

IN THE SUPREME COURT OF NEW ZEALAND

SC 101/2016  
[2016] NZSC 166

BETWEEN                      QUAKE OUTCASTS  
                                         Applicants

AND                              THE MINISTER FOR CANTERBURY  
                                         EARTHQUAKE RECOVERY  
                                         First Respondent

                                         CHIEF EXECUTIVE OF THE  
                                         CANTERBURY EARTHQUAKE  
                                         RECOVERY AUTHORITY  
                                         Second Respondent

Court:                      Glazebrook, Arnold and O'Regan JJ

Counsel:                      F M R Cooke QC for Applicants  
                                         K G Stephen and P H Higbee for Respondents

Judgment:                      13 December 2016

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**JUDGMENT OF THE COURT**

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- A      The application for leave to appeal is dismissed.**
- B      The applicants must pay costs of \$1,000 to the respondents.**
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**REASONS**

[1]      The applicants, Quake Outcasts, seek to appeal directly to this Court from a decision of the High Court dismissing their application for judicial review of the decisions of the first respondent, the Minister for Canterbury Earthquake Recovery, concerning offers for the purchase of their earthquake-damaged properties.<sup>1</sup> The Minister's decisions involved a reconsideration following this Court's decision in

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<sup>1</sup>      *Quake Outcasts v Minister for Canterbury Earthquake Recovery* [2016] NZHC 1959 (Nation J).

*Quake Outcasts v Minister for Canterbury Earthquake Recovery*.<sup>2</sup> In that case, the majority held that the Minister's decisions in relation to uninsured and uninsurable properties and land were unlawful and directed that they be reconsidered in light of the judgment. The majority emphasised in their reasoning the important role of the recovery plan process provided for in the Canterbury Earthquake Recovery Act 2011 to the Minister's decision-making.

[2] The applicants argue that the Minister has not acted consistently with the majority's judgment. They submit that this means there are "exceptional circumstances" sufficient to justify a "leapfrog" appeal.<sup>3</sup> This is because this Court is in the best position to determine what it was that the Court required. Moreover, given the history of the litigation in this matter, the Court will not be assisted by a decision from the Court of Appeal. Finally, there have already been extensive delays which have had a significant impact on the applicants, preventing them from achieving a final resolution and getting on with their lives.

[3] While we acknowledge the frustration that the applicants undoubtedly feel at the amount of time that has passed since their homes suffered damage, we do not agree that there are exceptional circumstances which justify a leapfrog appeal. The decisions at issue were, as the Crown submitted, taken as a result of a new process involving a recovery plan and produced enhanced offers. We accept that this Court's earlier judgment is an important part of the background to the Minister's new decisions and is therefore relevant to an assessment of those decisions in judicial review proceedings. But it often happens that the resolution of a later case will depend upon the proper interpretation of an earlier decision of a court higher in the hierarchy, and that is not generally a reason for allowing a leapfrog appeal. Here, of course, the link between the earlier decision and the later case is more direct than in most situations, but given the basis of the Minister's reconsideration (in terms of the recovery plan, for example), we see no reason to depart from the general principle.

[4] The application for leave to appeal directly to this Court is accordingly dismissed. As the application was, in the particular circumstances of this case, a

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<sup>2</sup> *Quake Outcasts v Minister for Canterbury Earthquake Recovery* [2015] NZSC 27, [2016] 1 NZLR 1.

<sup>3</sup> Supreme Court Act 2003, s 14.

reasonable one, we make a reduced order for costs. The applicants must pay the respondents costs of \$1,000.

Solicitors:  
GCA Lawyers, Christchurch for Applicants  
Crown Law Office, Wellington for Respondents