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MEDIA RELEASE – FOR IMMEDIATE PUBLICATION

Tasman Orient Line CV v New Zealand China Clays Ltd and Ors (SC39/2009) [2010] NZSC 37

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 Judicial Decisions of Public Interest www.courtsofnz.govt.nz

The Maritime Transport Act 1994 provides that international rules known as the Hague-Visby Rules apply to the carriage of goods by sea. These Rules allocate responsibility for the loss of or damage to goods. The owners and charterers of ships are responsible for loss caused by a failure to provide a seaworthy ship and a competent master and crew. Where however the loss results from acts or omissions of the master or crew in the navigation or in the management of the ship, the loss is the responsibility of the owner of the cargo unless the loss was intentional (in which case it is known as barratry).

A ship called the *Tasman Pioneer* under charter to the appellant and carrying the cargo of the respondents struck rocks while in Japanese waters and was holed. Instead of seeking assistance, which would have been readily available, the Master tried to conceal what had happened. As a result, the cargo was a total loss. The respondents sued the appellant to recover that loss.

The High Court found that, under the Hague-Visby Rules, the cargo owners were entitled to recovery. By a majority, the Court of Appeal agreed. The Supreme Court has now unanimously decided that the appellant is not liable to compensate the respondents for their loss because the conduct of the Master, although reprehensible, was in the navigation or management of the ship and barratry was not alleged.

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