse possession;

d. prescriptive right of way

The Chambers judge dismissed the applications after concluding that it was clear that the applicants had no right, title, claim or legally protected interest in the lands claimed by the plaintiffs. The applicants appealed.

- Issues:**
1. Did the Chambers judge err in stating the test on an application to be added as a defendant in a quieting of titles application?
 2. Did the Chambers judge err in finding that the appellants did not satisfy the test in this case?

Result: Appeal dismissed.

1. An applicant wishing to be joined as a defendant must demonstrate that he has some evidence to prove an interest in land. If, in the context of the abstract of title, that evidence is clearly insufficient to establish an interest he should not be joined as a defendant.
2. In this case, in the context of the abstract of title, none of the contentions of the appellants met the test.

This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 12 pages.