



## Supreme Court of New Zealand

4 December 2012

### **MEDIA RELEASE – FOR IMMEDIATE PUBLICATION**

**MANUKAU GOLF CLUB INC v SHOYE VENTURE LTD  
(SC 36/2012)  
[2012 ] NZSC 109**

### **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 [www.courtsofnz.govt.nz](http://www.courtsofnz.govt.nz).**

In 2010 Manukau Golf Club Inc brought a claim in the High Court against Shoye Venture Ltd for breach of a written contract. Shoye counterclaimed and was successful in obtaining summary judgment, plus costs, against the Club. The High Court granted the summary judgment on the basis of an implied term that was not pleaded. The Club appealed. The Court of Appeal granted the appeal, setting aside the summary judgment in Shoye's favour and quashing the order for costs. It made no order for costs with respect to that appeal but did not give reasons for doing so. The issue in this Court was whether the Court of Appeal erred in denying costs to the Club, as the successful party in the appeal.

The Supreme Court has unanimously held that the Court of Appeal erred in refusing the Club costs. In denying the Club costs, the Court of Appeal departed from the fundamental principle that a successful party in an appeal is generally entitled to

costs against the unsuccessful party. As the Court of Appeal did not give reasons for refusing costs, the Supreme Court accepted the Club's submission that the Court of Appeal probably took into account irrelevant considerations in its decision to refuse costs. There was no disentitling conduct on the part of the Club to justify a refusal of costs. The Supreme Court has also confirmed that although a court is not generally required to give reasons for a standard costs order, it should do so where it is departing from the fundamental principle that costs should follow the event.

Accordingly, the appeal is allowed and Shoye is ordered to pay costs to the Club.

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