

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC UR 16/2025
[2025] NZSC 145

RE

FRED AKARANA-REWI
Applicant

Court: Winkelmann CJ, Glazebrook and Kós JJ

Counsel: Applicant in person

Judgment: 23 October 2025

JUDGMENT OF THE COURT

**The application for review of this Court's judgment of 11 July 2025
(*Re Akarana-Rewi* [2025] NZSC 81) is dismissed.**

REASONS

[1] This is an application for review under s 82(4)(b) of the Senior Courts Act 2016 of a decision of a single judge of this Court dismissing an application to review a decision of the Registrar not to accept a notice of application for leave to appeal for filing.¹ An application for recall was also dismissed by the Judge.²

[2] The application arises as follows:

- (a) The applicant's application in the High Court for an ex parte injunction to restrain a mortgagee sale of a property was dismissed.³

¹ *Re Akarana-Rewi* [2025] NZSC 81 (Miller J) [Review decision].

² *Re Akarana-Rewi* [2025] NZSC 105 (Miller J) [Recall judgment].

³ *Akarana-Rewi v Property Funding Trustees Ltd* HC Auckland CIV-2024-404-2862, 12 November 2024 (Becroft J).

- (b) The applicant filed an appeal to the Court of Appeal, but it is not disputed that he did not file his application for hearing, and case on appeal, within the three-month time limit.
- (c) As a result, the appeal was deemed abandoned by operation of r 43 of the Court of Appeal (Civil) Rules 2005. A Deputy Registrar of the Court of Appeal certified that result.⁴
- (d) The applicant filed a notice of application for leave to appeal in this Court against the “decision” of the Court of Appeal’s Deputy Registrar.
- (e) The Registrar of this Court refused to accept that application on the basis that the result certified was the automatic consequence under the Rules of the applicant’s inaction, rather than a decision made by the Court of Appeal.

[3] The applicant sought review by a Judge, in effect under r 5A(3) of the Supreme Court Rules 2004. Miller J dismissed that application, reasoning:⁵

[6] Under s 68 of the Senior Courts Act 2016, this Court has jurisdiction to hear an appeal by a party to a civil proceeding in the Court of Appeal under “a decision made in the proceeding”.⁶ The deemed abandonment of the appeal to the Court of Appeal happened by operation of r 43(1) of the Court of Appeal (Civil) Rules, not because of a decision made by an officer or judge of that Court.⁷ The Deputy Registrar did no more than confirm that the period prescribed by the rules had elapsed.

[7] In short, the proposed appeal concerns the prescribed operation of r 43 and not a decision of the Court of Appeal. For that reason, the Registrar of this Court was correct to refuse to accept the application for filing.

[4] The applicant seeks further review, under s 82(4)(b) of the Senior Courts Act.⁸ His grounds are that: (1) the Court of Appeal failed to apply r 43(1B)(d) of the Court of Appeal (Civil) Rules; (2) there was a breach of natural justice in this Court, in that

⁴ *Akarana-Rewi v Property Funding Trustees Ltd* CA810/2024, 4 April 2025.

⁵ Review decision, above n 1, at [6]–[7].

⁶ With certain exceptions which do not apply here.

⁷ *Dunstan v Attorney-General* [2022] NZSC 3 at [5].

⁸ As this review relates to an intended application for leave, it is being considered by a panel of three—being the number of judges ordinarily constituting the Court on such an application.

the recall judgment was delivered by the same Judge as delivered the review judgment; (3) the review judgment contained a factual error about an oral hearing before the High Court Judge; and (4) the case raises matters of constitutional importance.

Discussion

[5] We dismiss the application for review. First, ground (1) above is misconceived: it depends on application being made *before* expiry of the three-month time limit, which did not occur here.⁹ Secondly, ground (2) is also misconceived: an application for recall is necessarily made to the judge who delivered the original judgment, with the right then to seek further review to other judges of the Court—as is now taking place here. Thirdly, neither grounds (3) nor (4) are relevant: neither can affect the automatic application of the Court of Appeal (Civil) Rules. The applicant’s inaction resulted in his appeal being deemed abandoned under those Rules; there is no decision by that Court itself to appeal here. Finally, we consider the reasoning at [6]–[7] of the review judgment must be correct. We therefore confirm that decision.

Result

[6] The application for review of this Court’s judgment of 11 July 2025 (*Re Akarana-Rewi* [2025] NZSC 81) is dismissed.

⁹ Court of Appeal (Civil) Rules 2005, r 43(1) and (1B).