

panel about a dispute as to ownership of land returned to Māori ownership by the Crown.²

[2] In its judgment, the Court of Appeal found that the High Court erred in finding that the arbitral panel had discharged its mandate to give reasons for its award as required by cl 15.8 of the Second Schedule to the trust deed entered into by representatives of Ngāti Wāhiao and Ngāti Whakaue and art 31(2) of sch 1 to the Arbitration Act 1996. It set aside the arbitral panel's interim and final awards. The consequence of that order is that the arbitration will need to be conducted afresh before a new panel.

[3] Ngāti Wāhiao wishes to argue on appeal that the Court of Appeal overstepped the role of the court in dealing with challenges to arbitrations conducted under the 1996 Act. In particular, it wishes to argue that the Court of Appeal did not recognise adequately the essentially factual nature of the dispute and that the arbitrator is "master of the facts". It says the Court wrongly required of the panel an issue by issue analysis with full reasons being given for every issue.

[4] Ngāti Wahiao argues that leave should be given because:

- (a) the approach to be taken by a court on an appeal against an arbitral award is a point of general and public importance. It says the Court of Appeal's approach undermines the flexibility and finality of arbitration;
- (b) at a more specific level, the Court's approach will discourage the future use of arbitration for disputes of the kind involved in the present.

[5] Ngāti Whakaue accepts the question of what minimum standard of reasons must be given by an arbitral panel is a question of public or general importance.

[6] However, Ngāti Whakaue argues leave should not be given because the present case is not an appropriate vehicle for consideration of that issue. It argues that,

² *Ngāti Hurungaterangi v Ngāti Wahiao* [2016] NZHC 1486 (Moore J).

whatever the standard should be, the reasons in the award in issue in this case were inadequate.

[7] We accept that the adequacy of reasons required in an arbitral award is a matter of public importance. There is, however, no question that adequate reasons are required and the present case concerns the application of that requirement in the unusual facts of the present case. There may be room for debate as to whether the Court of Appeal's approach was too prescriptive for an award dealing with subject matter of the kind that arose in this case. But we do not see any real prospect that this Court would determine that adequate reasons were given in the award. In those circumstances we do not consider it appropriate to grant leave.

[8] The application for leave to appeal is dismissed.

[9] The applicant must pay costs of \$2,500 to the respondents.

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