



## Supreme Court of New Zealand

19 May 2009

### **MEDIA RELEASE – FOR IMMEDIATE PUBLICATION**

***James Arthur Rose v Karen Diane Rose***  
**(SC 73/2007 [2009] NZSC 46)**

### **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 [www.courtsofnz.govt.nz](http://www.courtsofnz.govt.nz).**

The Supreme Court has unanimously dismissed appeals by both a husband and a wife in a property dispute following the breakdown of their 25 year marriage.

At the time of the marriage the husband was involved with his father and brother in a partnership which farmed three blocks of land in Marlborough owned respectively by the three partners. During the marriage the husband and his brother inherited the father's block. Subsequently the husband and his brother, still in partnership, successfully developed vineyards on each block. However, none of the land itself was a partnership asset. During the marriage, while the husband worked on the farm, the wife was employed off the farm as a sales consultant but her earnings were used to support the family.

The husband's land interests were his separate property under the Property (Relationships) Act 1976 but s 9A(1) of that Act requires that an increase in the value of separate property attributable to the application of relationship

property is to be treated as relationship property. The Supreme Court has confirmed the view of the Court of Appeal that the husband's partnership interest had become relationship property. Therefore an increase in the husband's share of the inherited block resulting from partnership expenditure on it was relationship property requiring division between the husband and wife under the Act.

Under s 9A(2) an increase in the value of separate property attributable directly or indirectly to actions of the non-owner spouse is required to be treated as relationship property and the share in it of each spouse is to be determined in accordance with the contribution of each spouse to the increase in value. The wife's earnings enabled the husband to avoid withdrawing money from the partnership which in turn enabled additional expenditure on the husband's land, thereby increasing its value as an indirect result of the wife's actions. The Supreme Court has agreed with the Court of Appeal's determination that in the particular circumstances of the case the wife's share of the increase in value of the land owned by the husband at the date of the marriage should be 40%.

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