

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 89/2023
[2024] NZSC 109

BETWEEN SANDY ZHUJUN DAI
Applicant

AND PROFESSIONAL CONDUCT
COMMITTEE OF THE NEW ZEALAND
INSTITUTE OF CHARTERED
ACCOUNTANTS
Respondent

Court: Glazebrook, Williams and Kós JJ

Counsel: Applicant in person

Judgment: 6 September 2024

JUDGMENT OF THE COURT

- A** The application for recall of this Court’s judgment of 22 April 2024 (*Dai v Professional Conduct Committee of the New Zealand Institute of Chartered Accountants* [2024] NZSC 38) is dismissed.
- B** The application for review of the Registrar’s decision not to accept for filing a second application for leave is dismissed.
- C** There is no order as to costs.
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REASONS

[1] On 22 April 2024, this Court dismissed Ms Dai’s application for leave to appeal from a judgment of the Court of Appeal.¹ Ms Dai then sought to file a second

¹ *Dai v Professional Conduct Committee of the New Zealand Institute of Chartered Accountants* [2024] NZSC 38 [SC leave judgment]; and *Dai v Professional Conduct Committee of the New Zealand Institute of Chartered Accountants* [2023] NZCA 132 (Brown and Collins JJ) [CA judgment].

application for leave to appeal from that judgment. The Registrar refused this application for filing. Ms Dai has now filed substantively the same application in the form of an application for recall of this Court's decision not to grant leave. She also seeks review of the Registrar's decision to refuse her second leave application for filing and a substitution of the respondent's name from the Professional Conduct Committee of the New Zealand Institute of Chartered Accountants, to the New Zealand Institute of Chartered Accountants.

[2] It is convenient to address first the correct procedure for Ms Dai's substantive complaint. The Registrar was correct to refuse Ms Dai's second leave application for filing because the judgment Ms Dai wished to appeal in that application is the same judgment she sought leave to appeal in her first leave application.² This Court already declined to grant leave to appeal that judgment in April.³ The correct procedure is to apply for a recall.⁴ Accordingly, Ms Dai's application for review of the Registrar's decision to refuse her second leave application for filing is dismissed.

[3] We turn now to the substance of Ms Dai's application for recall. Ms Dai largely reprises the same arguments she made in her first leave application. To that extent, we consider Ms Dai's recall application is an attempt to relitigate the reasons provided and the conclusion reached in this Court's judgment of 22 April 2024.⁵ Ms Dai also submits that this Court was wrong to treat the Court of Appeal proceeding as abandoned, rendering her intended appeal to this Court moot.⁶ However, this Court was factually correct: while the Court of Appeal has not yet struck out Ms Dai's proceeding in that Court, her appeal was, indeed, deemed abandoned under r 43 of the Court of Appeal (Civil) Rules 2005 on 25 July 2023.⁷ In any case, the issue of abandonment was not the primary reason for this Court's decision to decline Ms Dai's initial leave application.⁸ Ms Dai has still not resolved the procedural defects in her

² CA judgment, above n 1.

³ SC leave judgment, above n 1.

⁴ *Uhrle v R* [2020] NZSC 62, [2020] 1 NZLR 286 at [20].

⁵ *Nuku v District Court at Auckland* [2018] NZSC 39 at [2].

⁶ SC leave judgment, above n 1, at [4] and [6].

⁷ See *Dai v Professional Conduct Committee of the New Zealand Institute of Chartered Accountants* CA83/2023, 21 May 2024 (Minute of Mallon J) at [8] and [11].

⁸ SC leave judgment, above n 1, at [5]–[6].

claim.⁹ Nothing further has been advanced that warrants a recall. Therefore, her application for recall is dismissed.

[4] It follows that Ms Dai's request to have the respondent's name substituted is moot and must be declined.

Disposition

[5] Ms Dai's applications for review and recall are dismissed, as is her request to have the respondent's name substituted.

[6] We make no order as to costs.

⁹ At [5]–[6].