

IN THE SUPREME COURT OF NEW ZEALAND

SC 43/2016
[2016] NZSC 82

BETWEEN AUGUSTINE LAU
 Applicant

AND UMH GROUP LIMITED
 Respondent

Court: William Young, Arnold and O'Regan JJ

Counsel: Applicant in person
 R Reed for Respondent

Judgment: 5 July 2016

JUDGMENT OF THE COURT

- A The application for leave to appeal is dismissed.**
- B The applicant must pay costs of \$1,500 to the respondent.**
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REASONS

[1] Mr Lau seeks leave to appeal against a decision of the Court of Appeal.¹ In that decision, the Court of Appeal dismissed Mr Lau's application for extension of time to appeal against an order of Gilbert J extinguishing a covenant over a property in Auckland.² That order was made by Gilbert J without opposition.

[2] Mr Lau does not suggest that he is personally affected by the order. He says he is acting as an agent for Dongfeng Lin, who has filed a caveat over a property said to be affected by the order. The owner of that property is Liansen Mao. Mr Lau did not explain the nature of this agency in the Court of Appeal and has not done so

¹ *Lau v UMH Group Ltd* [2016] NZCA 132 (Stevens, Cooper and Winkelmann JJ) [*UMH* (CA)].

² *UMH Group Ltd* HC Auckland CIV-2015-404-1993, 13 October 2015.

in this Court either, despite the reservations expressed by the Court of Appeal about the unexplained nature of the agency.³

[3] The order made by Gilbert J was made on 13 October 2015. There was no opposition from any of the affected parties who had been served notice of the application and provided with a timetable within which to file a notice of opposition. Mr Mao sought to oppose the order after it was made and Mr Lau unsuccessfully sought a recall of the order by Gilbert J. Some time later the order was served on Mr Mao. Mr Lau then applied for the extension of time to appeal to the Court of Appeal, arguing that the delay in serving the order on Mr Mao was the cause of his delay in appealing. As mentioned earlier, there was no explanation why Mr Lau was the proposed appellant, not Mr Mao or Ms Lin.

[4] The Court of Appeal considered the intended appeal to that Court could not succeed.⁴ In those circumstances an extension of time to appeal was not warranted.

[5] The proposed appeal to this Court does not give rise to any point of public importance. Nor does it give any basis for concern that a miscarriage of justice may occur if leave is not given. The test for the grant of leave to appeal to this Court is not met.⁵

[6] We therefore dismiss the application.

[7] We award costs of \$1,500 to the respondent.

Solicitors:
Prestige Lawyers Ltd, Auckland for Respondent

³ *UMH (CA)*, above n 1, at [2].

⁴ At [12].

⁵ Supreme Court Act 2003, s 13.