



Supreme Court of New Zealand

9 August 2012

MEDIA RELEASE – FOR IMMEDIATE PUBLICATION

GARY OWEN BURGESS v SUSAN NATALIE BEAVEN
(SC 9/2011)
[2012] NZSC 71

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.

This case concerns the division of relationship property between Mr Burgess and Ms Beaven under the Property (Relationships) Act 1976. They married in May 2002 and separated in May 2003.

Their dispute as to the division of the relationship property has generated a drawn-out litigation process through the Family Court, High Court, Court of Appeal and Supreme Court. A significant aspect of their dispute related to the application of s 14 of the Act. Ms Beaven was successful in the Family Court and High Court which held that her contribution had “clearly been disproportionately greater” than that of Mr Burgess. The Court of Appeal later granted Mr Burgess leave to appeal in respect of this issue and eventually allowed his appeal and held that equal division was appropriate under s 14. This required the Court to assess what financial adjustment was required, an exercise it carried out on the basis of separation and not hearing date values.

The Supreme Court has allowed the further appeal of Mr Burgess.

The Act provides the default position that the value of relationship property should be determined as at the date of the hearing by the court that first hears the substantive dispute. The Court of Appeal did not specifically address this default position and did not set out, at least in any specific terms, its justification for departing from it. There were also practical considerations favouring a hearing date approach, particularly post-separation inflationary gains. The appropriate valuation date was therefore the date of the first substantive hearing in the Family Court, which was in January 2007.

Accordingly, the Supreme Court has made an assessment of the relationship property based on values of the property at the 2007 hearing date and calculated an equalising payment accordingly.

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