



SUPREME COURT OF NEW ZEALAND | TE KŌTI MANA NUI O AOTEAROA

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RANGITIRA DEVELOPMENTS LTD v ROYAL FOREST AND BIRD PROTECTION SOCIETY OF NEW ZEALAND INC

(SC 100/2019) [2020] NZSC 66

PRESS SUMMARY

This summary is provided to assist in the understanding of the Court’s judgment. It does not comprise part of the reasons for that judgment. The full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at Judicial Decisions of Public Interest www.courtsofnz.govt.nz

Introduction

The appellant, Rangitira Developments Ltd (Rangitira), wishes to develop and operate an open-cast coal mine near Westport. The proposed mine is largely within a local purpose reserve owned and administered by the Buller District Council (the Council). The purpose of the reserve is water conservation. The respondent, Royal Forest and Bird Protection Society of New Zealand Inc (the Society), opposes the mine.

The problem facing Rangitira

Rangitira holds a mining permit under the Crown Minerals Act 1991. But to gain access to the mine site and carry out mining activities on the reserve, Rangitira must reach an access arrangement with the Council. Under s 60(2) of the Crown Minerals Act, the Council may have regard to any matter it considers relevant in deciding whether to enter into an access arrangement.

The Reserves Act 1977 requires the Council, as the administering body of the reserve, to administer the reserve for the purpose for which it is held (water conservation) and no other purpose. To the extent compatible with this water

conservation purpose, the Council must also protect the biological and natural features of the reserve, and maintain the value of the reserve as a soil, water and forest conservation area. The Society's case is that the Council is required to give effect to these requirements when determining whether to agree to an access arrangement of the kind sought by Rangitira.

The proceedings so far

Rangitira's position is that while the Council must have regard to the Reserves Act in deciding whether to enter into an access arrangement, it may also consider economic and other benefits to the local community.

Rangitira applied for declarations to this effect. It succeeded in the High Court. However, the Court of Appeal allowed the Society's appeal and held that the Council must give effect to the requirements of the Reserves Act when making its decision.

Rangitira was granted leave to appeal to the Supreme Court. Its principal argument was that mining legislation (such as the Crown Minerals Act) is "special" legislation which prevails over general legislation such as the Reserves Act.

The Supreme Court's decision

The Supreme Court has unanimously dismissed Rangitira's appeal.

The Court accepted Rangitira's argument that the legislation applying to coal mining prior to the Crown Minerals Act was a code and, in that sense, was "special" legislation. Under that legislation, coal mining in reserves was not constrained by reserves legislation. But the Court determined, contrary to Rangitira's submission, that the enactment of the Crown Minerals Act brought to an end the special status of mining legislation. While the Council is given a wide freedom under s 60(2) of the Crown Minerals Act to take into account any relevant matter when determining whether to agree to an access arrangement, the Council must still comply with its obligations under the Reserves Act. There is nothing in the Crown Minerals Act that limits the Council's obligations under the Reserves Act.

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