

IN THE COURT OF APPEAL OF NEW ZEALAND

I TE KŌTI PĪRA O AOTEAROA

CA257/2023
[2024] NZCA 46

BETWEEN

ALAN CLINTON MCQUADE
First Appellant

EMNAH TRITAR
Second Appellant

AND

COMMISSIONER OF POLICE
Respondent

Hearing: 13 February 2024

Court: Wylie, Fitzgerald and Edwards JJ

Counsel: K E Hogan for Appellants
J N Hamilton for Respondent

Judgment: 6 March 2024 at 11 am

JUDGMENT OF THE COURT

A The appeal is dismissed.

B There is no order as to costs.

REASONS OF THE COURT

(Given by Wylie J)

Introduction

[1] The appellants, Alan McQuade and his partner, Emnah Tritar, appeal in part a decision given by Woolford J in the High Court at Auckland on 17 April 2023.¹

¹ *Commissioner of Police v McQuade* [2023] NZHC 798 [High Court judgment].

[2] The appeal relates to two motor vehicles. Both are restrained under the Criminal Proceeds (Recovery) Act 2009 (the Act). The Commissioner applied for the sale of the two vehicles (along with a number of other restrained vehicles) in order to preserve their value. The application was opposed and, after a contested hearing, Woolford J granted the application in respect of all of the vehicles. Mr McQuade and Ms Tritar seek to reverse the sale orders but only in respect of a 2013 Holden HSV Clubsport R8, registration number NSANE8 (the Holden HSV) and a 1990 Toyota Coaster, registration number LWH95 (the Toyota Coaster). Mr McQuade is the owner of both vehicles.

Background

[3] In July 2020, Mr McQuade and Ms Tritar, along with a number of others, were arrested and charged following an investigation undertaken by the Waikato Organised Crime Squad (Operation Kingsville). Operation Kingsville had commenced in February 2020. It had focused on a number of individuals suspected of being involved in the manufacture and supply of methamphetamine in the Waikato and Auckland regions.

[4] Prior to the arrests, the respondent, the Commissioner of Police (the Commissioner), had applied for and been granted a without notice restraining order over property belonging to Mr McQuade (and others), including land, funds held in bank accounts, jewellery and vehicles. An on notice order was subsequently applied for. It was granted by Peters J in the High Court at Hamilton on 30 September 2020. The restraining order has been extended on a number of occasions.

[5] Some of the co-defendants from Operation Kingsville entered guilty pleas, but Mr McQuade, Ms Tritar and one other co-defendant did not. They were due to face trial in February 2022. Shortly before the trial was scheduled to commence, matters were resolved. Mr McQuade (and the other co-defendant) pleaded guilty to a number of the charges. The Crown did not proceed with others. The charge against Ms Tritar was withdrawn. Mr McQuade was subsequently sentenced on 25 March 2022 to five

years and three months' imprisonment with a minimum period of imprisonment of 25 months.²

[6] On 30 August 2022, the Commissioner filed an application for sale of all the restrained motor vehicles, including the Holden HSV and the Toyota Coaster. A notice of opposition was filed by Mr McQuade and Ms Tritar on 2 November 2022. The application for sale proceeded to hearing on 22 March 2023 and, as noted, Woolford J issued his decision in relation to the application on 17 April 2023.³

[7] The Commissioner considered that examination of Mr McQuade, Ms Tritar and others was required under s 107 of the Act before any application for forfeiture orders could be finalised.⁴ On 30 November 2022, the District Court, on the application of the Commissioner, made an examination order, directing that Mr McQuade be examined at Waikeria Prison on 19 December 2022.

[8] Mr McQuade's examination was however frustrated. On 1 December 2022, the unit in which Mr McQuade was being held was placed into temporary lockdown due to rising numbers of Covid-19 infections amongst inmates. Shortly thereafter all visits to the unit were cancelled until further notice. Mr McQuade's then counsel requested that the examination be postponed. The Commissioner agreed and, through one of his officers, endeavoured to arrange an alternative date that was mutually suitable. Shortly thereafter Mr McQuade's counsel contracted Covid-19. After the Christmas break, the Department of Corrections advised that the prison was again open to visitors. The Commissioner however was then advised that Mr McQuade's counsel would no longer be representing him. On 20 January 2023, the District Court granted a new examination order directing that Mr McQuade be presented for examination on 9 February 2023. That order was served on Mr McQuade on 25 January 2023. In the event, Mr McQuade was examined on 28 February 2023.

[9] On 19 June 2023, the Commissioner applied for forfeiture orders under the Act. The Commissioner is seeking a profit forfeiture order against Mr McQuade

² *R v McQuade* [2022] NZHC 559 at [79]–[83].

³ High Court judgment, above n 1.

⁴ At [11].

in the sum of \$953,134.93. We were advised from the bar (and it was not contested) that Mr McQuade and Ms Tritar had not, as at the time of hearing, filed documents opposing the substantive application even though a timetable order required that any relevant documents be filed by 2 February 2024. We were told that an extension has been agreed.

[10] It was common ground between counsel that the substantive application for forfeiture orders, if opposed, is unlikely to be heard this year. A fixture is unlikely to be allocated before early or mid-2025.

The High Court judgment

[11] The Judge recorded that the application for sale was brought pursuant to ss 33–36 of the Act.⁵ He set out s 35(e)(v) and commentary from *Adams on Criminal Law*, to the effect that sale orders “are not automatically made in relation to restrained assets such as motor vehicles”.⁶ The Judge noted that “the reduction in the eventual return caused by the holding costs cannot be sufficient of itself to warrant an order for sale”.⁷

[12] The Judge then set out the history of the proceeding, noting that holding costs were being incurred while the vehicles were restrained.⁸ He also commented on depreciation, referring to a depreciation schedule published by the Inland Revenue Department (IRD). He recorded that the Holden HSV had a value of \$55,000 when it was restrained but that its value after one year, allowing for depreciation calculated on a diminishing value percentage of 33 per cent, was \$33,532.⁹

[13] The Judge discussed Mr McQuade and Ms Tritar’s notice of opposition. It was asserted that the Commissioner had delayed filing for forfeiture orders; that the Holden HSV was appreciating in value; that it had particular sentimental value for

⁵ High Court judgment, above n 1, at [7].

⁶ At [8], citing Simon France (ed) *Adams on Criminal Law — Sentencing* (online ed, Thomson Reuters) at [CP35.02].

⁷ High Court judgment, above n 1, at [8].

⁸ At [12].

⁹ At [13].

Mr McQuade; and that a third party, Glenn McGlade, had an ownership interest in the Toyota Coaster.¹⁰

[14] The Judge recorded the evidence as to monetary value, noting the evidence of a specialist vehicle consultant and broker, Andrew Booth. Mr Booth considered that the Holden HSV had an achievable wholesale value at the time of \$20,000–\$25,000 including GST. The Judge also noted Ms Tritar’s evidence that General Motors no longer making make right-hand drive motor vehicles and that, as a result, her view is that such vehicles have become collectors’ items and are appreciating in value.¹¹

[15] The Judge then turned to discuss each of the relevant vehicles.

(a) In regard to the Holden HSV, the Judge considered that evidence that some of Mr McQuade’s father’s ashes were in the vehicle (asserted by Ms Tritar and not Mr McQuade) was “unclear” and no ashes had been found in the vehicle when it was seized.¹² Mr McQuade also gave evidence, when he was compulsorily examined by the Commissioner, that the vehicle was his “forever” car.¹³ The Judge however concluded that there was nothing particularly unique about the Holden HSV. It had been damaged in an accident and, according to Mr Booth, it was uneconomic to return it to its original condition in an attempt to extract greater value from it. The Judge noted that Mr McQuade had been storing the vehicle and not used it. The Judge concluded that in the circumstances, it was preferable to sell the Holden HSV to retain what value it had.¹⁴

(b) Regarding the Toyota Coaster, the Judge noted that the sale order was opposed on the basis of Ms Tritar’s assertion that Mr McGlade had an interest in it. It was her evidence that she and Mr McQuade had contracted with Mr McGlade to get him to restore the vehicle and turn

¹⁰ At [15].

¹¹ At [22]–[23].

¹² At [30].

¹³ At [31].

¹⁴ At [32].

it into a house bus. The basis of the contract was that Mr McQuade would later pay Mr McGlade in kind by giving him a refurbished shipping container. However, Mr McQuade's arrest meant that he could not refurbish and provide the container. Ms Tritar said that she and Mr McQuade had not otherwise paid Mr McGlade for his work.¹⁵ The Judge however recorded that the police had contacted Mr McGlade, who had confirmed that he was going to supply labour and materials to an agreed value of \$15,000 and in return was to receive a shipping container and a bank deposit. Mr McGlade estimated that he was owed approximately \$10,000 for the work he had done. Mr McGlade told the police that he was "okay" with the vehicle being sold, so long as he could "have a crack at the money from it". The Judge noted that the police had made an on notice application seeking that Mr McGlade should be made a party to the substantive proceedings, so that he could make his case for recognition of his interests in the proceeds of sale of the vehicle.¹⁶ Again, the Judge was satisfied that the vehicle should be sold to preserve its value.¹⁷

[16] Accordingly, the Judge made orders for sale in respect of both the Holden HSV and the Toyota Coaster.¹⁸

The appeal

[17] The appeal is brought pursuant to s 56(1) of the Senior Courts Act 2016.¹⁹ It proceeds by way of rehearing.²⁰ It was common ground before us that this Court must come to its own view on the merits. If it takes a different view from the High Court and considers that the High Court judge's decision is wrong, it must act on its own view.²¹

¹⁵ At [35].

¹⁶ At [34].

¹⁷ At [43(v)].

¹⁸ At [43(a)] and [43(v)].

¹⁹ See also Criminal Proceeds (Recovery) Act 2009, s 10(1)(f).

²⁰ Court of Appeal (Civil) Rules 2005, r 47.

²¹ *Austin, Nichols & Co Inc v Stichting Lodestar* [2007] NZSC 103, [2008] 2 NZLR 141 at [3]–[5].

Appellant's submissions

[18] Ms Hogan, appearing for Mr McQuade and Ms Tritar, submitted that:

- (a) The Act is draconian and that its potential impact on individuals should not be ignored by the courts. In particular, she argued that the sale of private property by the State should not be lightly ordered.
- (b) The Commissioner delayed in filing his application for a forfeiture order. The vehicles have been restrained since July 2020 and the storage costs incurred and any depreciation from February 2022, when Mr McQuade entered guilty pleas to a number of charges he faced, is attributable to the Commissioner's delay. The application would have been unnecessary if the Commissioner had not delayed.
- (c) Mr McQuade has a personal attachment to and interest in the Holden HSV.
- (d) The Judge was wrong to hold that the risk of the vehicles depreciating over time prevailed over other factors. The evidence established wholesale values only and retail values would have been higher. Reference was made to Trade Me advertisements for other vehicles referred to by Ms Tritar in her evidence. In addition, Ms Hogan noted that holding costs are a by-product of seizure and, in any event, alternative and cheaper storage could have been arranged.
- (e) Mr McGlade has an interest in the Toyota Coaster.

It was submitted that the Judge was wrong to grant the Commissioner's application in respect of the two vehicles.

Respondent's submissions

[19] Ms Hamilton, for the Commissioner, submitted that:

- (a) Sale orders can be applied for by the Commissioner in respect of restrained property that is eroding in value. The vehicles are eroding in value.
- (b) There has been no undue delay by the Commissioner.
- (c) There is no good evidence of any personal attachment to or interest in the Holden HSV by Mr McQuade.
- (d) The evidence as to Holden HSV's eroding value as a result of depreciation is undisputed and the costs of storing each vehicle are in excess of \$5,000 per year. The Trade Me listings referred to by Ms Tritar in her evidence should be discounted.
- (e) Mr McGlade's interest in the Toyota Coaster is not in the vehicle itself, but rather in the debt owing to him by Mr McQuade and Ms Tritar. In any event, Mr McGlade has now been added to the substantive proceeding as an interested party and he can pursue his own interests if he wishes to do so.

It was submitted that there was no error made by the Judge and that the appeal should be dismissed.

Analysis

Relevant law

[20] Both vehicles are restrained pursuant to restraining orders made under ss 24 and 25 of the Act. They are in the custody and control of the Official Assignee and the Act permits him to do anything reasonably necessary to preserve their value.²²

²² Criminal Proceeds (Recovery) Act, ss 24(1)(b), 25(1)(b) and 80(1)(a).

[21] The effect of a restraining order is to preserve the property itself and not its value.²³ Sale orders can be sought by the Commissioner in relation to restrained assets that are eroding in value. There will often be a financial benefit in the sale of an asset otherwise eroding in value prior to any forfeiture order being made because, once the asset is sold, the proceeds of sale, whilst still restrained property, can be placed in an interest-bearing account by the Official Assignee.

[22] The Commissioner can apply for orders for sale pursuant to s 33 of the Act and s 34 permits the court, on application, to make further orders in relation to restrained property if it considers it appropriate to do so. Any further orders can be made either at the same time the associated restraining order is made, or at any later time before the expiry of the restraining order.²⁴

[23] Any further order may, but need not, be an order of one or more of types referred to in s 35. Relevantly, s 35 provides as follows:

35 Types of further order

Without limiting the generality of section 34(1), a court may, on an application under section 33(1), make 1 or more of the following further orders in relation to restrained property:

...

(e) an order relating to the Official Assignee that—

...

(v) directs the Official Assignee to sell restrained property ... in order to preserve the value of the restrained property:

...

[24] The Commissioner does not have to prove on the balance of probabilities that a sale is required;²⁵ rather he must persuade the court that such an order is appropriate,²⁶ and, where an order of the type set out in s 35(e)(v) is sought, that the order is necessary to preserve the value of the restrained property.

²³ *Commissioner of Police v Skiffington* [2017] NZHC 1687 at [38].

²⁴ Criminal Proceeds (Recovery) Act, s 33(2).

²⁵ *Commissioner of Police v Parker* [2019] NZHC 1506 at [31].

²⁶ Criminal Proceeds Recovery Act, s 34(1).

[25] A variety of factors can be relevant to the proposed sale of a restrained motor vehicle. As noted by Lang J in *Commissioner of Police v Drummond*:²⁷

[15] ... Factors that will need to be taken into account include the nature and value of the asset, the length of time before the substantive proceeding will be determined, the extent to which the asset may depreciate during that period and the wishes of the owner of the assets and/or those who may have an interest in it.

[26] Where restrained property is depreciating in value, a sale order may be necessary to preserve such value as it has. The position with holding costs, such as storage and insurance, is not however so straightforward. This is because s 35(e)(v) does not state from whose perspective the value of the restrained property it is sought to sell is to be considered. As the High Court explained in *Commissioner of Police v Feleti*:²⁸

[30] ... Holding costs are not a cost to the owner of the restrained asset; if a forfeiture order is made he or she will lose the asset; if forfeiture is declined, the asset will be returned and the Commissioner will be left to meet the holding costs. From the Commissioner's perspective, there is inevitably a loss in the value of the restrained asset if holding costs are not factored in. The significance of that loss in value depends on the value (and perhaps nature) of the restrained asset.

By comparison, holding costs do not erode the value of the restrained asset to the owner.

[27] Different judges have taken different views in relation to the relevance of holding costs.²⁹ Woolford J suggested that a reduction in the eventual return caused by holding costs will not be sufficient of itself to warrant an order for sale.³⁰ We broadly agree, but note that s 35 of the Act confers a discretion on the court. The fact that holding costs are being incurred is, in our view, a factor which can be considered in the exercise of the discretion, providing a sale order is otherwise appropriate in

²⁷ *Commissioner of Police v Drummond* [2018] NZHC 1730 at [15]; and see, *Commissioner of Police v Milosevic* [2019] NZHC 202 at [95(c)].

²⁸ *Commissioner of Police v Feleti* [2022] NZHC 2051.

²⁹ See for example *Commissioner of Police v Evans* [2015] NZHC 1240 at [33]; *Commissioner of Police v Blance* [2018] NZHC 108 at [52]; *Commissioner of Police v Drummond*, above n 27 at [6]; *Commissioner of Police v Parker*, above n 25 at [43]; *Commissioner of Police v Farrell* [2022] NZHC 310 at [11]; *Commissioner of Police v Milosevic* [2019] NZHC 1554 at [55]; *Commissioner of Police v Milosevic*, above n 27 at [96(e)]; and *Commissioner of Police v Feleti*, above n 28, at [29]–[31].

³⁰ High Court judgment, above n 1, at [8].

order to preserve the value of the restrained property. We did not however hear full argument on the relevance of holding costs to an application for sale and, in this case, it is not necessary for us to deal with the issue in any greater detail. Accordingly, we take it no further.

[28] We turn to consider the issues raised by the appeal.

Delay by the Commissioner?

[29] As noted, it was submitted for the appellants that there has been delay by the Commissioner and that the application would have been unnecessary if the Commissioner had sought forfeiture orders more expeditiously.

[30] A civil forfeiture order can be sought by the Commissioner in parallel with criminal proceedings and the outcome of the one is not determinative of the other.³¹ Accordingly, delay from the time the restrained property is seized could be relevant in appropriate cases, although an application for a sale order is essentially forward looking — the focus is on the preservation of value. We also observe that often the civil proceedings will be paused until the related criminal proceedings are finalised. Indeed, where parallel proceedings are afoot there will often be an application for an adjournment of the civil proceedings until after the criminal proceedings are determined.

[31] Mr McQuade resolved the criminal charges by pleading guilty to some of them in February 2022 — some 18 months after the vehicles were restrained and he was charged. There is nothing to suggest that Mr McQuade at any prior time pushed for an early resolution of the civil forfeiture proceedings. In so far as we can glean, he has been content to let the civil proceedings take their course.

[32] Further, we are not persuaded that there has been any relevant delay in this case. The evidence, in particular from William Cassidy, an investigator with the

³¹ Criminal Proceeds (Recovery) Act, ss 15 and 16; and see *Commissioner of Police v Wei* [2012] NZCA 279 at [43].

Commissioner's Waikato/Bay of Plenty Asset Recovery Unit based in Hamilton, is as follows:

- (a) Search warrants were executed in July 2020 and the asset restraining orders were obtained on a without notice basis on 3 July 2020. The vehicles that are the subject of this appeal were restrained at this point.
- (b) The Commissioner has since been required to undertake a comprehensive investigation. He had to analysis a substantial quantity of documentation relating to the financial affairs of the four respondents to the civil proceedings and their associates, including in the case of Mr McQuade, and his partner, Ms Tritar.
- (c) The Commissioner has had to seek production orders from financial institutions to obtain updated financial information. He has then had to analyse that information.
- (d) There have been numerous additional inquiries generated from these various analyses.
- (e) The Commissioner has had to undertake a forensic reconstruction of the financial affairs of the four respondents to the substantive application for the period 2015–2022.
- (f) The Commissioner has had to prepare for and undertake five examinations of relevant persons. As noted above, there were delays in examining Mr McQuade. The Commissioner was not responsible for those delays. The Commissioner was unable to finalise his forfeiture application against Mr McQuade until he was examined and the subsequent inquiries were completed.

[33] We reject the argument that the need for the sale orders was attributable to the Commissioner's delay.

Does Mr McQuade's interest in the Holden HSV extend beyond the vehicle's monetary value?

[34] If the interests of an owner extend beyond a vehicle's monetary value, this can outweigh the need to crystallise the value of the asset by way of sale.³²

[35] Mr McQuade has not himself filed an affidavit. However, it was submitted that he has an interest in the Holden HSV extending beyond its monetary value for two reasons — first because his father's ashes are (or were) in the car and secondly, because it was his “forever” car.

[36] First, we deal with the suggestion, made by Ms Tritar, that Mr McQuade's father's ashes are or were in the Holden HSV. The police searched the vehicle after it was seized. Mr McQuade's father's ashes were not found. It may be that all or some of Mr McQuade's father's ashes were at some stage scattered in the car, but it is curious that Mr McQuade did not mention this himself in his interview. Nor has he filed an affidavit making this assertion. We are not persuaded that any particular reliance can be placed on Ms Tritar's evidence in this regard.

[37] Mr McQuade has asserted that the Holden HSV was his “forever” vehicle. When he was examined by the Commissioner, he explained that he had “traded ... up” to acquire the vehicle, that he had customised it in a number of respects, that he had subsequently crashed it and then got it repaired. He said that he didn't want to crash it again because such vehicles “are a rarity now” and that as a result, he started storing it at his sister's property “away from where [he was] tempted to jump into it, and drive around in it”. He said that the car was an investment, that he didn't wish to “clock up the k's” on it and “make it worth nothing”.

[38] Ms Tritar purported to give expert evidence that certain Holden vehicles have become collectors' items and that they are appreciating in value. She also said that the Holden HSV was of particular significance to Mr McQuade, that it had a “one of a kind bonnet”, with “nostrils” that Mr McQuade had made from fibreglass.

³² *Commissioner of Police v Veevers* [2014] NZHC 1344 at [69]; and *Commissioner of Police v Blance*, above n 29, at [54].

[39] The specialist vehicle consultant, Mr Booth, noted that the Holden HSV displays several mechanical and bodywork modifications, as well as evidence of previous accident damage. He said that the bodywork is in reasonably poor condition, that the vehicle's exterior paint colour has been changed, that a non-standard bonnet and sills have been fitted and that the repairs appear to have been done to a low standard. He described the interior as being in average condition with obvious wear and tear and noted that liners and the trim in the boot area have been removed. He said that the vehicle's value would have been significantly higher if it was in its original factory specification, but that it would not be economic to undertake the work required to achieve this. He considered that the obvious damage history had a permanent impact on the vehicle's saleability.

[40] Like the Judge, we prefer Mr Booth's evidence. It may be that certain Holden vehicles are appreciating in value, but we do not consider that that assertion can be made in relation to the Holden HSV at issue in this appeal. It is a customised car which has been accident damaged. It is not in original, mint or even particularly good condition. On the evidence, the vehicle cannot be described as a collectors' item and we do not consider that there is evidence of the Holden HSV having any particular non-monetary value to Mr McQuade.

Has there been a decrease in the value of the vehicles since they were restrained?

[41] The evidence established that there has been a significant decrease in the value of the Holden HSV. As at 7 August 2020, the Holden HSV was valued at \$55,000. Its value has depreciated over time. Mr Cassidy's affidavit notes that the IRD publishes a schedule of depreciation rates for individual assets. The schedule is used by businesses and individuals when completing their tax returns. For motor vehicles, the IRD sets the diminishing value percentage at 30 per cent and a straight line depreciation value of 21 per cent. These values are used to calculate the projected depreciation of restrained vehicles. The Holden HSV was considered to have depreciated by \$16,500 over the period 7 July 2020–7 July 2021; its value one year after restraint was assessed at \$38,500 (excluding storage costs).

[42] Apart from Ms Tritar's evidence that Holdens generally are appreciating in value there is nothing to contradict the Commissioner. We discount Ms Tristar's reliance on Trade Me advertisements. There is nothing to suggest that the advertised prices of other Holdens are applicable to the particular Holden HSV at issue in this appeal. On the evidence, depreciation has already eroded the value of the Holden HSV.

[43] Similarly, the Toyota Coaster has depreciated. Its value in July/August 2020 was assessed at \$18,500. Applying the IRD's depreciation schedule, a year later its value was assessed at \$13,000 (storage costs excluded).

[44] The evidence is that both vehicles will have continued to depreciate thereafter.

[45] We have discussed the relevance of holding costs above at [26]–[27]. The evidence is that the cost to the Official Assignee to store restrained vehicles has been \$14.30 per day since 1 May 2021. Prior to that date, it was \$13.50 per day. The estimated costs of storing the Holden HSV and the Toyota Coaster are approximately \$5,000 each per year. Such costs detract from the return to the Commissioner if he is ultimately successful in his forfeiture application. As noted earlier, we do not however take this issue any further.

Mr McGlade's interest

[46] We have explained above the assertions made in regard to Mr McGlade's interests — see [18(e)] and [19(e)].

[47] Ms Hogan submitted that Mr McGlade has an equitable lien over the Toyota Coaster in relation to the work he undertook on it. Ms Hamilton disputed this; she said Mr McGlade's only interest is in the debt owing to him. It is unnecessary to deal with this issue in order to resolve this appeal. That is because Mr McGlade is aware that the Commissioner has applied to sell the vehicle and he has raised no objection to its sale. He is now a party to the substantive proceedings. He will be able to appear on those proceedings and make out his case for recognition of his interest in the proceeds of sale of the vehicle.

Conclusion

[48] We cannot see that the Judge erred in granting the Commissioner's application to sell the vehicles. There is no reliable evidence that Mr McQuade has any particular interest in the Holden HSV other than its monetary value. Depreciation has already eroded, and will continue to erode, the value of both vehicles. Mr McGlade does not object to the sale of the Toyota Coaster. Sale orders are required to preserve the value of the restrained vehicles — both from the Commissioner's perspective and from Mr McQuade's and Ms Tritar's perspective. We are satisfied that the Judge did not err when he directed the Official Assignee to sell the vehicles.

Result

[49] The appeal is dismissed.

[50] The appellants were legally aided. There are no exceptional circumstances justifying an order for costs and we decline to make any such order.

Solicitors:
Crown Solicitor, Hamilton for Respondent