



Supreme Court of New Zealand

15 May 2009

MEDIA RELEASE – FOR IMMEDIATE PUBLICATION

Slawomir Bujak v The Solicitor-General
(SC 64/2008) [2009] NZSC 42

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.

The Supreme Court has dismissed an appeal by Mr Bujak challenging the registration under the provisions of the Mutual Assistance in Criminal Matters Act 1992 of a Polish Court Order restraining him from dealing with assets in this country, pending determination of proceedings against him in Poland.

The Order was initially registered in the High Court. On appeal, the Court of Appeal sent the proceedings back to the High Court to hear argument on whether the Order fell within the definition of “foreign restraining order” in the Mutual Assistance in Criminal Matters Act. The High Court then discharged the registration order, a decision that was later reversed by the Court of Appeal.

The Supreme Court considered that, although the Court of Appeal initially doubted that the Polish Order was consistent with the New Zealand legislation, it did not express any final views on the matter. Consequently, the initial comments of the Court of Appeal did not raise the principle of *res judicata*, or that of issue estoppel.

The Supreme Court accepted the unchallenged evidence of a Polish public prosecutor which established that Mr Bujak's property in this country may be tainted by the alleged offending and may represent a benefit derived from the offending. The Court held that the substance of the Order, rather than specific words which may appear within it, should determine whether or not it constitutes a "foreign restraining order". When the Order is looked at as a whole, its intended purpose appears to be the taking of security to ensure that the property thus secured will be available in due course, if required, to satisfy any final orders for penalty, reparation or forfeiture which may be made. This purpose is consistent with the definition of "foreign restraining order" in the Act.

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