

IN THE SUPREME COURT OF NEW ZEALAND

**SC 60/2010
[2010] NZSC 106**

BETWEEN A PERSON OR PERSONS UNKNOWN
Applicant

AND NGAI-TUPANGO-HAPU INC
Second Applicant

AND TEA CUSTODIANS (BLUESTONE)
LIMITED
Respondent

Court: Blanchard, Tipping and William Young JJ

Counsel: D A Wood for Respondent

Judgment: 25 August 2010

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed with costs of \$2,500 to be paid by the second applicant to the respondent.

REASONS

[1] The proposed appeal is against the Court of Appeal's refusal of an application for stay of a judgment in the High Court which made an order for vacant possession of a property against a person or persons unknown who were in unlawful occupation of it.¹

[2] The second applicant has failed to establish that it represents any persons with rights in the property and has tendered submissions which are at best

¹ *Tea Custodians (Bluestone) Ltd v A Person or Persons Unknown Occupying a property at 15 Oakleigh Avenue, Takanini*, HC Auckland CIV-2010-404-000086, 18 March 2010; on appeal *A Person or Persons Unknown v Tea Custodians (Bluestone) Ltd* [2010] NZCA 211.

incoherent. No arguable ground of appeal meeting the criteria required for a grant of leave by this Court is disclosed in them.

[3] We observe that, in so far as the appeal to the Court of Appeal purported to be by a person or persons unknown, it should not have been accepted for filing in that Court in the absence of some identification of those persons and, if necessary, a representation order. Nor should the second applicant have been permitted to intervene without establishing its standing to do so. That said, we are in entire agreement with the substance of the judgment of the Court of Appeal.

Solicitors:
Sanderson Weir, Auckland for Respondent