

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI

**SC 77/2020
[2020] NZSC 144**

BETWEEN

CLARENCE JOHN FALOOON
First Applicant

CLARENCE JOHN FALOOON, SUING IN A
REPRESENTATIVE CAPACITY
Second Applicant

AND

THE PLANNING TRIBUNAL AT
WELLINGTON
First Respondent

THE ATTORNEY-GENERAL SUED ON
BEHALF OF PALMERSTON NORTH
JOINT VENTURE AIRPORT
Second Respondent

THE ATTORNEY-GENERAL SUED ON
BEHALF OF THE MINISTER OF LANDS
Third Respondent

THE CLERK OF THE HOUSE OF
REPRESENTATIVES SUED ON BEHALF
OF THE CLERK OF THE EXECUTIVE
COUNCIL
Fourth Respondent

THE HIGH COURT OF NEW ZEALAND
(TAURANGA REGISTRY)
Fifth Respondent

THE ATTORNEY-GENERAL SUED ON
BEHALF OF THE COMMISSIONER OF
INLAND REVENUE
Sixth Respondent

AND

THE REGISTRAR-GENERAL OF LAND
Seventh Respondent

Court: Glazebrook, Ellen France and Williams JJ

Counsel: Applicant in person
V McCall and A P Lawson for Third and Sixth Respondents

Judgment: 16 December 2020

JUDGMENT OF THE COURT

- A** The application of 27 November 2020, including the application for recall of this Court's judgment of 16 November 2020 (*Faloon v The Planning Tribunal at Wellington* [2020] NZSC 124), is dismissed.
- B** The application to review the Registrar's decision of 19 November 2020 is dismissed.
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REASONS

Background

[1] On 16 November 2020, this Court dismissed the application by Mr Faloon for an extension of time for leave to appeal against a substantive judgment of the Court of Appeal and also dismissed the application for leave to appeal the subsequent decision of the Court of Appeal not to recall its substantive judgment.¹

[2] On 18 November 2020 Mr Faloon attempted to file what he termed an interlocutory application asking that copies of this Court's judgment be delivered to all of the respondents named in his application and to a number of other bodies and individuals. He also sought relief under s 296 of the Property Law Act 2007. The Registrar refused to accept this application. The Registrar said:

Mr Faloon, I refer to the application attached to your e-mail of 18 November.

R27 of the Supreme Court Rules 2004 has been complied with in respect of the delivery of the Judgment in SC 77/2020, [2020] NZSC 124. R27 does not require that a copy of the Judgment be sent by the Registry to each named party or to any other person. The Registry will notify parties actively engaged in the proceedings prior to delivery of a judgment and will distribute

¹ This Court's judgment as originally issued omitted to include the seven respondents and the second applicant as specified in the application for leave. As this was an administrative error, the judgment specifying all the respondents and the second applicant was reissued: *Faloon v The Planning Tribunal at Wellington* [2020] NZSC 124.

judgments to any named party by e-mail if an e-mail address has been supplied for this purpose.

The application has however highlighted a procedural oversight in the intituling of the Judgment did not list all the named respondents in the Judgment and they should have been. A corrected Judgment (in terms of R43A) is attached for you and the Attorney-General. The Judgment will also replace the existing Judgment on courtsofnz.

The other matters set out in your application are not matters the Supreme Court has jurisdiction to consider or they have already been dealt with in the Judgment of 16 November 2020.

[3] Mr Faloon responded on 19 November 2020 disagreeing with the Registrar's response. On 20 November 2020 the Registrar responded as follows:

Mr Faloon, the Supreme Court only has jurisdiction to consider applications for leave to appeal from the decisions of other courts that are within the jurisdiction of the Supreme Court to consider. The Court has dismissed your application for leave to appeal and the proceedings have come to an end. The Court has no jurisdiction to do as you request.

[4] On 27 November 2020, the Court received for filing a further interlocutory application dated 26 November 2020 on essentially the same terms. Mr Faloon also sought certain corrections to this Court's judgment. We will treat this further application as including an application for recall of our judgment of 16 November 2020. Mr Faloon also sought review of the Registrar's decision not to accept the first interlocutory application.

Our assessment

[5] The general rule is that a judgment, once delivered, must stand for better or worse.² There are exceptions.³ Nothing raised by Mr Faloon, however, provides grounds for recall of this Court's judgment. Nor are there grounds for review of the Registrar's decision of 19 November 2020 not to accept the interlocutory application for filing.

² *Horowhenua County v Nash (No 2)* [1968] NZLR 632 (SC) at 633; see as cited in *Craig v Williams* [2019] NZSC 60 at [10].

³ *Saxmere Company Ltd v Wool Board Disestablishment Co Ltd (No 2)* [2009] NZSC 122, [2010] 1 NZLR 76 at [2]; *Green Growth No 2 Ltd v Queen Elizabeth the Second National Trust* [2018] NZSC 115 at [20]; and *Craig v Williams*, above n 2, at [10].

Result

[6] The application received on 27 November 2020, including the application for recall of this Court's judgment of 16 November 2020, is dismissed. Mr Faloon's application for review of the Registrar's 19 November 2020 decision is also dismissed.

[7] We direct the Registrar to reject any further application for recall of the leave judgment of 16 November 2020 and any other applications (however they are labelled) that are related to that judgment or to its subject matter.

Solicitors:
Crown Law Office, Wellington for Third and Sixth Respondents