

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI

SC 6/2021
[2021] NZSC 92

BETWEEN ERIC MESERVE HOUGHTON
 Applicant

AND TIMOTHY ERNEST CORBETT
 SAUNDERS, SAMUEL JOHN MAGILL,
 JOHN MICHAEL FEENEY, CRAIG
 EDGEWORTH HORROCKS, PETER
 DAVID HUNTER, PETER THOMAS AND
 JOAN WITHERS
 First Respondents

 CREDIT SUISSE PRIVATE EQUITY
 INCORPORATED
 Second Respondent

 CREDIT SUISSE FIRST BOSTON ASIAN
 MERCHANT PARTNERS LP
 Third Respondent

Court: Glazebrook, O'Regan and Williams JJ

Counsel: A J Gavigan as Applicant
 A R Galbraith QC, D J Cooper and M C Harris for First
 Respondents (other than Mr Magill and Ms Withers)
 T C Weston QC and M C Harris for Mr Magill
 B D Gray QC and A E Ferguson for Ms Withers
 J B M Smith QC, A S Olney and C J Curran for Second and Third
 Respondents

Judgment: 28 July 2021

JUDGMENT OF THE COURT

- A The application for recall of this Court's recall judgment of 2 July 2021 (*Houghton v Saunders* [2021] NZSC 76) is dismissed.**
- B There is no order as to costs.**
-

REASONS

[1] On 2 July 2021, we issued a judgment¹ dismissing Mr Gavigan’s application for recall of our judgment dismissing Mr Houghton’s application for leave to appeal.²

[2] Mr Gavigan now applies for recall of the recall judgment. He takes issue with this sentence in that judgment: “The allegations [made in Mr Gavigan’s application] are not new and are not able to be resurrected after the final resolution of the proceeding”. He asks that the recall judgment be re-issued with that sentence deleted.

[3] There is no basis for recall of the recall judgment.³ We do not intend to engage in a debate about the sentence in issue: we simply refer Mr Gavigan to the submissions of the respondents in relation to the earlier recall application and the footnoted references in those submissions.

[4] The application for recall is dismissed.

[5] The respondents made brief submissions in relation to costs. But these were unsolicited, and the Court did not require them in order to deal with the application. In those circumstances, we make no order as to costs in relation to the present application.

Solicitors:

Gilbert Walker, Auckland for First Respondents

Russell McVeagh, Wellington for Second and Third Respondents

¹ *Houghton v Saunders* [2021] NZSC 76. The application also sought a stay of the High Court costs proceeding and leave to commence a fresh application for leave to appeal. For brevity, we will call this judgment the “recall judgment”.

² *Houghton v Saunders* [2021] NZSC 38.

³ The grounds upon which a judgment may be recalled were summarised in *Craig v Williams* [2019] NZSC 60 at [10], citing *Horowhenua County v Nash (No 2)* [1968] NZLR 632 (SC) at 633.