



Supreme Court of New Zealand

3 December 2010

MEDIA RELEASE – FOR IMMEDIATE PUBLICATION

GE Custodians v Bruce Leonard Bartle and Dorothy Judith Bartle and Bartle Properties Ltd and Jonathan Mathias
(SC 52/2010)
[2010] NZSC 146

PRESS SUMMARY

This summary is provided to assist in the understanding of the Court's judgment. It does not comprise part of the reasons for that judgment. The full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at www.courtsofnz.govt.nz.

Mr and Mrs Bartle and their company, Bartle Properties Ltd, claimed that loans made to them by GE Custodians, secured over their home, were oppressive. They sought re-opening of those loans under Part 5 of the Credit Contracts and Consumer Finance Act 2003. The loans were used by the Bartles to fund the purchase by their company of an apartment under a scheme devised by the Blue Chip group. The High Court found that the Bartles had little understanding of this scheme, which was very disadvantageous for them. But the Court also concluded that the loans were not in breach of reasonable standards of commercial practice and thus were not oppressive.

The Court of Appeal allowed the Bartles' appeal, declared the loans oppressive and remitted the case to the High Court for consideration of the appropriate remedies.

The Supreme Court has unanimously allowed an appeal by GE. It has agreed with the High Court that the loans were not oppressive. It has done so because it has found that the terms of the loans themselves and the securities were not out of the ordinary and that neither GE nor the mortgage broker through whom the Bartles' loan applications were transmitted to the GE group had any knowledge of the aspects of the Blue Chip scheme or any other matter which made the advancing of the loans in breach of reasonable standards of commercial practice.

No challenge was made in the case to the independence of the solicitor who acted for the Bartles. GE was entitled to take the view, when deciding to make the advances, that the solicitor would competently advise his clients about any risks involved in the transaction. In these circumstances there was no matter known to GE or the broker that should have led them to make a further inquiry about the ability of the Bartles to repay the loans.

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