

IN THE SUPREME COURT OF NEW ZEALAND

SC 98/2017  
[2017] NZSC 174

BETWEEN	STUART WALTON HERRON Applicant
AND	WAYNE ANDREW WALLACE First Respondent
	BELMONT LIFESTYLE VILLAGE LIMITED Second Respondent

Court: William Young, Glazebrook and Ellen France JJ

Counsel: J A Farmer QC and C T Patterson for Applicant  
M A Corlett QC, A I C Denton and E F Armstrong for  
Respondents

Judgment: 22 November 2017

---

**JUDGMENT OF THE COURT**

---

- A The application for leave to appeal is dismissed.**
  - B Costs of \$2,500 are awarded to the respondents.**
- 

**REASONS**

**Background**

[1] Mr Herron applies for leave to appeal against a decision of the Court of Appeal.<sup>1</sup>

---

<sup>1</sup> *Wallace v Herron* [2017] NZCA 346 (Kós P, Harrison and Winkelmann JJ).

[2] The background is complicated and fully explored in the Court of Appeal judgment.<sup>2</sup> For these purposes, it is only necessary to record that in contention is a clause in a settlement document that gave a credit of \$675,000 if a contract relating to a Queenstown apartment to be developed by interests associated with Mr Bryers became unconditional.

[3] The Court of Appeal held that Mr Herron had released the Bryers' interests from their obligations with regard to that contract and had caused the condition not to be fulfilled. He therefore could not recover the \$675,000.<sup>3</sup>

### **Decision**

[4] The judgment of the Court of Appeal related to the very particular facts and documentation in this case. This means that no point of general public or commercial significance arises. Further, nothing raised by Mr Herron suggests a miscarriage of justice.<sup>4</sup>

[5] The application for leave to appeal is dismissed. Costs of \$2,500 are awarded to the respondents.

Solicitors:  
Skeates Law Limited, Auckland, for Applicant  
Wilson Harle, Auckland, for Respondents

---

<sup>2</sup> At [4]–[24].

<sup>3</sup> At [40]–[54].

<sup>4</sup> In the sense required in civil cases: see *Junior Farms Ltd v Hampton Securities (in liq)* [2006] NZSC 60, (2006) 18 PRNZ 369.