

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI

SC 64/2021  
[2021] NZSC 108

BETWEEN MELCO PROPERTY HOLDINGS (NZ)  
2012 LIMITED  
Applicant

AND ANTHONY JOHN HALL  
Respondent

Court: William Young, O'Regan and Ellen France JJ

Counsel: A C Beck and F B Q Collins for Applicant  
A L Holloway and T A Cunningham for Respondent

Judgment: 3 September 2021

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**JUDGMENT OF THE COURT**

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- A** Leave to appeal is granted (*Melco Property Holdings (NZ) 2012 Ltd v Hall* [2021] NZCA 184).
- B** The approved question is whether the Court of Appeal was correct to dismiss the appeal.
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**REASONS**

[1] To assist counsel in preparing for the appeal, the Court notes the following points:

- (a) The Court would be assisted by argument as to the circumstances in which a breach of the obligation to provide reasonable access to the premises might defeat the right to avoid the agreement, including whether it would be sufficient to show a breach of that obligation in respects material to confirmation or waiver by the applicant of the

relevant condition, or whether it would be necessary to prove the counterfactual.

- (b) Counsel are also asked to address whether or not breach of the obligation to provide reasonable access to the premises would sound only in damages, leaving the avoidance of the contract in place.

[2] In raising these matters, the Court does not intend to constrain argument on other points raised by the approved question that counsel may wish to advance.

Solicitors:  
Gibson Sheat, Wellington for Applicant  
Wotton + Kearney, Wellington for Respondent