IN THE SUPREME COURT OF NEW ZEALAND

SC 40/2015 [2015] NZSC 97

BETWEEN SPORTZONE MOTORCYCLES

LIMITED (IN LIQUIDATION)

First Applicant

MOTOR TRADE FINANCES LIMITED

Second Applicant

AND COMMERCE COMMISSION

Respondent

Court: William Young, Arnold and O'Regan JJ

Counsel: D J Goddard QC and I J Thain for Applicants

S J Mills QC and K C Francis for Respondent

Judgment: 2 July 2015

JUDGMENT OF THE COURT

- A The application for leave to appeal is granted (Sportzone Motorcycles Ltd (in liq) and Motor Trade Finances Ltd v Commerce Commission [2015] NZCA 78).
- B The approved question is:

Did the Court of Appeal err in finding that the fees charged by the applicants were unreasonable for the purposes of s 41 of the Credit Contracts and Consumer Finance Act 2003?

REASONS

[1] Leave is granted only on the question set out above. The Court does not consider that the second question on which the applicants sought leave meets the

criteria set out in s 13 Supreme Court Act 2003. The point is specific to the facts of

the present case and therefore does not give rise to a point of general or public

importance or a matter of general commercial significance. We see no appearance of

a miscarriage of justice if leave is refused.

[2] The grant of leave does not extend to the point raised in para 4.11 of the

submissions for the applicants relating to fees charged to the first applicant by the

second applicant and passed on by the first applicant to debtors. We do not consider

the statutory criteria are met in relation to that issue and the difficulties identified in

the Court of Appeal arising from the point not being raised in the High Court would

also arise in this Court if leave were granted.

Solicitors:

DLA Piper, Auckland for Applicants

Meredith Connell, Wellington for Respondent

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Did the Court of Appeal err in finding that it had been established that the debtors had suffered loss or damage for the purposes of s 94 of the Credit Contracts and Consumer Finance Act 2003.