

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 112/2022
[2023] NZSC 2

BETWEEN YIHENG WU
Applicant

AND STALIX PROPERTY LIMITED
First Respondent

STRESS FREE CHAIRS, DINING AND
LOUNGE LIMITED
Second Respondent

Court: Glazebrook, O'Regan and Ellen France JJ

Counsel: Applicant in person
G K Riach for Respondents

Judgment: 16 February 2023

JUDGMENT OF THE COURT

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

[1] Mr Wu seeks leave to appeal against a minute of Brown J dealing with various interlocutory issues.

Background

[2] The respondents are the registered proprietors of a property in Christchurch. Mr Wu was formerly one of the registered proprietors and refused to vacate the property.

[3] The High Court made an order granting the respondents possession of the property.¹ Mr Wu has lodged an appeal against that decision to the Court of Appeal.

[4] Mr Wu also filed an interlocutory application in the Court of Appeal seeking answers to a number of questions. On 6 October 2022, Brown J directed that the application not be accepted for filing on the basis that the questions concerned prior proceedings that were not at issue in the appeal.

[5] Mr Wu then filed a further interlocutory application asking for answers to five questions. This application was refused by Brown J in a minute dated 17 October 2022. Brown J said that the Court of Appeal “does not answer questions in the nature of interrogatories issued by parties prior to the hearing of an appeal”. Brown J noted, in any event, that Mr Wu’s questions did not relate to his present appeal but instead sought to rely on an argument advanced before and rejected by Osborne J in a judgment that had not been appealed.² Mr Wu was therefore not able to revisit that argument in the current appeal.

Our assessment

[6] The criteria for leave are not met.³ The application relates to the particular circumstances of this case and no matter of public or general importance or commercial significance arises.⁴ Nor is there any risk of a miscarriage of justice.⁵

[7] Further, it is not necessary to hear and determine the proposed appeal before the Court of Appeal determines the substantive appeal.⁶

Result

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

¹ *Stalix Property Ltd v Wu* [2022] NZHC 1928 (Associate Judge Lester).

² *Stalix Property Ltd v Wu*, above n 1, at [17]; and *Li v Wu* [2022] NZHC 333 (Osborne J).

³ We assume, without deciding, that this Court has jurisdiction to consider Mr Wu’s application.

⁴ Senior Courts Act 2016, s 74(2)(a) and (c).

⁵ Section 74(2)(b). For the threshold required for a miscarriage of justice in civil cases, see *Junior Farms Ltd v Hampton Securities Ltd (in liq)* [2006] NZSC 60, (2006) 18 PRNZ 369 at [5].

⁶ Senior Courts Act, s 74(4).

[9] The applicant must pay the respondents costs of \$2,500.

Solicitors:

Harmans Lawyers, Christchurch for Respondents