

IN THE COURT OF APPEAL OF NEW ZEALAND

CA318/2014
[2014] NZCA 491

BETWEEN

VINCENT ROSS SIEMER
Appellant

AND

REGISTRAR OF THE SUPREME
COURT
First Respondent

MINISTRY OF JUSTICE
Second Respondent

Counsel: Appellant in person
H M Carrad for Respondents

Judgment: 6 October 2014 at 3.00 pm
(On the papers)

JUDGMENT OF FRENCH J

The application for recall is dismissed.

REASONS

[1] On 16 September 2014, I delivered a judgment upholding on review the Deputy Registrar's decision declining to dispense with security for costs for Mr Siemer.¹

[2] Mr Siemer has now applied for recall of my judgment.

[3] The application for recall is opposed.

¹ *Siemer v Registrar of the Supreme Court* [2014] NZCA 456.

[4] Mr Siemer and the respondents have filed written submissions. I am satisfied that the application can be adequately and fairly dealt with on the papers.

[5] The application is made on the grounds that my judgment failed to address two issues:

- (a) the conflict between the Deputy Registrar's decision to waive the filing fee and her decision to refuse to dispense with security; and
- (b) the public interest grounds of the appeal.

[6] The principles governing recall of a judgment were set out by Wild CJ in the following extract:²

Generally speaking, a judgment once delivered must stand for better or worse subject, of course, to appeal. Were it otherwise there would be great inconvenience and uncertainty. There are, I think, three categories of cases in which a judgment not perfected may be recalled – first, where since the hearing there has been an amendment to a relevant statute or regulation or a new judicial decision of relevance and high authority; secondly, where counsel have failed to direct the Court's attention to a legislative provision or authoritative decision of plain relevance; and thirdly, where for some other very special reason justice requires that the judgment be recalled.

[7] The basis of my decision was that the appeal was one that would not be sensibly pursued by a reasonable solvent litigant because its merits were highly problematic and there was in any event an alternative remedy available to Mr Siemer. The merits of the appeal were addressed as was the fact of waiver of the filing fee.

[8] In those circumstances, I am not persuaded that there exists any “very special reason” requiring recall of the judgment in the interests of justice.

² *Horowhenua County v Nash (No 2)* [1968] NZLR 632 (SC) at 633; see the application to this Court in *Rainbow Corp Ltd v Ryde Holdings Ltd* (1992) 5 PRNZ 493 (CA); *Unison Networks Ltd v Commerce Commission* [2007] NZCA 49 at [10]; and *Erwood v Maxted* [2010] NZCA 93, (2010) 20 PRNZ 466 at [23(b)(i)].

[9] The application for recall is accordingly dismissed.

Solicitors:
Crown Law Office, Wellington for Respondents