

**IN THE SUPREME COURT OF NEW ZEALAND
I TE KŌTI MANA NUI O AOTEAROA**

SC 45/2023

BETWEEN

**PHILIP WILLIAM ROUTHAN and JULIE
VERONICA ROUTHAN (as trustees for the
KANIERE FAMILY TRUST)**

Appellants

AND

PGG WRIGHTSON REAL ESTATE LIMITED

Respondent

APPELLANTS' OUTLINE OF ORAL ARGUMENT ON CROSS-APPEAL

11 March 2024

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Counsel for the appellants certifies that this document contains no suppressed information and is suitable for publication.

Cross-appeal is based on flawed conception of ‘normal measure’

1. PGG has misstated ‘normal measure’. Normal measure = price paid – market value received. PGG’s own authorities confirm that.
 - A CA Sub, [20], [32]–[44].
 - CA, [115].
 - Altimarloch*, [62], n 108.
 - Roberts*, [51], [72].
 - Shabor*, [66]–[67].
 - Cemp Properties*, 200–202.

Application of normal measure – Hancock must be preferred

2. Mr Hancock’s evidence, as the only market valuation, must be preferred. All of Hines’ valuations were based on assumed, artificial production levels.
 - A CA Sub, [32]–[44].
 - Hines NOE 562 (31) **[204.1182]**.
 - See Table 4 below.
3. Normal measure: \$2,800,000 – \$2,319,500 = \$480,500.

Table 4: Valuation comparison

Valued as at	Valuation	GENERAL			A: LAND				B: SHARES	C: IMPROVEMENTS	
		Production (kgMS)	Value (incl. shares)	Value (excl. shares)	Land value (milking platform)	Land value / kgMS (milking platform)	Value (excl. shares) / kgMS	Remainder of land	Shares	Improvements	Chattels
15.08.2009	Property Advisory - [301.0364]	87,000	\$ 2,720,000.00	\$ 2,573,106.00	\$ 2,142,000.00	\$ 24.62	\$ 29.58	\$ 13,000.00	\$ 146,894.00	\$ 364,337.00	\$ 52,000.00
23.09.2010	Rabobank - [302.1071]	103,000	\$ 2,814,500.00	\$ 2,660,000.00	\$ 2,244,000.00	\$ 21.79	\$ 25.83	\$ 66,000.00	\$ 154,500.00	\$ 350,000.00	-
19.10.2010	SPA - [302.1093]	103,000	\$ 2,800,000.00	\$ 2,645,500.00	-	-	\$ 25.68	-	\$ 154,500.00	-	-
19.10.2011	Hancock - [201.0176]; CA [136]	84,000	\$ 2,319,500.00	\$ 2,165,000.00	\$ 1,785,000.00	\$ 21.25	\$ 25.77	\$ 5,000.00	\$ 154,500.00	\$ 364,000.00	\$ 11,000.00
19.10.2012	Hines (97,000) - [304.2039] & [2040]	97,000	\$ 2,900,000.00	\$ 2,746,000.00	\$ 2,120,000.00	\$ 21.86	\$ 28.31	\$ 25,000.00	\$ 154,000.00	\$ 600,000.00	-
19.10.2013	Hines (103,000) - [305.2776]	103,000	\$ 2,950,000.00	\$ 2,795,000.00	\$ 2,170,000.00	\$ 21.07	\$ 27.14	\$ 25,000.00	\$ 155,000.00	\$ 600,000.00	-
19.10.2014	Court of Appeal - [146]-[147]	90,000	-	-	\$ 1,912,500.00	\$ 21.25	-	-	-	-	-