

CANADA / JUDGMENT

De Jong v. Gechter et al.

[1978] 2 SCR 62**COURT**

Supreme Court of Canada

DECIDED

27 October 1977

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De Jong v. Gechter et al. Collection Supreme Court Judgments Date 1977-10-27 Report

[1978] 2 SCR 62 Judges Martland, Ronald; Ritchie, Roland Almon; Spence, Wishart Flett; Pigeon, Louis-Philippe; Dickson, Robert George Brian; Beetz, Jean; Pratte, Yves On appeal from Alberta Subjects Property law Decision Content Supreme Court of Canada De Jong v. Gechter et al., [1978] 2 S.C.R. 62 Date: 1977-10-27 Nick De Jong (Plaintiff) Appellant; and Bernhard Gechter and Raymonde Gechter (Defendants) Respondents. 1977: October 27. Present: Martland, Ritchie, Spence, Pigeon, Dickson, Beetz and Pratte JJ. ON APPEAL FROM THE SUPREME COURT OF ALBERTA, APPELLATE DIVISION Real property—Contract for sale of farm lands—Wife's refusal to acknowledge consent to disposition of homestead—Specific performance granted with severance of home quarter—The Dower Act, R.S.A. 1970 c. 114, s. 6. [Senstad v. Makus, [1978] 2 S.C.R. 44, referred to] APPEAL from a judgment of the Supreme Court of Alberta, Appellate Division^[1], allowing an appeal from a judgment of MacDonald J. Appeal allowed. E.W.N. Macdonald and R.B. Miskuski, for the plaintiff, appellant. D.J. Chernichen, for the defendants, respondents. The judgment of the Court was delivered orally by MARTLAND J.—We are all of the opinion that the basis on which the Appellate Division found the existence of an implied condition precedent cannot stand, particularly in the light of the reasons of this Court in Senstad v. Makus^[2], which were delivered after the judgment of the Appellate Division in the present case. The appeal is allowed the judgment of the Appellate Division is set aside and the judgment at trial is restored except that the time period fixed in para. 4 of that judgment is altered so as to provide for a period of one month from October 27, 1977. The appellant is entitled to costs in this Court and in the Court below. Judgment accordingly. Solicitors for the plaintiff, appellant: McClung, Frohlich & Rand, Edmonton. Solicitors for the defendants, respondents: Harradence & Co., Calgary.

[1] (1976), 1 Alta. L.R. (2d) 82.

[2] [1978] 2 S.C.R. 44.

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