

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI

SC 117/2017
[2018] NZSC 39

BETWEEN KARL TEANGIOTAU NUKU
 Applicant

AND DISTRICT COURT AT AUCKLAND
 First Respondent

 ATTORNEY-GENERAL
 Second Respondent

Court: William Young, O'Regan and Ellen France JJ

Counsel: Applicant in person
 D L Harris for First Respondent
 I R Murray for Second Respondent

Judgment: 3 May 2018

JUDGMENT OF THE COURT

The recall application is dismissed.

REASONS

[1] The applicant seeks a recall of our judgment of 8 February 2018,¹ dismissing his application for leave to appeal against a judgment of the Court of Appeal.² In doing so he contends that the reliance by Venning J in the High Court³ on dicta in *Nicholls v Registrar of the Court of Appeal*⁴ was erroneous given the approach the Privy Council took to that case in *R v Taito*.⁵ As well, he adopts and re-advances the submissions he

¹ *Nuku v District Court at Auckland* [2018] NZSC 7.

² *Nuku v The District Court at Auckland* [2017] NZCA 471 (Cooper, Brown and Clifford JJ).

³ *Nuku v The District Court at Auckland* [2016] NZHC 2237.

⁴ *Nicholls v Registrar of the Court of Appeal* [1998] 2 NZLR 385 (CA).

⁵ *R v Taito* [2002] UKPC 15, [2003] 3 NZLR 577.

made in support of his original application and takes issue with aspects of the reasons provided in our February 2018 judgment.

[2] Nothing has been advanced which warrants recall. We consider that the particular remarks in *Nicholls* which were relied on by Venning J were not subject to adverse comment in *Taito*. More importantly, as the judgment of 8 February 2018 noted, the basis upon which the High Court and Court of Appeal approached the applicant's judicial review proceedings was as favourable to the applicant as could have been plausibly contended for. As well, we do not see the recall jurisdiction as engaged by what in substance is no more than an attempt to relitigate the reasons provided and the conclusion reached in the judgment of 8 February 2018.

Solicitors:
Crown Law Office, Wellington for First and Second Respondents