

IN THE SUPREME COURT OF NEW ZEALAND

SC 137/2016
[2017] NZSC 32

BETWEEN AMANDA ADELE WHITE
First Applicant

ANNE LEOLINE EMILY FREEMAN
Second Applicant

AND CHRISTOPHER MAURICE LYNCH
First Respondent

STUART GORDON SPENCE
Second Respondent

Court: William Young, Glazebrook and Ellen France JJ

Counsel: Applicants in person
J S Cooper for Respondents

Judgment: 16 March 2017

JUDGMENT OF THE COURT

- A The application to recall the judgment is dismissed.**
- B We direct the Registrar not to accept any further applications by the applicants in respect of their dispute with the respondents.**
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REASONS

[1] The applicants have sought a recall of the judgment of this Court delivered on 16 February 2017 dismissing their application for leave to appeal against a judgment of the Court of Appeal.¹ Issue is taken with remarks made in the leave judgment to the effect that the applicants had, in the Court of Appeal, maintained that the relevance of the bank statements in question in the appeal “was of no concern to the

¹ *White v Lynch* [2017] NZSC 8; and *White v Lynch* [2016] NZCA 513 [*White* (CA)].

Court” and had not taken up the opportunity to substantiate their arguments.² These remarks were based on the judgment of the Court of Appeal, which in turn was based on a memorandum of 10 October 2016 which the applicants filed with the Court of Appeal, much of which is set out in the Court of Appeal’s judgment.³

[2] The memorandum of 10 October was in response to a minute of 5 October from the Court of Appeal. That minute noted that transactions in the bank statements in issue would also be recorded in bank statements which were in the control of the applicants. The minute required the applicants to file a memorandum “explaining precisely how” the bank statements in issue were “relevant to their claim”.

[3] In the 10 October memorandum, the applicants:

- (a) purported to require a judge of the Court “to give a cogent explanation as to the reason” for the request for an explanation of the relevance of the documents;
- (b) maintained that “the Court knows or ought to know, the contents of the unlawfully suppressed bank statements are completely irrelevant to the serious issues raised in the applicants’ applications currently before the Court for consideration”; and
- (c) noted that the bank statements of the trust would not record the recipients of cheques drawn against the account and said that the bank statements in issue would record that the second respondent had received money from the trust.

[4] The generalised assertions recorded in [3](c) were neither a substantiation of their argument as to the merits of the discovery arguments nor an engagement with the opportunity the Court of Appeal had given them to explain “precisely how” the bank statements were “relevant to their claim”. The result was that the Court of Appeal was required to assess the merits of their discovery complaint without real assistance from them.

² At [4].

³ *White* (CA), above n 1, at [16]–[21].

[5] On the basis of the memorandum the Court of Appeal was entitled to conclude that the applicants' position was that relevance of the bank statements had nothing to do with the applications before it. Our description of the paradoxical position adopted by the applicants was thus accurate. We likewise we see no reason to revisit our comment that that they declined the opportunity to substantiate their arguments when given the opportunity to do so.

[6] The application to recall the judgment is dismissed.

[7] Given the intemperate language of the application and the past history of this litigation (including the making of a similar order by the Court of Appeal) we direct the Registrar not to accept any further applications by the applicants in respect of their dispute with the respondents.

Solicitors:
Sellar Bone & Partners, Auckland for Respondents