

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC UR 16/2025

[2025] NZSC 81

RE

FRED AKARANA-REWI
Applicant

Counsel: Applicant in person

Judgment: 11 July 2025

JUDGMENT OF MILLER J

The application for review of the decision of the Registrar not to accept the application for leave to appeal for filing is dismissed.

REASONS

[1] Mr Akarana-Rewi sought an ex parte injunction in the High Court to restrain a mortgagee's sale of a property. Becroft J declined it after convening a teleconference at the request of counsel for the mortgagee, which had somehow learned of the application.¹ Mr Akarana-Rewi was asked to take part in the teleconference but he refused to do so. The Judge was satisfied that there had been no apparent unfairness or failure of process and declined to issue an injunction.

[2] Mr Akarana-Rewi appealed to the Court of Appeal. Evidently he did not prosecute the appeal as the rules of that Court require, by filing an application for hearing and the case on appeal within three months. That period having elapsed without an extension of time being sought, the appeal was deemed to have been abandoned by operation of r 43 of the Court of Appeal (Civil) Rules 2005. The Deputy

¹ *Akarana-Rewi v Property Funding Trustees Ltd* HC Auckland CIV-2024-404-2862, 12 November 2024 (Minute of Becroft J).

Registrar of the Court of Appeal signed a certificate to the Registrar of the High Court at Auckland to the effect that the appeal had been deemed abandoned on 4 April 2025.

[3] On 5 May 2025, Mr Akarana-Rewi filed a notice of application for leave to appeal to this Court against the “decision” of the Deputy Registrar. (It was initially unsigned but he has since remedied that omission.)

[4] The Registrar refused to accept the application for filing principally on the ground that this Court lacks jurisdiction. She reasoned that Mr Akarana-Rewi did not seek leave to appeal a judgment of a New Zealand court. And she found that the abandonment of an appeal under r 43 of the Court of Appeal (Civil) Rules to be “a function of the rules, not a decision of a Deputy Registrar”.

[5] Mr Akarana-Rewi now seeks review of the Registrar’s decision.² He says the decision was unfounded, corrupt and an abuse of process.

[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 against “a decision made in the proceeding”.³ 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.⁴ 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.⁵

[8] I note that Mr Akarana-Rewi does not say that the Deputy Registrar of the Court of Appeal miscalculated the passage of three months. Nor does he say that he

² He described it as an application for leave to appeal the Registrar’s decision, but there is no such jurisdiction. However, the Registrar’s decision can be reviewed by a judge under r 5A(3) of the Supreme Court Rules 2004. I have treated the application as an application to review the Registrar’s decision under that rule.

³ With certain exceptions which do not apply here.

⁴ *Dunstan v Attorney-General* [2022] NZSC 3 at [5].

⁵ Supreme Court Rules, r 5A(1)(b)(ii).

had in fact taken the formal steps required to keep his appeal on foot within that period, or that he had sought an extension of time before the time for doing so expired. Had any of those things been in issue, he might have asked a judge of the Court of Appeal to review the matter.⁶

[9] The application for review of the decision of the Registrar not to accept the application for leave to appeal for filing is dismissed.

⁶ In that case, he could not have sought leave to appeal to this Court without first seeking a review in the Court of Appeal. See *Harrison v Auckland District Health Board* [2013] NZSC 98 at [6].