

IN THE SUPREME COURT OF NEW ZEALAND

**SC 15/2006
[2006] NZSC 23**

BETWEEN TRUSTEES EXECUTORS LIMITED
Appellant

AND PETER JAMES MURRAY & ORS
First Respondents

AND MOREL & CO LIMITED
Second Respondent

AND JENNIFER ANN MOREL
Third Respondent

SC 17/2006

BETWEEN PETER JAMES MURRAY & ORS
Appellants

AND MOREL & CO LIMITED
First Respondent

AND JENNIFER ANN MOREL
Second Respondent

Court: Blanchard, Tipping and McGrath JJ

Counsel: L Taylor for Trustees Executors Limited
B O'Callahan and A E FitzHerbert for Peter James Murray & Ors
P R Jagose and P R McRae for Morel & Co Ltd and Jennifer Ann
Morel

Judgment: 4 April 2006

JUDGMENT OF THE COURT

[1] Leave to appeal is granted on both applications.

[2] The approved grounds are:

On the Trustees Executors Limited application

- (1) Whether, in the circumstances of this case, there was sufficient payment in cash for the purposes of s 37(2) of the Securities Act 1978.
- (2) Whether, in the circumstances of this case, the plaintiffs are entitled to maintain their pleading of s 28 of the Limitation Act 1950.

On the Murray & Ors application

- (3) Whether the plaintiffs' 1st and 10th causes of action should have been struck out on the basis that there was no possibility that a general doctrine of reasonable discoverability could save them from being statute-barred.

[3] We decline to grant leave on the question of the statutory supervisor's duties outside the Act and on the causation point. We consider that determination of these issues should not take place on the necessarily abstract basis of a strike-out application.

Solicitors:

Minter Ellison Rudd Watts, Wellington for Trustees Executors Ltd

Carter & Partners, Auckland for Peter James Murray & Ors

Chapman Tripp, Wellington for Morel & Co Ltd and Jennifer Ann Morel