

# In the Court of Appeal for the Northwest Territories

Citation: *Gruben v Gruben Estate*, 2023 NWTCA 2

Date: 2023 04 21

Docket: A1-AP-2022-000002

Registry: Yellowknife, N.W.T.

Between:

**Justin Gruben**

Appellant

- and -

**The Estate of Eddie Gruben and Maureen Gruben,  
in her capacity as Executrix of the Estate of Eddie Gruben**

Respondents

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The Court:

**The Honourable Justice Frans Slatter  
The Honourable Justice Bruce McDonald  
The Honourable Justice Kevin Feehan**

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## Memorandum of Judgment

Appeal from the Decision by  
The Honourable Justice K.M. Shaner  
Dated the 2nd day of March, 2022  
(2022 NWTSC 7, Docket: S1-CV 2018 000472)

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## Memorandum of Judgment

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### The Court:

[1] This appeal concerns the ownership of a house in Tuktoyaktuk, known as the Log House. The trial judge concluded that the Log House belonged to the estate of the late Eddie Gruben: *Gruben v Gruben Estate*, 2022 NWTSC 7.

[2] The Log House was always owned by the late Eddie Gruben, but for many years it was occupied by the family of his son James (also deceased), his widowed daughter-in-law Sharon, and his grandchildren including the claimant Justin Gruben. Eddie, however, left the Log House in his will to his daughter Edith, sister of his late son James.

[3] Justin, who is the residual heir of his late father James's estate, claims ownership by reason of an oral agreement between his father and his grandfather to exchange the Log House for another house known as the HBC House. However, the late Eddie Gruben owned both the Log House and the HBC House. The trial judge concluded that the evidence did not support the existence of an oral agreement whereby Eddie transferred or agreed to transfer ownership of the Log House to James. She held that on the evidence Eddie gave his permission to James and his family to live in the Log House, nothing more.

[4] Justin made an alternate claim in proprietary estoppel or unjust enrichment. The trial judge found that the only promise made was for "possession" of the Log House, and the appellant obtained that possession. The trial judge also concluded that Justin could not establish any detriment, because it was the corporation E. Gruben Transport Ltd that paid for most of the renovations that were said to create the proprietary estoppel or unjust enrichment. The appellant argues that the trial judge overlooked that the corporate accountants charged these expenses back to the shareholders, but there was also the factor that the family of James Gruben had occupied the house for many years without payment of rent.

[5] The alternative claim for adverse possession also failed, because it was clear that the possession of the Log House by James's family was not "adverse", because it was with Eddie's consent.

[6] The dismissal of Justin's claims turns entirely on findings of fact, which will not be disturbed on appeal absent palpable and overriding error. While the evidence of Russell Newmark was not directly contradicted, it was inconsistent with the fact that Eddie had title to both houses, and he purported to devise the Log House in his will. All of the trial judge's findings were available on the record, and they do not display any reviewable error. The reasons, while concise, are sufficient to disclose the trial judge's analysis.

[7] The appeal is accordingly dismissed. Since the respondents were not represented by counsel there will be no costs of the appeal.

Appeal heard on April 18, 2023

Memorandum filed at Yellowknife, NWT  
this 21st day of April, 2023

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Slatter J.A.

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Authorized to sign for: McDonald J.A.

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Feehan J.A.

**Appearances:**

R. O'Neill, K.C.  
for the Appellant

Respondents, Maureen Gruben and Estate of Eddie Gruben (self-represented litigants)

IN THE COURT OF APPEAL  
FOR THE NORTHWEST TERRITORIES

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