

**IN THE SUPREME COURT OF NEW ZEALAND**

**SC 21/2012  
[2012] NZSC 32**

BETWEEN	MICHAEL PETER STIASSNY AND GRANT ROBERT GRAHAM First Appellants
AND	FORESTRY CORPORATION OF NEW ZEALAND LIMITED (IN RECEIVERSHIP) Second Appellant
AND	CITIC NEW ZEALAND LIMITED (BVI) (IN RECEIVERSHIP) Third Appellant
AND	CNI FOREST NOMINEES LIMITED Fourth Appellant
AND	BANK OF NEW ZEALAND Fifth Appellant
AND	COMMISSIONER OF INLAND REVENUE Respondent

Court: Blanchard, William Young and Chambers JJ

Counsel: M R Crotty for First, Second and Third Appellants  
R G Simpson for Fourth Appellant  
J McKay for Fifth Appellant  
D J Goddard QC and H W Ebersohn for Respondent

Judgment: 8 May 2012

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**JUDGMENT OF THE COURT**

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**A Leave to appeal is granted.**

**B The approved grounds are:**

- (i) **whether the GST payment was a “debtor-initiated payment” in terms of s 95 of the Personal Property Securities Act 1999 so as to confer priority to the Commissioner over any claim to those moneys by any respondent;**
  - (ii) **whether any of the appellants can recover the amount of GST so paid from the Commissioner on the basis that it was paid by the receivers under a mistaken belief that they were personally liable to pay it or on any other basis.**
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### **REASONS**

[1] The approved grounds are intended to encompass all the issues raised in paragraph 5 of the submissions of the appellants in support of their leave application. The respondent has advised that it will support the judgment below on the alternative ground that the receivers were in fact personally liable to make the GST payment. Leave is not required for that to be done.

**Solicitors:**

Russell McVeagh, Auckland for First, Second and Third Appellants  
Bell Gully, Auckland for Fourth Appellant  
Chapman Tripp, Auckland for Fifth Appellant  
Crown Law Office, Wellington for Respondent