



Case in Brief: **Hydro-Québec v. Matta**

Judgment of November 13, 2020 | On appeal from the Court of Appeal of Quebec
Neutral citation: 2020 SCC 37

Hydro-Québec could rely on permissions given in the decades before to build a new transmission line on people's land, the Supreme Court has unanimously ruled.

In recent years, Hydro-Québec worked to modernize its electricity system. In particular, it wanted to make Montreal's access to power more reliable. It also wanted to make sure there was enough electricity to meet people's needs in Terrebonne.

To do this, it needed to build a new transmission line. Transmission lines move high-voltage electricity over long distances. (The voltage gets lowered before it moves to regular power lines closer to where it will be used.) These kinds of lines have thicker cables and are held up by tall metal towers.

Building the transmission line would mean crossing parts of people's property. Hydro-Québec realized it would be easiest to put the transmission line somewhere it already had permission to.

Under Quebec's civil law rules, a "servitude" is a kind of permission to use someone else's property for a specific purpose. It's like an "easement" in the common law rules found in other provinces. Both servitudes and easements are recorded in the land registration system.

Hydro-Québec had close to 40,000 different servitudes on people's property. Many of these servitudes were very old. The servitudes that Hydro-Québec wanted to use to build the transmission line were from the 1970s. It originally got them through "expropriation" to build another transmission line. Expropriation is when government takes property, or some kind of right in that property, from owners. Owners usually get compensation when this happens. After the expropriation, Hydro-Québec came to agreements with the people who owned the land at the time. The agreements set out exactly what the permission was for, and how much Hydro-Québec would pay the owners. A first transmission line was built afterward.

In 2016, Hydro-Québec started working on its new project. Workers went to the properties that the transmission line would cross. They wanted to take measurements and get the land ready to build. Ms. Matta and the other property owners didn't let them do this. The property owners said the servitudes Hydro-Québec was relying on were only for the transmission line that was built in the 1970s. They said Hydro-Québec wasn't allowed to use those servitudes to build a new line.

The trial judge said Hydro-Québec could go ahead. The Court of Appeal said it couldn't, unless it got new servitudes. To get those, it could make new agreements with the owners or follow the usual process for expropriation.

All the judges at the Supreme Court said Hydro-Québec could go ahead. It said the Court of Appeal made a few mistakes. The Court of Appeal relied on evidence the parties didn't talk about, which it shouldn't have done. It also made an incorrect statement that affected the outcome of the case.

The Court said the agreements between Hydro-Québec and the property owners likely best captured everyone's understanding of what the servitudes covered. Servitudes that are gotten through expropriation can be changed by contract if everyone agrees. The agreements between Hydro-Québec and the owners were the documents that should be relied on.

The Supreme Court added that higher courts have a limited role. They aren't allowed to change a lower court's decision on the nature of an agreement simply because they disagree with it. They can only step in if there is a major and obvious mistake. In this case, there was none. The trial judge was right to say that the agreements reflected the permissions given by the servitudes. He was also right to say that these permissions let Hydro-Québec build its new transmission line on the owners' land. Therefore, the Court of Appeal should not have interfered with his decision.

There are different legal rules for when higher courts can or can't step in. These are called "standards of appellate review." Higher courts can step in more easily if the judge makes a mistake that's only about the law. They can't easily do this if it's a mistake about the facts or a combination of the law and the facts.

Breakdown of the decision: *Unanimous*: Justice Suzanne [Côté](#) allowed the appeal (Chief Justice [Wagner](#) and Justices [Abella](#), [Moldaver](#), [Karakatsanis](#), [Brown](#), and [Martin](#) agreed)

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