

IN THE SUPREME COURT OF NOVA SCOTIA
Citation: MacNeil Estate, Re, 2003 NSSC 50

Date: 20021230
Docket: 188292
Registry: Truro

Between:

IN THE MATTER OF the Estate of John Forward MacNeil

- and -

IN THE MATTE R OF certain real property situate at
Civic Number 1835 West Branch Road, Welsford, Pictou County

LIBRARY HEADING

Judge: The Honourable Justice J. E. Scanlan

Heard: December 30, 2002, Truro, Nova Scotia

Oral Decision: December 30, 2002

Written Decision: March 3, 3003

Subject: Probate/Real property delivery of a deed

Summary: Deed executed by now deceased Grantor and left with his lawyer with specific instructions to counsel not to release the deed or do anything with the deed until further instructed by the client. The client did not give reason for the instruction not ro release the deed. He died a number of weeks later without having given instruction to release

the deed. Grantee now asks the court to declare that this was a valid deed and to order that it be released and recorded so as to effect a transfer of the real property.

Issues: Whether a deed signed by a now deceased Grantor effectively conveyed real property to Grantee

Result: Deceased Grantor's instructions to counsel are a clear indication that he did not intend delivery of the deed to be effected immediately upon execution of the deed even though the deed stated "Signed Sealed and Delivered". Court refused to grant the requested declaration.

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