

IN THE SUPREME COURT OF NEW ZEALAND

SC 21/2011
[2011] NZSC 58

BETWEEN	SHER AFZAL KHAN Applicant
AND	KEITH WILLIAM REID Respondent

Court: Elias CJ, Blanchard and Tipping JJ

Counsel: Applicant in person
M R T Colthart for Respondent

Judgment: 1 June 2011

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed with costs of \$2,500 to the Respondent.

REASONS

[1] The applicant, Mr Khan, together with his wife sued the respondent, Mr Reid, a barrister who had previously acted for Mrs Khan. That claim, alleging negligence on the part of the respondent, was struck out as time barred in the High Court.¹ The Khans then sought leave to appeal out of time to the Court of Appeal, which concluded that the appeal was unmeritorious and refused leave.²

[2] Mr Khan had not paid Mr Reid costs ordered by the High Court. Mr Reid had served a bankruptcy notice. Mr Khan applied to set it aside but did not comply with the time period for filing his affidavit in support. His application was therefore struck out.³

¹ *Khan v Reid* HC Auckland CIV-2009-404-1721, 30 October 2009.

² *Khan v Reid* [2010] NZCA 391.

³ *Reid v Khan* HC Auckland CIV-2009-404-8543, 11 March 2010.

[3] Mr Khan appealed against that striking out but again his appeal was not pursued within the applicable time limit (in r 43 of the Court of Appeal (Civil) Rules 2005). He therefore needed an extension of time which the Court of Appeal has refused to give him.⁴ The Court of Appeal considered that the appeal was pointless in view of the adjudication, which was unchallenged, and that the matters which Mr Khan wished to raise had been conclusively resolved against him.

[4] The present application is a hopeless attempt to raise those matters once again. It does not meet the criteria for leave.

Solicitors:
C K Lyon, Remuera for Respondent

⁴ *Khan v Reid* [2011] NZCA 22.