

IN THE SUPREME COURT OF NEW ZEALAND

SC 90/2013
[2013] NZSC 114

BETWEEN VINCENT ROSS SIEMER
 Applicant

AND MICHAEL PETER STIASSNY
 First Respondent

 KORDA MENTHA
 Second Respondent

Court: McGrath, Glazebrook and Arnold JJ

Counsel: Applicant in person
 P J L Hunt and J E Tomlinson for Respondents

Judgment: 14 November 2013

JUDGMENT OF THE COURT

- A The application for leave to appeal is dismissed.**
- B The applicant is to pay costs of \$2,500 to the respondents, plus all reasonable disbursements as fixed if necessary by the Registrar to the respondents.**
-

REASONS

[1] Mr Siemer, by application of 2 October 2012, applied in the Court of Appeal for review (by three judges of the Court of Appeal under s 61A(2) of the Judicature Act 1908) of the decision of Wild J of 5 September 2012,¹ upholding a decision of the Registrar of the Court of Appeal not to dispense with security for costs.²

¹ *Siemer v Stiassny* CA362/2012, 5 September 2012.

² Mr Siemer's liability to pay security for costs arose due to his appeal to the Court of Appeal against the judgment of Andrews J in the High Court. In that judgment, Andrews J had struck out Mr Siemer's claim against the respondents alleging that they obtained an earlier High Court

[2] In a judgment of 6 June 2013, Wild J dismissed that application.³ Mr Siemer applies for leave to appeal against that judgment.

[3] This Court, on 7 March 2013, declined leave to appeal against Wild J's decision of 5 September 2012.⁴ Wild J's decision of that date is therefore now a final decision. There is no further possibility of review in the Court of Appeal. This means that Wild J was correct to dismiss Mr Siemer's application of 2 October 2012.

[4] In any event, there is no right of review under s 61A(2) of the Judicature Act where, as here, Wild J's decision of 5 September 2012 was made under s 61A(3) of that Act.⁵

[5] Mr Siemer complains also that Wild J was "acting in his own cause" in dismissing the application of 2 October 2012. This submission is misconceived. Wild J's judgment of 6 June 2013 was a procedural ruling only. Further, the fact that there was no right of review under s 61A(2) of the Judicature Act should have been obvious to Mr Siemer after this Court's decision,⁶ declining leave to appeal against Wild J's decision of 5 September 2012.

Result

[6] The application for leave to appeal is dismissed.

[7] The applicant is to pay costs of \$2,500 plus all reasonable disbursements (as fixed, if necessary, by the Registrar) to the respondents.

Solicitors:
McElroys for Respondents

judgment by Cooper J by fraud. That decision of Cooper J was given in proceedings against Mr Siemer for defamation and breach of contract. See *Korda Mentha v Siemer* [2012] NZHC 1074 (judgment of Andrews J).

³ *Siemer v Stiassny* [2013] NZCA 206 [*Siemer* (CA)].

⁴ *Siemer v Stiassny* [2013] NZSC 11 [*Siemer* (SC)].

⁵ See *Siemer* (SC), above n 4, at [4]; and *Rabson v Chapman* [2013] NZSC 65 at [4]. This was pointed out by Wild J at [4] of his 6 June 2013 judgment: *Siemer* (CA), above n 3.

⁶ *Siemer* (SC), above n 4. This was also pointed out by Wild J at [5] of his decision of 6 June 2013: *Siemer* (CA), above n 3.