

IN THE SUPREME COURT OF NEW ZEALAND

SC 54/2015
[2015] NZSC 118

BETWEEN RAPATA TE HAA RANGITUKUNOA
 Applicant

AND JOHN PIETER KONING
 First Respondent

 HIRIA JEAN REWETI
 Second Respondent

Court: Glazebrook, Arnold and O'Regan JJ

Counsel: Applicant in person
 A N Isac for First Respondent
 No appearance for Second Respondent

Judgment: 31 July 2015

JUDGMENT OF THE COURT

- A The application for leave to appeal is dismissed.**
- B The applicant must pay costs of \$2,500 to the first respondent.**
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REASONS

[1] On 5 November 2013, Lang J made consent orders to give effect to a settlement reached in the course of a hearing before him.¹ The settlement related to a mortgage over land owned by Mr Rangitukunoa and his wife. The respondents' position is that the mortgage secured a debt owed to the estate of Mr Rangitukunoa's late uncle, Mr Reweti. Mr Koning is the sole executor and trustee of the estate.

¹ *Rangitukunoa v Koning* HC Tauranga CIV-2013-470-281, 5 November 2013 (Orders of Lang J).

[2] On 24 April 2014, Mr Rangitukunoa filed an application seeking an extension of time to appeal against Lang J's orders to the Court of Appeal. On 24 February 2015, the Court of Appeal dismissed the application.²

[3] Mr Rangitukunoa applies for leave to appeal to this Court against the Court of Appeal decision.

Court of Appeal decision

[4] The Court of Appeal noted that there had not been a complete explanation for the delay in filing the application for an extension of time. It considered, however, that the interests of justice in this case turned on whether or not the proposed appeal had any merit.³ Mr Rangitukunoa's argument in the Court of Appeal, among other grounds, was that he had been intimidated into agreeing to settle by Lang J.

[5] The Court of Appeal traversed the record of the hearing in the High Court and concluded that Mr Rangitukunoa had first suggested a settlement and that he had agreed to settle, albeit reluctantly, but with a full understanding of what was involved.⁴ The Court held that the record showed no intimidation by the Judge.⁵ As to Mr Rangitukunoa's underlying claim based on fraud and/or that the loan was personal, the Court said that there had been concurrent factual findings in the Maori Land Court and the Maori Appellate Court on those matters.⁶

[6] The Court concluded that the interests of justice did not justify an extension of time.

Our assessment

[7] The Court of Appeal applied established principles to the application before it. The matter is one of significance to the parties but has no wider application. No

² *Rangitukunoa v Koning* [2015] NZCA 24 (Ellen France P, Randerson and White JJ).

³ At [12].

⁴ At [23].

⁵ At [23].

⁶ See *Koning v Smith – Matapihi 1A 3D 4C 1 Block* (2011) 18 Waikato Maniapoto MB 220 (18 WMN 220) at [53], [57], [63], [80], [88] and [89]; and *Smith v Koning – Matapihi 1A 3D 4C 1 Block* [2012] Maori Appellate Court MB 690 (2012 APPEAL 690) at [66]. In the Maori Land Court and in the Maori Appellate Court, the applicant was referred to by the name Robert Smith.

matter of general or public importance arises. Further, nothing raised by Mr Rangitukunoa suggests that the analysis by the Court of Appeal was erroneous.

The result

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

[9] The applicant must pay costs of \$2,500 to the first respondent.

Solicitors:
Koning Webster Lawyers, Papamoa for First Respondent