

IN THE SUPREME COURT OF NEW ZEALAND

SC 62/2017  
[2017] NZSC 132

BETWEEN

CIVIL AVIATION AUTHORITY OF  
NEW ZEALAND  
Applicant

AND

HELILOGGING LIMITED (IN  
RECEIVERSHIP AND IN  
LIQUIDATION)  
First Respondent

MARK WAYNE FORD in his capacity as  
Trustee of the Wessex Trust  
Second Respondent

MARK WAYNE FORD  
Third Respondent

Court: William Young, Glazebrook and O'Regan JJ

Counsel: L J Taylor QC for Applicant  
P J Dale for the Respondents

Judgment: 31 August 2017

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**JUDGMENT OF THE COURT**

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**A The application for leave to appeal is dismissed.**

**B Costs of \$2,500 are awarded to the respondents.**

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**REASONS**

[1] In August 2005 the Civil Aviation Authority (CAA) declined an application made by Helilogging Ltd (Helilogging) for an exemption to allow it to use Wessex Mk2 helicopters for heli-logging. The current proceedings were issued in

September 2014. This, absent s 28 of the Limitation Act 1950, was outside the limitation period.<sup>1</sup>

[2] The CAA applied for summary judgment on all causes of action. This was granted in the High Court.<sup>2</sup> That decision was overturned by the Court of Appeal.<sup>3</sup> The Court of Appeal was satisfied that Helilogging had “pointed to sufficient material to give an air of reality to its claim for postponement of the limitation date.”<sup>4</sup>

### **Our assessment**

[3] Whether s 28 of the Limitation Act applies has not been definitively decided by the Court of Appeal. That question is tied up with the particular facts which at this stage have not been the subject of findings. In these circumstances, we do not consider it in the interests of justice to grant the application for leave to appeal.<sup>5</sup>

Solicitors:  
Darroch Forrest, Wellington for Applicant  
Neilsons Lawyers Limited, Auckland for Respondents

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<sup>1</sup> It is conceded that, before the end of the limitation period, the respondents knew that they had grounds to challenge the CAA decision. Judicial review did not proceed because of funding difficulties.

<sup>2</sup> *Helilogging Ltd (in rec and in liq) v Civil Aviation Authority of New Zealand* [2015] NZHC 2503 (Associate Judge Osborne). This was on wider grounds than merely the limitation point.

<sup>3</sup> *Heli-Logging Ltd (in rec and in liq) v Civil Aviation Authority of New Zealand* [2017] NZCA 196 (Winkelmann, Brewer and Toogood JJ).

<sup>4</sup> At [59].

<sup>5</sup> As required by the Supreme Court Act 2003, s 13(1); and Senior Courts Act 2016, s 74(1).