

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 170/2025  
[2026] NZSC 14

BETWEEN HAILING WANG AND LINDA WU  
Applicants

AND BODY CORPORATE 406198  
First Respondent

THE PARTIES LISTED IN SCHEDULE 1  
OF [2025] NZCA 536  
Second Respondents

ARGON CONSTRUCTION LIMITED  
Third Respondent

AUCKLAND COUNCIL  
Fourth Respondent

Court: Ellen France and Miller JJ

Counsel: Applicants in person  
D R Bigio KC and H Chung for First Respondent  
No appearance for Second Respondents  
W A McCartney for Third Respondent  
S C Price and M J Ferrier for Fourth Respondent

Judgment: 6 March 2026

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**JUDGMENT OF THE COURT**

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

[1] The applicants seek leave to appeal a decision of the Court of Appeal refusing them an extension of time to appeal a costs award made in the High Court in *Body Corporate 406198 v Argon Construction Ltd.*<sup>1</sup>

[2] Unusually, the proposed appeal is from a judgment in favour of the Body Corporate and the applicants.<sup>2</sup> As the Court of Appeal explained, the proposed appeal is aimed not at Argon or the Auckland Council but at the Body Corporate, which the applicants accuse of fraud. They wish to supply the Court of Appeal with evidence of these alleged frauds, which primarily appear to concern the Body Corporate's handling of the dispute with Argon and the Council, and the Body Corporate's decision to reject a *Calderbank* offer that was, according to the applicants, very much larger than the total that could be attributed to the Body Corporate's own evidence.

[3] The proposed appeal in the Court of Appeal was 183 days out of time. The Court declined the extension because the delay was substantial and not adequately explained, and it also found the proposed appeal misconceived. The Court pointed out that normally a successful party would only challenge a costs award in their favour with a view to increasing it, but that is not the applicants' objective. The Court held that a costs appeal in this proceeding was not a proper vehicle for the applicants' grievances against the Body Corporate.<sup>3</sup>

[4] The application for leave to appeal to this Court contends that the Court of Appeal gave an unduly narrow interpretation of the 'interests of justice' test in *Almond v Read*,<sup>4</sup> and failed to meaningfully consider serious allegations of fraud, misconduct and "a systemic failure of the representative litigation process."

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<sup>1</sup> *Wang v Body Corporate 406198* [2025] NZCA 536 (Cooke and Whata JJ) [CA judgment]. We note that the applicants have also sought leave to appeal a separate, substantive decision of the Court of Appeal, and we express no view as to that application.

<sup>2</sup> *Body Corporate 406198 v Argon Construction Ltd* [2024] NZHC 1037 (Andrew J). The Court of Appeal recorded that Ms Wang separately sought to be substituted as a party to the proposed appeal; that was granted by the Court of Appeal in the separate appeal from the substantive High Court judgment: *Body Corporate 406198 v Argon Construction Ltd* [2025] NZCA 684 at [221]–[227].

<sup>3</sup> CA judgment, above n 1, at [11]–[12].

<sup>4</sup> *Almond v Read* [2017] NZSC 80, [2017] 1 NZLR 801 at [38].

The application goes on to list a number of particulars which make clear that the proposed appeal is about the Body Corporate's handling of the dispute, not the outcome as to costs between the Body Corporate, Argon and the Council. The proposed appeal would also extend to what the applicants describe as a systemic national crisis in body corporate governance.

[5] The application for leave to appeal is declined, for two reasons.

[6] First, these serious and extensive allegations against the Body Corporate are not within the proper scope of an appeal from the High Court costs judgment. As the Court of Appeal correctly observed, the applicants' grievances with the Body Corporate are irrelevant to the calculation of costs in this proceeding.<sup>5</sup> They would have to be determined in a separate proceeding. Second, no attempt was made to explain the delay of 183 days in the Court of Appeal. In these circumstances, we are satisfied that it is not necessary in the interests of justice for the Court to hear and determine the proposed appeal.<sup>6</sup>

[7] We record that we declined leave to file reply submissions. The barrier confronting the applicants was apparent from their own submissions.

[8] The applicants must pay costs of \$2,500 to the Body Corporate.<sup>7</sup>

Solicitors:

Lane Neave, Auckland for First Respondent

Cowan Law, Auckland for Third Respondent

MinterEllisonRuddWatts, Auckland for Fourth Respondent

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<sup>5</sup> CA judgment, above n 1, at [12].

<sup>6</sup> Senior Courts Act 2016, s 74(2).

<sup>7</sup> Argon and the Auckland Council both abide the Court's decision as to leave.