

IN THE SUPREME COURT OF NEW ZEALAND

**SC 82/2007
[2008] NZSC 14**

BETWEEN LIONEL ANDREW WEST
 Applicant

AND THE OFFICIAL ASSIGNEE
 Respondent

Court: Elias CJ, McGrath and Anderson JJ

Counsel: Applicant in person
 G A J Stanish and R J Ellis for Respondent

Judgment: 11 March 2008

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed with costs of \$1500 to the respondent.

REASONS

[1] The applicant seeks leave to appeal to this Court against a judgment of the Court of Appeal which held that the Official Assignee had acted within lawful powers in selling the applicant's one-third beneficial interest in a property owned by the estate of the applicant's father.

[2] In June 1991 Mr West was adjudicated bankrupt. The Official Assignee took the view that the applicant's beneficial interest passed to the Official Assignee under s 42 of the Insolvency Act 1967 as "property ... of the bankrupt". The interest was sold by the Official Assignee in 1994. By then the applicant had been discharged under s 107(1).

[3] The main point the applicant wishes to argue in this Court is that the Official Assignee could not sell the beneficial interest because it had not vested in the applicant at the time of his bankruptcy. He also wishes to argue that his discharge from bankruptcy had the effect of terminating the Official Assignee's right to dispose of that interest.

[4] We are satisfied that both of these contentions of law by the applicant have no prospect of success and accordingly cannot be a proper basis for an appeal to this Court. Nor do any of the other matters referred to by the applicant raise any point that could make it in the interests of justice under s 13(2) of the Supreme Court Act 2003 for this Court to hear and determine the appeal.

[5] In these circumstances the application for leave must be dismissed with costs of \$1500 to the respondent.

Solicitors:
Crown Law Office, Wellington for Respondent