



Supreme Court of New Zealand

22 October 2008

MEDIA RELEASE – FOR IMMEDIATE PUBLICATION

**REGAL CASTINGS LTD v G M & G N LIGHTBODY and A C HORROCKS,
G M LIGHTBODY & G N LIGHTBODY
(SC 72/2007 [2008] NZSC 87)**

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.

A company owned by Mr and Mrs Lightbody was heavily indebted to the appellant, Regal Castings Ltd. In 1995 Regal agreed to convert the indebtedness into a term loan and conditionally wrote off the interest then accrued. It was further agreed that the term loan would be paid by monthly instalments with a balance to be paid at the end of five years. Mr Lightbody accepted personal liability for the term loan. The company duly made the monthly payments but fell into arrears on its current account with Regal.

In that state of affairs, in 1998, without the knowledge of Regal, Mr and Mrs Lightbody transferred their home, which was their only asset of significant

value, to a family trust of which they and a solicitor were the trustees. Over the next five years they forgave payment of the purchase price by the trust.

The company then was put into liquidation. A substantial sum was still owing to Regal, including part of the term loan. Mr Lightbody was made bankrupt.

Regal failed in the High Court and (by majority) in the Court of Appeal on an application under s 60 of the Property Law Act 1952 to have the transfer of Mr Lightbody's half interest in the house set aside. The Supreme Court has unanimously allowed Regal's appeal and ordered the trustees to transfer a half interest in the house to the Official Assignee for the benefit of Mr Lightbody's creditors, including Regal. It has held that Mr Lightbody acted in 1998 with intent to defeat, hinder or delay Regal's recourse to that asset even though he did not have the purpose of causing Regal loss. It was sufficient for Regal to have established that the impugned transfer inevitably exposed Regal to the risk of loss should the company, as happened, be unable to pay its debts.

Contact person: Gordon Thatcher, Supreme Court Registrar (04) 914 3545