

IN THE SUPREME COURT OF NEW ZEALAND

**SC 39/2005
[2005] NZSC 62**

BETWEEN

TRANSOTWAY LIMITED
Appellant

AND

IAN BRUCE SHEPHARD AND
CHRISTINE MARGARET DUNPHY
Respondents

Court: Tipping J and McGrath J

Counsel: P D McKenzie QC and D M Law for Appellant
H L Thompson for Respondents

Judgment: 31 August 2005

JUDGMENT OF THE COURT

[1] Leave to appeal is granted. Having considered counsel's written submissions we have not found it necessary to direct an oral hearing.

[2] The approved grounds, in terms of Rule 29, are:

[a] Whether the Court of Appeal wrongly held that the discharge of a debt by way of set-off made within the specified period can be regarded as a "payment" for the purposes of s 292(1)(e) Companies Act.

[b] Whether the Court of Appeal at para [43] when determining that a payment by way of set-off was made within the specified period, wrongly treated a transaction under s 292(1) in isolation from the entire agreement of which it formed a part.

Solicitors:
Wood Ruck, Manukau for Appellant
McMahon Butterworth, Auckland for Respondents