

NOVA SCOTIA COURT OF APPEAL

Citation: *Cook v. MacAdam*, 2019 NSCA 52

Date: 20190611

Docket: CA 479553

Registry: Halifax

Between:

Maureena Cook (Dixon) and Terrence M. Dixon

Appellants

v.

Colin A. MacAdam and Heather Burton

Respondents

Judges: Farrar, Saunders and Bryson, JJ.A.

Appeal Heard: June 11, 2019, in Halifax, Nova Scotia

Held: Appeal dismissed with costs, per oral reasons for judgment of Bryson, J.A.; Farrar and Saunders, JJ.A. concurring

Counsel: Anna Manley and T.J. McKeough, for the appellants
Donald Macdonald, for the respondents

Reasons for judgment (Orally):

[1] We are unanimously of the view that the appeal should be dismissed.

[2] Acting as self-represented litigants at all material times when they trespassed on and damaged the property of the respondents, while claiming title to the respondents' land, and having later failed to file any evidence or appear before the hearing judge, the appellants now claim that their appeal should succeed because they do not really own the land on which they trespassed and the true owner was not made a party to the proceedings.

[3] The appellants say for the first time in this Court that the land occupied by the respondents and on which the appellants trespassed, is really owned by Lawrence Cook, the father and predecessor of the appellant, Maureena Cook (Dixon). Ms. Cook alleges that her father created an illegal subdivision prior to his purported conveyance to her in 1990.

[4] The appellants' assertion that Lawrence Cook owns the respondents' land contradicts Maureena Cook's admission in her Notice of Contest that she had told the respondents that she was owner of their property in 2016.

[5] Ms. Cook's novel argument is devoid of merit because the 1989 survey commissioned by her father which created the lot conveyed to Ms. Cook clearly shows an occupation line as the boundary between the Cook property and that of the respondents. No "remainder lot" was purportedly retained or created by the grantor at the time of the conveyance to Ms. Cook, as she now alleges. As the evidence before the hearing judge showed, the occupation line depicted on the 1989 survey recognizes more than 150 years of continuous, open and exclusive occupation and use of the lands in question by the respondents and their predecessors in title.

[6] Without in any way casting aspersions upon their counsel retained for the purposes of today's appeal, the conduct of these appellants has been disrespectful both of the rights of the respondents and of the process of the Court.

[7] The appeal is dismissed with costs of \$5,000.00, inclusive of disbursements.

Bryson, J.A

Concurred in:

Farrar, J.A.

Saunders, J.A.