

IN THE SUPREME COURT OF NEW ZEALAND

SC 33/2016  
SC 42/2016  
[2016] NZSC 55

BETWEEN

AMANDA ADELE WHITE  
First Applicant

ANNE LEOLINE EMILY FREEMAN  
Second Applicant

AND

CHRISTOPHER MAURICE LYNCH  
First Respondent

STUART GORDON SPENCE  
Second Respondent

Court: Elias CJ, William Young and O'Regan JJ

Counsel: First and Second Applicants in person  
P J Wright and J C Adams for Respondents

Judgment: 17 May 2016

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**JUDGMENT OF THE COURT**

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**The applications for leave to appeal are dismissed.**

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**REASONS**

[1] The applicants both seek leave to appeal a decision by Wild J upholding the decision of a Deputy Registrar declining to dispense with security for costs.<sup>1</sup> The first named applicant also seeks leave to appeal against a decision by Kós J dismissing an application to review a decision of a Deputy Registrar declining to accept an application for review purportedly made under s 61A(2) of the Judicature Act 1908 of the earlier decision of Wild J.<sup>2</sup>

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<sup>1</sup> *White v Lynch* [2016] NZCA 78.

<sup>2</sup> *White v Lynch* [2016] NZCA 149.

[2] These cases arise out of a property dispute in the High Court in which Priestley J found against the applicants.<sup>3</sup> An award of costs was made against them. The applicants appealed against the judgment of Priestley J but upon their application to call further evidence being declined, they did not prosecute this appeal.<sup>4</sup> A further order for costs was made against them.<sup>5</sup> The respondents issued bankruptcy notices against the applicants based on the costs orders. The applicants unsuccessfully sought to challenge the original judgment against them on the basis that it was obtained by fraud.<sup>6</sup> These proceedings were struck out and an allied challenge to the bankruptcy notice was dismissed.<sup>7</sup> The applicants' later appeal against those decisions was deemed to be abandoned when security for costs was not provided. They then sought rescission of the strike out decision and to defend the bankruptcy proceedings on the basis that the strike out judgment had itself been obtained by fraud. They were unsuccessful before Faire J<sup>8</sup> and the issues before Wild and Kós JJ were in relation to the appeal against that judgment of Faire J.

[3] Their challenge to the decision of the Deputy-Registrar was evaluated by Wild J in accordance with the principles laid down by this Court in *Reekie*.<sup>9</sup> The Judge's reasons make convincing reading. The proposed appeal does not raise any issue of public or general importance and there is no appearance of a miscarriage of justice.

[4] The second application is without merit. In *Reekie*, this Court held that there is no right to apply under s 61A(2) of the Judicature Act in respect of a decision of a single judge dismissing an application to review a decision of a registrar declining to dispense with security.<sup>10</sup>

Solicitors:  
Sellar Bone, Auckland for Respondents

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<sup>3</sup> *Spence v Lynch* [2013] NZHC 1478.

<sup>4</sup> *White v Spence* [2014] NZCA 298. It appears that the appeal was ultimately abandoned by the Official Assignee.

<sup>5</sup> At [28].

<sup>6</sup> *White v Lynch* [2015] NZHC 1020.

<sup>7</sup> At [86]–[87].

<sup>8</sup> *White v Lynch* [2015] NZHC 3202.

<sup>9</sup> *Reekie v Attorney-General* [2014] NZSC 63, [2014] 1 NZLR 737.

<sup>10</sup> *Reekie*, above n 9, at [26].