

**NOVA SCOTIA COURT OF APPEAL**

**Citation:** *Chapman v. C. A. Realty, in Bankruptcy*, 2018 NSCA 81

**Date:** 20181018

**Docket:** CA 470539

**Registry:** Halifax

**Between:**

Avis E. Chapman

Appellant

v.

C.A. Realty, in Bankruptcy,  
Nova Scotia Power Inc., a body corporate

Respondents

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- Judge:** The Honourable Justice Jamie W.S. Saunders
- Appeal Heard:** September 18, 2018, in Halifax, Nova Scotia
- Subject:** **Conveyancing. Ambiguity. Extrinsic Evidence. Easement. Rights-of-Way. Survey. Expert Opinion. Encroachment. Caveat Emptor. Damages. Standard of Review. Procedure. Supplementing the Record. Costs.**
- Summary:** The appellant sued her neighbour as well as Nova Scotia Power Inc. seeking damages for obstruction and encroachment over two rights-of-way she claimed exclusively as her own. After a 3-day trial the judge dismissed her claim. She appealed alleging various errors by the trial judge in accepting, interpreting and relying upon certain witness's testimony.
- Held:** Appeal dismissed. The overwhelming evidence offered at trial, and accepted by the trial judge, confirmed the location of the boundary and the right-of-way, lending full support to the judge's rejection of the appellant's claims. The judge's comprehensive analysis and conclusions were firmly rooted in

the record and were not the product of any palpable and overriding error.

Although the judge's application of *caveat emptor* in this case amounted to an error of law, the single error had no bearing on the outcome, given the strength of the judge's many other reasons for dismissing the appellant's claim.

In light of the considerable wasted time, effort and expense NSPI was forced to incur in responding to the way in which the appellant presented her appeal, it was entitled to an award of costs.

***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 18 pages.***