



Supreme Court of New Zealand

19 December 2013

MEDIA RELEASE – FOR IMMEDIATE PUBLICATION

**P(SC 87/2012) v BRIDGECORP LIMITED (IN RECEIVERSHIP and IN LIQUIDATION)
(SC 87/2012)
[2013] NZSC 152**

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 appellant was in debt to the respondent, Bridgecorp Ltd (in receivership and in liquidation). In the context of settling mortgagee sale proceedings for the recovery of the debt, the parties entered into an arrangement under which the appellant agreed to pay the debt by instalments and Bridgecorp agreed that it would not seek to recover the debt by court action if the appellant met his obligations. Bridgecorp did, however, as part of the arrangement, provide the appellant with a draft statement of claim (alleging breach of the terms of settlement) and required him to execute an admission of liability and give Bridgecorp irrevocable authority to file it on his behalf should proceedings be issued. The admission did not state the exact amount owing but identified a process by which the amount owing would be ascertained. When the appellant failed to meet his payment obligations under the settlement arrangement, Bridgecorp issued proceedings (on the basis of the draft

statement of claim), filed the admission and applied for entry of judgment under r 15.16 of the High Court Rules. Bridgecorp's application was granted. The principal question on this appeal is whether an admission executed prior to the issue of proceedings in this way complies with the requirements of r 15.16.

A majority of the Supreme Court (comprising McGrath, William Young, Glazebrook and Arnold JJ) has upheld the Court of Appeal's decision in holding that Bridgecorp did comply with the requirements of r 15.16. Although r 15.16(1) requires that proceedings be filed and served before an admission of liability can be filed, nothing in the language of this rule prevents an admission of liability executed before the issue of proceedings from being filed. In this case, r 15.16 permitted the appellant to give Bridgecorp a pre-action admission of liability on the basis of a draft statement of claim, with authority to file the admission if proceedings were ultimately issued, as part of the settlement of other proceedings (in this case, Bridgecorp's mortgagee sale proceedings). The majority has also held that r 15.16(4) does not require an admission to state the precise sum owing at the time it is filed so long as it contains a mechanism by which that sum can be precisely determined, as was provided in this case. The risk of oppressive conduct towards debtors can be adequately dealt with by r 15.16(2), which allows an admission of liability to be withdrawn with leave of the court, and r 15.16(5), which allows the court to set aside a judgment entered on an admission in certain circumstances.

The Chief Justice would have held that the procedure adopted by Bridgecorp and the terms of the admission did not comply with r 15.16.

Accordingly, the appeal is dismissed.

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