



## Supreme Court of New Zealand

20 June 2008

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

**GUSTAV & CO LIMITED v MACFIELD LIMITED**  
**(SC 39/2007)**  
**[2008] NZSC 47**

### **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).**

This appeal concerned a contract for the sale and purchase of substantial commercial premises in Christchurch. The purchaser, Gustav, appealed from the dismissal in both the High Court and the Court of Appeal of its claim that the contract should be set aside as an unconscionable bargain. The basis of that claim was that Gustav's sole director was at the time suffering from terminal cancer and had agreed to pay more than the premises were worth.

The Supreme Court has differed from the Courts below in deciding that the time when the unconscionability issue should be addressed is the time when

the contract was entered into rather than when the purchaser declared it unconditional. The Court has, however, agreed with the Courts below that the contract was not, in any event, an unconscionable bargain. The director who negotiated the contract on Gustav's behalf was not at any disadvantage from his illness rendering him unable adequately to look after Gustav's interests. Hence there was no basis upon which the contract could be set aside.

Contact person: Gordon Thatcher, Supreme Court Registrar (04) 914 3545