

IN THE SUPREME COURT OF NEW ZEALAND

SC 19/2015
[2015] NZSC 100

BETWEEN

FRANCISC CATALIN DELIU
Applicant

AND

THE NEW ZEALAND LAW SOCIETY
Respondent

Court: Elias CJ, Glazebrook and Arnold JJ

Counsel: Applicant in person
P J Morgan QC for Respondent

Judgment: 14 July 2015

JUDGMENT OF THE COURT

The application for recall is dismissed.

REASONS

[1] The applicant, Mr Deliu, applies to recall the Court's judgment in *Deliu v New Zealand Law Society* dismissing his application for leave to appeal.¹ He does so because he does not accept what the Court said about its approach to the award of costs and because he considers that he was not heard on costs.

[2] Applications to recall are granted only on limited grounds, as this Court confirmed in *Saxmere Co Ltd v Wool Board Disestablishment Co Ltd (No 2)*.² The only ground that might apply here is that "for some other very special reason justice requires that the judgment be recalled".

¹ *Deliu v New Zealand Law Society* [2015] NZSC 75.

² *Saxmere Co Ltd v Wool Board Disestablishment Co Ltd (No 2)* [2009] NZSC 122, [2010] NZLR 76 at [2], citing *Horowhenua County v Nash (No 2)* [1968] NZLR 632 at 633. See also *Erwood v Maxted* [2010] NZCA 93, (2010) 20 PRNZ 466, at [23].

[3] In his written submissions in support of his application for leave to appeal, Mr Deliu accepted that the Court had a rationale for its decisions on costs, but noted that it had not always given reasons for differing awards of costs. Mr Deliu referred to this Court's decision in *Manukau Golf Club Inc v Shoye Venture Ltd*,³ before concluding:

So, if leave is to be denied me and costs are awarded against me there is nothing to indicate this is not arbitrary. I do not make this allegation, but rather submit the lack of any reasoning process when ordering (or not ordering) costs leaves parties completely uncertain and advocates unable to cogently advise their clients of litigation risks and as such is wrong.

[4] As this extract indicates, Mr Deliu well understood that he was at risk of an award of costs if his application was unsuccessful. Moreover, his reference to *Manukau Golf Club Inc v Shoye Venture Ltd* indicates that he was aware of the general principle applying to awards of costs, namely that in the normal course, costs follow the event and, where they are within the normal range, no reasons are required. Mr Deliu's case fell within that category and there was no suggestion that it did not. The fact that in other cases no awards are made, whether with or without reasons, does not affect this analysis.

[5] Mr Deliu has raised nothing which causes us to reconsider what is said in our earlier judgment. Accordingly, his application for recall is dismissed.

Solicitors:
Glaister Ennor, Auckland for Respondent

³ *Manukau Golf Club Inc v Shoye Venture Ltd* [2012] NZSC 109, [2013] 1 NZLR 305.