

IN THE SUPREME COURT OF NEW ZEALAND

SC 19/2015  
[2015] NZSC 75

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: 2 June 2015

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**JUDGMENT OF THE COURT**

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**A The application for leave to appeal is dismissed.**

**B The applicant must pay the respondent costs of \$2,500.**

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**REASONS**

[1] The applicant, Mr Deliu, is facing disciplinary charges before the New Zealand Lawyers and Conveyancers Disciplinary Tribunal, brought under the Lawyers and Conveyancers Act 2006. He issued judicial review proceedings challenging the decisions of the National and Auckland Standards Committees to lay the charges at issue.

[2] The hearing of the judicial review proceedings commenced on 9 September 2013 and was adjourned part heard on 13 September 2013. However, the High Court was unable to allocate a further hearing date, and ultimately, on 13 February 2014, the trial Judge, Katz J, directed that the hearing of the proceedings be adjourned until the disciplinary charges are determined. She did so primarily for two reasons – the fact that Mr Deliu had said that he was unavailable for a resumed

hearing until March 2014 at the earliest and the observations of this Court in a similar situation involving another practitioner, Mr Orlov.<sup>1</sup> There, this Court noted that issues about the decisions of Standards Committees to lay charges could be raised before the Disciplinary Tribunal and thereafter, if necessary, on an appeal to the High Court against a decision of the Disciplinary Tribunal. In such a case, any extant judicial review proceedings would likely be consolidated with the appeal.<sup>2</sup>

[3] Mr Deliu then appealed to the Court of Appeal against the High Court Judge's decision to adjourn the proceedings pending the outcome of the disciplinary charges. The Court of Appeal dismissed his appeal.<sup>3</sup> It did so because it considered, consistently with this Court's observations in *Orlov*, that the High Court had erred in commencing the hearing of Mr Deliu's judicial review proceedings before the disciplinary charges were resolved, so that the decision to adjourn them was not wrong. Mr Deliu now seeks leave to appeal from that decision.

[4] Mr Deliu raises a number of grounds of appeal, in particular that the Court of Appeal wrongly:

- (a) concluded that the judicial review proceedings had caused delay in the resolution of the disciplinary proceedings;
- (b) based its judgment on the consumer protection provisions of the Act rather than giving weight to the individual practitioner's rights;
- (c) ignored the decision of the Full Court of the High Court in *Wilson v Attorney General*;<sup>4</sup>
- (d) acted inconsistently;
- (e) concluded that the judicial review proceedings should not be determined before the outcome of the disciplinary proceedings is known.

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<sup>1</sup> *Orlov v New Zealand Law Society* [2013] NZSC 94.

<sup>2</sup> At [6].

<sup>3</sup> *Deliu v New Zealand Law Society* [2015] NZCA 12.

<sup>4</sup> *Wilson v Attorney General* [2011] 1 NZLR 399 (HC).

[5] Further, he submits that the decision of Katz J to adjourn the hearing of the judicial review proceedings until the result of the disciplinary process is known has effectively brought his judicial review proceedings to an end. For this reason, he argues that this is not an interlocutory appeal. He also argues that his judicial review proceedings are broader in scope than the disciplinary proceedings, and so should be allowed to continue irrespective of the disciplinary proceedings.

[6] We are not satisfied that it is necessary in the interests of justice that we hear and determine the proposed appeal. We see the decision to adjourn the judicial review proceedings until the outcome of the disciplinary proceedings is known as being in the nature of an interlocutory decision.<sup>5</sup> Moreover, it raises no issue of general or public importance. In addition, since Mr Deliu will have the opportunity to vent his complaints about the decisions of the Standards Committees and other matters of which he complains once the disciplinary proceedings are resolved, we see no risk of a substantial miscarriage of justice.

[7] Finally, Mr Deliu submits that the decisions of the Court on costs following an unsuccessful leave application appear to be “random” and without “rhyme or reason”. Mr Deliu is in error. As this Court explained in *Manukau Golf Club Inc v Shoye Venture Ltd*, the fundamental principle is that costs follow the event.<sup>6</sup> Where that fundamental principle is applied and the costs awarded are within the usual range, no reasons are required. If the Court departs from the fundamental principle, as it is entitled to do, a brief explanation should be given.<sup>7</sup> In this case, there is no reason for us to depart from the principle that costs follow the event.

[8] The application for leave to appeal is dismissed. The applicant must pay the respondent costs of \$2,500.

Solicitors:  
Glaister Ennor, Auckland for Respondent

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<sup>5</sup> See *Orlov v New Zealand Law Society*, above n 1, at [5].

<sup>6</sup> *Manukau Golf Club Inc v Shoye Venture Ltd* [2012] NZSC 109, [2013] 1 NZLR 305 at [8].

<sup>7</sup> At [16].