

IN THE SUPREME COURT OF NEW ZEALAND

SC 102/2014  
[2014] NZSC 177

BETWEEN

VICTORIA ELIZABETH BETHELL as  
administrator of the estate of ROSS  
MCKAY BETHELL  
First Applicant

MARIA GAEL BETHELL  
Second Applicant

AND

CHRISTINE ANNE BETHELL  
Respondent

Court: McGrath, William Young and Glazebrook JJ

Counsel: S A Grant for the Applicants  
R J Thompson for the Respondent

Judgment: 3 December 2014

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**JUDGMENT OF THE COURT**

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- A The application for leave to appeal is dismissed.**
- B The applicants must pay costs of \$2,500 to the respondent.**
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**REASONS**

[1] John Bethell died in 1985. Under his will, his son Ross Bethell (now deceased) inherited a large block of land at Bethells Beach. This was subject to one of John's daughters, Christine Bethell (Chrissie), having a lease during her life time of "ten (10) acres more or less together with the camp and shop buildings thereon (if any)" and having the right to have the 10 acres transferred to her if a subdivision could be achieved.

[2] There were difficulties in implementing the will, which led to a deed of family arrangement in 1987. Under the deed, Ross agreed that Chrissie could call for “an allotment of up to 10 acres in the area known as the camping grounds<sup>1</sup> near the main road” as long as local authority consent to the subdivision was obtained during the joint lives of Ross and Chrissie.

[3] Chrissie obtained resource consent for the subdivision of 10 acres. Ross refused to transfer the land to her, maintaining she was only entitled to the camping ground land itself, an area of approximately five acres.

[4] The High Court upheld Chrissie’s claim to the 10 acres<sup>2</sup> and an appeal against that decision was dismissed in the Court of Appeal, except that Chrissie was held to be responsible for the costs of obtaining the subdivision’s resource consent.<sup>3</sup>

[5] The applicants apply for leave to appeal to this Court.

[6] This matter involves the interpretation of a one-off deed. As a result, no issues of general or commercial importance arise. The matter has been thoroughly examined by the High Court and the Court of Appeal. Nothing that has been put forward by the applicants suggests that the courts below erred in the approach to the interpretation of the deed in the context of the particular circumstances of this case.

[7] The application for leave to appeal is dismissed.

[8] The applicants must pay costs of \$2,500 to the respondent.

Solicitors:

Turner Hopkins, Auckland for the Applicants

Patterson Hopkins, Auckland for the Respondent

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<sup>1</sup> The land had never in fact been used as a camping ground.

<sup>2</sup> *Bethell v Bethell* [2013] NZHC 3492 (Courtney J).

<sup>3</sup> *Bethell v Bethell* [2014] NZCA 442 (Randerson, Wild and White JJ) at [91]–[92].