

IN THE SUPREME COURT OF NEW ZEALAND

SC 59/2011
[2011] NZSC 80

BETWEEN	MARTA HAYES Applicant
AND	JUDITH GUERIN Respondent

Court: Elias CJ, Blanchard and McGrath JJ

Counsel: Applicant in Person
I Thorpe for Respondent

Judgment: 3 August 2011

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed with costs of \$2500 payable by the applicant to the respondent.

REASONS

[1] This litigation concerns a dispute between half sisters over the terms of the will of their mother. Her will left her entire estate to the applicant, Dr Hayes. The respondent, Ms Guerin, brought Family Protection Act proceedings and obtained an award of \$80,000 in the Family Court.¹ The applicant appealed to the High Court and in that Court also claimed under the Administration Act for the return to her of certain estate assets.

[2] In a comprehensive judgment dealing with both matters, Miller J dismissed the appeal against the Family Court judgment.² In the Administration Act claim the applicant achieved only modest success. She sought leave to appeal against the

¹ *J H v M H* FC Gisborne FAM-2008-016-88, 12 December 2008.

² *Hayes v Guerin* HC Gisborne CIV-2009-410-10, 19 June 2009.

Family Protection Act determination but was refused leave by Miller J and then the Court of Appeal,³ finally resolving that aspect of the litigation.

[3] At that point the applicant sought an extension of time to appeal to the Court of Appeal against the Administration Act component of the High Court judgment.⁴ By this time over a year had elapsed since Miller J had determined that claim.

[4] The Court of Appeal considered her explanations for the delay but decided they were inadequate. The Court was also of the view that the merits of the Administration Act appeal were not strong. It refused to extend the time, the consequence of which is that the appeal is deemed abandoned.

[5] In this Court, the applicant's written submissions have ranged over all issues earlier addressed in the litigation. This includes the Family Protection Act component of the High Court judgment. There is no attempt in the submissions to directly address the reasoning given by the Court of Appeal for refusing to extend time. We are satisfied that the Court's approach and its decision were correct. There is no tenable argument advanced in the submissions to indicate otherwise and in those circumstances it is not in the interests of justice for us to grant leave to appeal.

Solicitors:
Egan and Kite, Gisborne for Respondent

³ *Hayes v Guerin* [2010] NZCA 148.

⁴ *Hayes v Guerin* [2010] NZCA 592.