IN THE SUPREME COURT OF NEW ZEALAND

SC 40/2010 [2010] NZSC 81

BETWEEN VINING REALTY GROUP LIMITED

Appellant

AND ALTIMARLOCH JOINT VENTURE

LIMITED

First Respondent

AND GASCOIGNE WICKS

Second Respondent

AND D S & J W MOORHOUSE

Third Respondents

AND MARLBOROUGH DISTRICT COUNCIL

Fourth Respondent

SC 41/2010

AND BETWEEN GASCOIGNE WICKS

Appellant

AND ALTIMARLOCH JOINT VENTURE

LIMITED

First Respondent

AND D S & J W MOORHOUSE

Second Respondents

AND MARLBOROUGH DISTRICT COUNCIL

Third Respondent

AND VINING REALTY GROUP LIMITED

Fourth Respondent

Court: Blanchard, Tipping and McGrath JJ

Counsel: M R Ring QC and A B Darroch for Vining Realty Group Ltd

F B Barton for Gascoigne Wicks

M E Casey QC and R M Dunningham for Altimarloch Joint Venture

Ltd

D J Goddard QC for Marlborough District Council

Judgment: 14 July 2010

JUDGMENT OF THE COURT

A The applications for leave to appeal are granted.

B The approved ground is whether the award of damages against DS & JW Moorhouse (in respect of which they are entitled to be fully indemnified by Vining Realty and Gascoigne Wicks) was appropriately quantified on an expectation basis.

REASONS

[1] Gascoigne Wicks also sought leave to challenge the conclusion of the Courts below that there was a sufficient causal connection between that firm's negligent conduct (as agent of the Moorhouses) and the decision of the Altimarloch Joint Venture Ltd to enter into or proceed with the contract of sale and purchase. This proposed ground raises entirely factual issues which give rise to no questions of general or public importance. Nor is it shown that the decision of the Court of Appeal in this respect has given rise to a miscarriage of justice. Leave for this ground to be argued is therefore refused.

Solicitors:

Duncan Cotterill, Nelson for Vining Realty Group Anderson Lloyd, Dunedin for Gascoigne Wicks Buddle Findlay, Christchurch for Altimarloch Joint Venture Limited Heaney & Co, Auckland for Marlborough District Council