

IN THE SUPREME COURT OF NEW ZEALAND

**SC 64/2005
[2005] NZSC 83**

BETWEEN EASTERN SERVICES LIMITED
Appellant

AND NO. 68 LIMITED
Respondent

Court: Blanchard and Tipping JJ

Counsel: H C Keyte QC for Appellant
R B Stewart QC for Respondent

Judgment: 9 December 2005

JUDGMENT OF THE COURT

- A. Leave to appeal is granted.**
- B. The approved ground of appeal under r 29 is whether the appellant's claim for equitable relief was barred by laches.**

REASONS

(Given by Blanchard J)

[1] Leave to appeal is granted on the ground given above which encompasses the matters referred to in sub-paras (iii) to (vii) of para 1 of the amended notice of application.

[2] Leave is not granted in respect of the matters referred to in sub-paras (i) and (ii) of that notice. There was no sufficient pleading of the proposed ground relating to s 7 of the Limitation Act 1950 and, in any event, the claim is not one for the recovery of "land" as defined in that Act, which does not include an incorporeal hereditament. The Act therefore does not apply either directly or by analogy.

Solicitors:
Schnauer & Co, Auckland for Appellant
D W Webster, Takapuna for Respondent