NOVA SCOTIA COURT OF APPEAL
Citation: *Keasbey (Re)*, 2019 NSCA 50

Date: 20190606
Docket: CA 483524
Registry: Halifax

Between:

Julia Newbold Keasbey

Appellant

v.

(no respondent)

Judges:	Farrar, Bryson and Van den Eynden, JJ.A.
Appeal Heard:	June 6, 2019, in Halifax, Nova Scotia
Written Release	June 7, 2019
Held:	Appeal dismissed per oral reasons for judgment of the Court.
Counsel:	G.F. Philip Romney, for the appellant

Reasons for judgment (Orally): (By the Court)

[1] By *Ex Parte* Application in the Supreme Court dated November 23, 2018, the appellant, Julia Newbold Keasbey, sought an order "declaring that she is the sole owner of real property situate at Marriott's Cove, Lunenburg County, Nova Scotia".

[2] In support of the application, Julia Keasbey filed her own affidavit dated December 31, 2017, and the affidavit of Barb L. Hatt, dated November 23, 2018, a legal assistant with the applicant's legal firm.

[3] It is not necessary to review the facts as set out in the affidavits in any detail. For the purposes of this appeal it is sufficient to say that by Deed dated June 11, 1925, Frederick W. Keasbey conveyed to his wife, Mary Howard Keasbey, the lands which are the subject of this application. Frederick Keasbey and Mary Keasbey are the grandparents of the applicant.

[4] There has been no deed registered at the Registry of Deeds in Lunenburg since June 11, 1925, which conveys the property out of Mary Keasbey.

[5] Julia Keasbey claims to be the only surviving member of the Keasbey family who would be entitled to ownership of the lands.

[6] Against this factual backdrop the appellant sought a declaration that she was the sole owner of the property based on either proprietary estoppel or deed rectification.

[7] The matter came on for hearing before Justice Robert W. Wright on December 6, 2018 in Bridgewater, Nova Scotia. He dismissed the matter summarily. He suggested to the applicant's counsel that the appropriate manner of proceeding would be either under the *Quieting of Titles Act*, R.S.N.S, 1989, c. 382 or a statutory declaration setting out the claim of title. With respect to the two arguments put forward by the applicant Justice Wright said:

> I'm not persuaded at all that either the doctrine of … rectification or a [proprietary] estoppel has any application here. Or no, I shouldn't say it hasn't any application. The evidence isn't there to sustain it.

[8] On January 18, 2019, an Order was issued dismissing the application.

[9] The appellant appeals from the Order and decision of Justice Wright.

[10] We are of the unanimous opinion that the application judge committed no error in coming to this conclusion.

[11] We agree that whatever application the doctrine of rectification or proprietary estoppel may have in this case, the record below is insufficient to grant a declaration of title based on either of those concepts.

[12] We would dismiss the appeal.

Farrar, J.A.

Bryson, J.A.

Van den Eynden, J.A.