

IN THE SUPREME COURT OF NEW ZEALAND

**SC 75/2005
[2006] NZSC 25**

BETWEEN	GOVERNORS LIMITED First Appellant
AND	STEPHEN KEVIN CHAMBERLAIN Second Appellant
AND	GEORGE ALBERT ANDERSON AND MARGARET ADAIR ANDERSON First Respondents
AND	THOMAS MACKINNON ANDERSON Second Respondent

Court: Tipping, McGrath and Anderson JJ

Counsel: D G Dewar and J C Moore for First and Second Appellants
N Levy for First and Second Respondents

Judgment: 5 April 2006

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] The appellants seek leave to appeal against decisions of the Court of Appeal declining to admit further evidence on an application for recall and reassessing damages for breach of a lease. Leaving aside whether the Court of Appeal had the power to admit new evidence on a recall application, we are satisfied that the new evidence here went far wider than the legitimate compass of that application. Furthermore, we can see no basis for concluding that the way the Court of Appeal

exercised its discretion in this case raises any matter of general or public importance or of commercial significance.

[2] The second limb of the intended appeal concerned the way in which the Court of Appeal dealt with the question of damages. It depended substantially on the admission of the new evidence and, in any event, did not raise any matter of general principle or commercial significance. The damages issues were very much dependent on the particular facts of this case and the way it was pleaded.

[3] The appellants have not satisfied us that it is necessary in the interests of justice, within the meaning of s 13 of the Supreme Court Act 2003, for leave to be granted on either point. The application for leave must therefore be dismissed.

Solicitors:
Thomas Dewar Sziranyi Druce, Lower Hutt for Appellants
Sladden Cochrane & Co, Wellington for Respondents