

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** Bain v. Nova Scotia (Attorney General), 2012 NSSC 355

**Date:** 20121010

**Docket:** Syd. No. 313233

**Registry:** Sydney, N.S.

Between:

SANDRA BAIN of Saint John, Province of New Brunswick, and LEOTHA SEALE, of  
Sydney Nova Scotia

Plaintiffs (Defendants by Counterclaim)

and

THE ATTORNEY GENERAL OF THE PROVINCE OF NOVA SCOTIA, representing  
Her Majesty the Queen in Right of the Province

Defendant

and

SCOTIA LIMESTONE LIMITED and LLOYD FRASER and PATRICIA FRASER

Defendants (Plaintiffs by Counterclaim)

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**Judge:** The Honourable Justice Patrick J. Murray

**Heard:** January 16<sup>th</sup>, 17<sup>th</sup>, 18<sup>th</sup>, 19<sup>th</sup> and 20<sup>th</sup>, 2012, in Sydney, N.S.

**Written**

**Decision:** October 10, 2012

**Subject:** Quieting of Titles Act R.S., c. 382, s. 1; Limitation of Actions Act,  
R.S.N.S., 1989, C. 258 and Adverse Possession

**Summary:** Two Plaintiffs each claimed a Certificate of Title on separate lots on basis  
of adverse possession, possessory title, limitation of actions.

**Issues:** Whether Plaintiffs established possession was open, notorious, continuous  
and exclusive to that of the true owner? Whether possession was with  
permission?

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**Result:** The possession of the Plaintiff, S. Bain, and her late mother (C. Bain) was with permission and therefore a Certificate of Title was not granted. The possession of the Plaintiff, L. Seale and her late husband (O. Seale), met the requirements for adverse possession. It had not been established that her occupation was with permission of the true owner. A Certificate of Title therefore was granted in respect of the Seale lot.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION. QUOTES MUST BE FROM THE DECISION, NOT THIS LIBRARY SHEET.***