

IN THE SUPREME COURT OF NEW ZEALAND

SC 89/2014  
[2014] NZSC 149

BETWEEN KUNG WE CHAN  
Applicant

AND DILWORTH TRUST BOARD  
Respondent

Court: William Young, Arnold and O'Regan JJ

Counsel: Applicant in person  
C E Harris for Respondent

Judgment: 21 October 2014

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**JUDGMENT OF THE COURT**

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- A The application for leave to appeal is dismissed.**
- B The applicant is to pay the respondent costs of \$2,500 and reasonable disbursements to be fixed by the Registrar.**
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**REASONS**

[1] In a reserved judgment delivered on 20 March 2012, Associate Judge Sargisson granted summary judgment as to liability against the applicant in respect of his guarantee of the obligations of a tenant under a lease from the respondent.<sup>1</sup> The time for filing an appeal expired on 17 April 2012. On 14 February 2014, the applicant applied to the Court of Appeal under r 29A of the Court of Appeal (Civil) Rules 2005 for an extension of time to bring an appeal.

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<sup>1</sup> *Dilworth Trust Board v Jack's Ventures Ltd* HC Auckland CIV-2011-404-3312, 20 March 2012 at [40].

[2] In the judgment now under challenge, the Court of Appeal refused an extension.<sup>2</sup> It saw the delay – approximately 22 months – as significant and inadequately explained.<sup>3</sup> It was also of the view that the proposed appeal lacked merit.<sup>4</sup>

[3] Under r 29A, the Court of Appeal was required to exercise discretion. The arguments advanced by the applicant do not disclose any apparent error in the way in which the Court of Appeal approached its task. We have also considered the judgment of the Associate Judge and see no appearance of a miscarriage of justice. The proposed appeal does not involve any question of public or general importance. Accordingly the application for leave to appeal must be dismissed.

Solicitors:  
Jackson Russell, Auckland for Respondent

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<sup>2</sup> *Chen v Dilworth Trust Board* [2014] NZCA 352 (Ellen France, French and Miller JJ).

<sup>3</sup> At [4]–[5].

<sup>4</sup> At [6].