

IN THE COURT OF APPEAL OF NEW ZEALAND

CA48/2010  
[2014] NZCA 435

BETWEEN DANIEL THOMAS SPENCER  
RIDDIFORD  
First Appellant

YVONNE ADA RIDDIFORD  
Second Appellant

AND THE ATTORNEY-GENERAL  
Respondent

Court: Arnold, Randerson and Stevens JJ

Counsel: First Appellant in Person  
R Birdsall as McKenzie Friend  
M T Parker and J S Andrew for Respondent

Judgment: 4 September 2014 at 2:30pm  
(On the papers)

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**JUDGMENT OF THE COURT**

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**A The application to recall the judgment of 28 March 2012 is granted.**

**B The respondent must pay interest to the appellant as directed in [5] hereof.**

**C The judgment of 28 March 2012 otherwise remains undisturbed.**

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**REASONS OF THE COURT**

[1] By a judgment dated 28 March 2012, we allowed this appeal and quashed a costs award made by the Land Valuation Tribunal against the appellants in the sum

of \$100,000.<sup>1</sup> We also quashed an award of costs made against the appellants in the High Court. We ordered the respondent to pay the appellants usual disbursements incurred in the appeal to this Court.

[2] The appellants have since applied to recall the judgment, principally to seek interest on the costs award of \$100,000 from the date it was made on 18 May 2007. The respondent accepts that payment of simple interest should be made at the rates specified under the Judicature Act 1908 but for a reduced period to reflect the respondent's submission that the appellants did not pursue their appeal expeditiously. If the judgment is to be recalled, the respondent also seeks a reversal of our order quashing the costs ordered in the High Court.

[3] We regret that there has been substantial delay in delivering our judgment to resolve these issues. In relation to the main issue of interest, we are not willing to accept the appellants' submission that interest should be awarded on a compound basis at bank rates. In the absence of any specific provision for compound interest and, in the light of the inability to award compound interest under s 87 of the Judicature Act, we are satisfied that the proper award is for simple interest. The submission that the relevant legislation was intended to allow "full compensation" does not cause us to alter our view.

[4] Given that the respondent has had the benefit of the \$100,000 costs award (by deducting it from the compensation awarded) for the entire period since the date of the award, we do not consider it is appropriate to reduce the period of the award as the respondent has suggested.

[5] Accordingly, our judgment is recalled solely for the purpose of awarding interest. The respondent must pay the appellants simple interest at Judicature Act rates on the sum of \$100,000 from 18 May 2007. The applicable rates are:

From 18 May 2007 to 30 June 2008	7.5 per cent
From 1 July 2008 to 30 June 2011	8.4 per cent
From 1 July 2011 until payment	5 per cent

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<sup>1</sup> *Riddiford v Attorney-General* [2012] NZCA 112.

[6] There are several other issues raised by the appellants which we now deal with briefly. We made an order under r 53H(2) of the Court of Appeal (Civil) Rules 2005 for the Crown to pay the appellants usual disbursements. The appellants raise several issues here. First, they claim disbursements in the High Court as well as in this Court. We did not make any costs order in favour of the appellants in relation to the High Court proceedings and we do not propose to do so now. The obscure point that led to the quashing of the costs award and the Land Valuation Tribunal was not raised until after the appeal was filed in this Court. Otherwise, the costs award made in the Tribunal was fully justified on the merits. Second, we do not propose to make any award in favour of the appellants for the cost of advice received from counsel in connection with the appeal. A fee of this kind is not a usual disbursement and, as an unrepresented party, the appellants are not usually entitled to an award of legal fees.<sup>2</sup> The Registrar will settle any other issue as to usual disbursements. Third, there will be no award of interest on the disbursements ordered. Interest under the Judicature Act is payable on the debt or damages. That does not include interest on disbursements.

[7] The appellants also applied for an order making the Farmers Fighting Fund Charitable Trust a party to the appeal for the purposes of submissions. This application is rejected on the grounds that it is far too late and, in any event, we would not be assisted by submissions from any other party.

[8] As to the submission by the respondent that we should revisit the order quashing the costs ordered in the High Court, we are not persuaded that we should interfere with that order. We have some sympathy for the respondent's position given that the decisive point was not raised until after the High Court proceedings as already noted. However, we viewed the quashing of the High Court costs order as appropriate since it followed logically from the quashing of the costs order in the Land Valuation Tribunal.

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<sup>2</sup> *Re Collier (A Bankrupt)* [1996] 2 NZLR 438; *Commissioner of Inland Revenue v Chesterfields Preschools Ltd (No 2)* [2010] NZCA 400, (2010) 24 NZTC 24,500 at [162]; *Siemer v Heron* [2011] NZSC 151 at [5].

[9] Accordingly, the application to recall the judgment of 28 March 2012 is granted. The respondent must pay interest to the appellants as directed in [5] hereof. The judgment of 28 March 2012 otherwise remains undisturbed.

Solicitors:  
Crown Law Office, Wellington for Respondent