

IN THE SUPREME COURT OF NEW ZEALAND

SC 90/2015  
[2015] NZSC 152

BETWEEN                      JANINE DAVINA SAX  
   Applicant  
  
AND                              LUKE ANDREW SIMPSON  
   Respondent

Court:                      William Young, Glazebrook and O'Regan JJ  
  
Counsel:                      Applicant in person  
  
Judgment:                      22 October 2015

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**JUDGMENT OF THE COURT**

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**The application for recall is dismissed.**

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**REASONS**

**Background**

[1] Ms Sax applies for the recall of this Court's judgment in *Sax v Simpson*.<sup>1</sup> That judgment dealt with the Ms Sax's application for leave to appeal against a judgment of the Court of Appeal.<sup>2</sup> In that decision, the Court of Appeal refused to grant an extension of time for Ms Sax to file her case on appeal.

[2] In this Court's judgment, we said that the Court of Appeal applied settled law when deciding whether an extension should be granted in the particular factual circumstances and that the application raised no question of public or general importance.<sup>3</sup> In addition, this Court said there had been nothing put before it by

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<sup>1</sup> *Sax v Simpson* [2015] NZSC 144 (William Young, Glazebrook and O'Regan JJ).

<sup>2</sup> *Sax v Simpson* [2015] NZCA 362 (Randerson, White and Winkelmann JJ).

<sup>3</sup> *Sax v Simpson*, above n 1, at [11].

Ms Sax that suggested that the Court of Appeal decision was erroneous or that there was a risk of a miscarriage of justice.<sup>4</sup>

[3] The majority of Ms Sax’s recall application mirrors her earlier application for leave to appeal. However, it differs in one respect: Ms Sax submits that this Court erred in relying on the factual summary of the Court of Appeal with regard to her communications with that Court’s Registry.

### **Discussion**

[4] To the extent that Ms Sax’s application merely repeats arguments already dealt with, it provides no grounds for a recall. In addition, a recall application is not the proper forum to raise new matters, such as disputing the accuracy of the Court of Appeal’s factual summary.<sup>5</sup> In any event, this Court explicitly recognised that the factual background concerning Ms Sax’s communications with the Court of Appeal Registry was “[a]t most ... peripherally relevant to [whether there should have been an extension of time] and it would have no bearing on whether her application for leave to appeal to this Court should be granted”.<sup>6</sup>

### **Result**

[5] The application for recall is therefore dismissed.

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<sup>4</sup> At [11].

<sup>5</sup> See *Siemer v O’Brien* [2015] NZSC 89 at [3]; and *Creser v Creser* [2015] NZSC 116 at [4].

<sup>6</sup> *Sax v Simpson*, above n 1, at n 13.