



Supreme Court of New Zealand

1 June 2007

MEDIA RELEASE – FOR IMMEDIATE PUBLICATION

**Maruha Corporation and Maruha (NZ) Ltd v Amaltal Corporation Ltd
(SC 46/2006)
[2007] NZSC 40**

PRESS SUMMARY

This summary is provided to assist in the understanding of the Court’s judgment. It does not comprise part of the reasons for that judgment. The full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at www.courtsofnz.govt.nz.

Maruha has appealed against a finding by the Court of Appeal that, although Amaltal was guilty of the tort of deceit in claiming and retaining certain overpayments from Maruha in relation to a joint fishing venture between 1987 and 1991, Amaltal was not in breach of fiduciary duty owed to Maruha. This distinction may have significance when the Court of Appeal determines an appeal presently before it concerning the rate of interest that Amaltal must pay on the amount it has been ordered to pay back to Maruha.

The Supreme Court has now held that the Court of Appeal was wrong not to find a breach of fiduciary duty as well as deceit, and has allowed Maruha’s appeal.

The Court has also held that the Court of Appeal was wrong to allow Amaltal a deduction of \$1.2 m from the judgment sum relating to a taxation payment made by Amaltal on Maruha's behalf but without Maruha's knowledge. The Supreme Court considers that the tax payment has not been shown to be an incontrovertible benefit to Maruha. On the available evidence, if informed of the true position by Amaltal, Maruha seems likely to have been able to arrange its affairs so that the tax was not payable. The judgment sum has, however, been adjusted to give credit for a smaller benefit which the parties now agree was enjoyed by Maruha when it received from the Crown compensation for loss of fishing quota upon adjustment of the total allowable catch.

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