

SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: Beaton v. MacNeil, 2011 NSSC 302

Date: 20110728

Docket: SFSNMCA65736

Registry: Sydney

Between:

Marlene Lucille Beaton

Applicant

v.

John Oswald MacNeil

Respondent

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Judge: The Honourable Justice Darryl W. Wilson

Heard: March 24-25, 2011, in Sydney, Nova Scotia

**Last Post-Trial
Submissions:** April 14, 2011

Subject: Family Law

Summary/Issues: Retroactive child maintenance - bankruptcy - declaration of ownership of property - resulting trust - unjust enrichment - constructive trust - return of personal property

Result: Retroactive child maintenance ordered. (1) Ms. Beaton is entitled to a declaration that she is the owner of 38 King Street. (2) Mr. MacNeil is entitled to a declaration that Ms. Beaton was holding 25 Queen Street in trust for him and the Trustee in Bankruptcy's title to 25 Queen Street is encumbered by Mr. MacNeil's resulting trust interest. The Trustee is to convey 25 Queen Street to Mr. MacNeil and return the money Ms. Beaton paid to purchase 25 Queen Street to her. Mr. MacNeil is to retain the rental income for 25 Queen Street and is responsible for all municipal taxes and water rates associated with the property. (3) Ms. Beaton has not established an unjust enrichment claim respecting the remaining assets being held by Mr. MacNeil. (4) Ms. Beaton is to transfer possession of, and her interest in, the 2007 Chrysler Sebring to Mr. MacNeil and sign the necessary documentation to effect such a transfer. (5) Ms. Beaton is to transfer possession of the baby barn, snowblower, lawnmower, furnace, tires and tools to Mr. MacNeil.

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