

**BEFORE THE REAL ESTATE AGENTS DISCIPLINARY TRIBUNAL**

**[2021] NZREADT 25**

**READT 049/19**

IN THE MATTER OF

An appeal under section 111 of the Real Estate Agents Act 2008

BETWEEN

VISHAL and MONISHA SHARMA  
Appellants

AND

THE REAL ESTATE AGENTS  
AUTHORITY (CAC 1901)  
First Respondent

AND

JULIE BRAKE and SUCCESS REALTY  
LIMITED t/a BAYLEYS ROTORUA  
Second Respondents

**READT 001/20**

BETWEEN

JULIE BRAKE  
Appellant

AND

THE REAL ESTATE AGENTS  
AUTHORITY (CAC 1901)  
First Respondent

AND

VISHAL and MONISHA SHARMA  
Second Respondents

Tribunal:

Mr J Doogue – Deputy Chairperson  
Mr N O'Connor – Member  
Ms F Mathieson – Member

Date of Ruling:

1 June 2021

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**RULING OF THE TRIBUNAL**

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[1] In the decision of the Tribunal dated 12 February 2021, we dealt with the question of whether the Committee's decision on this matter was correct or not. The Committee had decided that it should deal with the complaint itself and having done so it concluded that the charge of unsatisfactory conduct had been established.

[2] In our decision we stated that the Committee ought to have considered whether a more serious charge of misconduct was appropriate in the circumstances. Without expressing a final view on that matter, we referred the proceeding back to the Committee for reconsideration. The course that the proceedings would have followed had the Committee decided to bring a charge of misconduct, would be that the matter would come back before the Tribunal, the Committee not having the jurisdiction to deal with misconduct charges.

[3] Counsel for the appellants has now submitted that instead of referring the matter back to the Committee to consider, a more satisfactory outcome would be for the Tribunal itself to determine whether there should be a charge of misconduct laid. If the decision of the Tribunal was in the affirmative, it would be the Tribunal itself that would then have heard the matter.

[4] We do not consider that even if the proposal from the appellants had merit that we have any jurisdiction to revisit the matter now. Our view reflects the general approach that for better or for worse decisions of Tribunals are final. The desirability of the policy that court and tribunal decisions are final is said to outweigh possible injustice that may arise from a refusal by a court or tribunal to reconsider its decision. Only in limited circumstances will a court or tribunal depart from that approach.

[5] There are no such circumstances present here and we decline to revisit this aspect of the rulings contained in the decision of 12 February 2021.

[6] Pursuant to s 113 of the Real Estate Agents Act 2008, the Tribunal draws the parties' attention to s 116 of the Real Estate Agents Act 2008, which sets out appeal rights. Any appeal must be filed in the High Court within 20 working days of the date on which the Tribunal's decision is served. The procedure to be followed is set out in part 20 of the High Court Rules.

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Mr J Doogue  
Deputy Chairperson

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Mr N O'Connor  
Member

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Ms F Mathieson  
Member