

JOHNSON v. JOHNSON

1945

*May 2

ON APPEAL FROM THE SUPREME COURT OF NOVA SCOTIA
IN BANCO

Dispute between husband and wife as to ownership of land—Findings of fact below—Evidence—Accounting.

APPEAL by the plaintiff from the judgment of the Supreme Court of Nova Scotia *in banco* (1) dismissing his appeal from the judgment of Archibald J. dismissing his action and allowing the defendant's counterclaim. The plaintiff claimed that his wife, the defendant, held certain land as trustee for him. The defendant, besides disputing the plaintiff's claim, counterclaimed for an accounting in respect of moneys alleged to have been collected by the plaintiff as manager or agent of the defendant.

R. A. Ritchie for the appellant.

G. R. Ramey and *F. W. Bissett* for the respondent.

At the conclusion of the argument, the judgment of the Court was delivered orally by Kerwin J., dismissing the appeal with costs, subject to a variation (consented to by counsel for the parties) by striking out from the order of Archibald J. a certain part of it (being that part which ordered an accounting and a reference for taking accounts). On the question of the ownership of the land, this Court was of opinion that it could not interfere with the findings of fact below; and that, as to certain questions not permitted to be asked at the trial (and which, it was now admitted, should have been permitted), they would, if they had been answered, have had no effect upon the result.

Appeal dismissed with costs, subject to the variation aforesaid.

Solicitor for the appellant: *R. A. Ritchie*.

Solicitor for the respondent: *F. W. Bissett*.

*PRESENT:—Kerwin, Hudson, Rand, Kellock and Estey JJ.