20/8.

IN THE COURT OF APPEAL OF NEW ZEALAND CA 131/92

MEDIUM PRIORITY

1391

BETWEEN BAYLEY MANAGEMENTS LIMITED AND OTHERS

Appellants

AND NAUHRIA HARDWARE LIMITED

Respondent

Coram	Casey J Hardie Boys J Sir Gordon Bisson
Hearing	24, 25 June 1993
Counsel	W Akel for Appellant R J Asher, QC, for Respondent
Judgment	19 August 1993

JUDGMENT OF THE COURT DELIVERED BY HARDIE BOYS J

The appellants claim from the respondent rent and other outgoings payable pursuant to a lease of which they say the respondent was or should be held to be assignee. The respondent was certainly in possession for a time, but asserts that it was not as lessee but rather as a tenant at will. In the High Court, Robertson J in a judgment delivered on 19 May 1992 found for the respondent. The appeal is against that finding.

The appellants are a partnership known as the Hastie Avenue Partnership. Bayley Managements Ltd is the managing partner. The property in question is at Hastie Avenue, Mangere. The partnership bought it in April 1986 from Donaldson

Enterprises Ltd. It was then occupied by Production Profiles Ltd pursuant to a deed of lease from Donaldson Enterprises Ltd dated 9 April 1986. The lease was for a term of 10 years from 1 March 1986. The initial rent was $120,000 a year, reviewable at 2 yearly intervals. The lessee was responsible for a variety of outgoings. The lease contained this covenant concerning assignment:

> 11. THE Lessee shall not assign sublet or otherwise part with the possession of the premises or any part thereof without first obtaining the written consent of the Lessor but such consent shall not be unreasonably or arbitrarily withheld in the case of a respectable responsible and solvent proposed assignee or sub-tenant PROVIDED HOWEVER:
>
> (a) that as a condition precedent to the granting of consent to an assignment the proposed assignee shall enter into a Deed of Covenant with the Lessor to be prepared by the Lessor's solicitors at the expense of the Lessee whereby such assignee shall without prejudice to the Lessor's rights against the Lessee covenant to keep observe and perform all and singular the covenants conditions and agreements on the Lessee's part herein contained or implied and as a condition precedent to the granting of consent to an assignment to a private limited liability company the Lessor may in addition require to be satisfied that the shareholders of such company are respectable responsible and solvent persons and may require that the holders of the majority of the shares in the capital of the company unconditionally guarantee the due and punctual observance and performance by such company of its obligations under this Lease;
>
> (b) that where the Lessor shall consent to a sub-letting such consent shall extend only to the sub-letting and notwithstanding anything contained or implied in such sub-lease the consent shall not permit any sub-lessee to deal with his sub-lease in any way which the Lessee is restrained from dealing without consent; ....

The lease was guaranteed by the directors of Production Profiles Ltd, J N and W Stephenson. That company and associated companies, Fisher Stoves (New Zealand) Ltd and Fisher Century Corporation Ltd, used the premises for

manufacturing, but the business was not successful and on 23 June 1987 the three companies entered into an agreement to sell it to the respondent, Nauhria.

The agreement was drawn up by the respondent's governing director, Mr Roshan Nauhria. It was headed "Agreement for sale and purchase of goods". The goods were described as all the stock and plant of the vendors physically situated at the premises, and, as "implicit in this agreement", the right to market and manufacture Fisher Stoves. There was an acknowledgment that money was owing on hire purchase on some of the goods, and a provision that "The purchaser accepts the liability to pay such amounts and will indemnify the vendor in respect thereof". There was an undertaking by the purchaser to "accept liabilities upon transfer of business activities of at least ten (10) personnel already nominated by the purchaser and any others that he may decide upon at a later date" and to re-employ existing staff on the existing terms and conditions from 1st July 1987. Then under the heading "Rental" there was this provision:

> (1) The purchaser agrees to all liabilities under the current lease agreement between PRODUCTION PROFILES LTD and the Lessors BAYLEYS MANAGEMENT LTD having its registered office in Auckland, for the property at 32 HASTIE AVENUE, MANGERE.
>
> (2) The purchaser agrees to indemnify JOHN NORMAN STEPHENSON and WIES STEPHENSON of any obligations under the guarantee appended to the lease on the property at 32 HASTIE AVENUE, MANGERE.
>
> As annexed and set forth hereto and marked "D".

It is accepted that a copy of the lease was indeed attached. Also attached were schedules of stock and plant, which included "buildings" comprising landscaping, dangerous goods store and oxygen tank installation and "leasehold alterations".

It was the Judge's view that this was no more than a purchase of assets. But with respect the provisions as to the marketing and manufacture of stoves and as to the retention of staff suggest that it was rather a purchase of the business as a going concern. A prime issue in the case is whether it was also an agreement to assign the lease.

On 1 July 1987 the Stephenson companies were put into receivership. On that day, if not earlier, Nauhria went into possession of the premises. Mr Nauhria did not approach Bayleys. Instead, it seems, he spoke to an employee of the receivers, for they wrote to Bayleys. The employee did not give evidence. As a result of the letter, on 7 July Mr Bayley and his associate Mr Bond met Mr Nauhria. There was a conflict in the evidence as to what was said, as there was in respect of later conversations. The Judge was greatly impressed by Mr Nauhria and where there was a conflict accepted his evidence in preference to that of the other witnesses. Consequently he held that no one at Bayleys was yet aware of the contents of the agreement of 23 June; that discussion at the meeting was merely exploratory; and that a letter Mr Bond wrote to Mr Nauhria the following day, 8 July, was consistent with that. The letter read:

> David Bayley and I appreciated the opportunity of speaking to you yesterday about your involvement in Production Profiles Limited and your wish to enter into an assignment of lease. Although we have not yet communicated your wishes to the owners of the Hastie Avenue building we see nothing to prevent an assignment taking place.
>
> Please find enclosed a tax invoice for July rental and rates and an automatic payment authority to commence 1 August 1987. We would be grateful if rental and rates could be remitted promptly.
>
> I trust that you find this information satisfactory and look forward to a most cordial relationship in the future.

On 17 July Bayleys reported to the partners that Mr Nauhria was known to Mr Bayley and was a businessman with substantial assets; that "We can see no reason why an

assignment of lease should not take place ... The assignment of lease to Nauhria Hardware Limited can be considered as a most favourable event". On 8 August, Nauhria paid the July invoice and arranged automatic payments for the future.

Clearly the Judge was right to hold that by this stage the partnership had not consented to an assignment. Clearly too Bayleys understood that Nauhria wished to take an assignment. However the Judge apparently accepted Mr Nauhria's statement that "There was no actual wish expressed" to take an assignment, but merely discussion about it. His company, Mr Nauhria said, had not decided whether it would need to remain in the premises, but as the stock and plant were there some interim arrangement was necessary. He obviously did not make that clear to Bayleys.

On 18 August, following a request from Bayleys, the receivers wrote to Nauhria, with a copy to Bayleys:

> You have taken over the company's responsibilities for the lease at 32 Hastie Street and we wish to advise that Bailey's Management have requested a formal assignment of the lease to you. As the agreement to transfer the lease was entered into prior to our involvement as receivers we advise that we would be prepared to arrange to have an assignment of the lease executed on behalf of the company. However it will be necessary for you to have your own solicitors draw up the formal lease assignment documents.

Mr Nauhria did nothing about this letter. He said that this was because the Production Profiles business was proving not to be as it had been represented, and that he had in mind to move it to other premises. He therefore wanted to consider his position very carefully.

The assignment document - a formal deed - was in fact prepared by the partnership's solicitor, obviously on Bayleys' instructions. He sent it to Bayleys on 25 August. Bayleys did not however deliver it to Nauhria until 18 September. By

then, the contemplated move to other premises had been made. This was in late August. Nothing was said about it to Bayleys. As the move was in progress, Mr Nauhria was approached by a Mr Evans of Kelmarvan Holdings Ltd, who asked if the premises were available for a relatively short term. On 7 September Mr Nauhria wrote to Mr Evans in these terms:

> Dear Don,
>
> Ref: 32 Hastie Ave, Mangere
>
> As per our discussion for the above buildings, we are prepared to sub-lease the above building to you on the following basis.
>
> 1. Lease will be for one year with a right of renewal for another year.
>
> 2. Rent will be $10,000.00 per month plus G.S.T. at present. Rent will be increased on 1st March 1988. Increase will be passed on to you on accrued basis whatever the rent we have to pay.
>
> 3. All the Rates, insurance and any other charges will be paid by you as per the copy of the lease given to you. In short any charges which we are liable for the above building as tenants will be met by you.
>
> 4. We will get the roof repaired.
>
> 5. Directors will personally guarantee the lease. Bayleys Real Estate Ltd are the managers for this building. If you agree with the above terms and sign the letter, we will get the letter from Bayleys stating that we can sub-lease this building to you.
>
> I hope this letter will be to your satisfaction.

At the foot of the letter there was provision for Kelmarvan to intimate its acceptance. It duly did so. It is to be noted that the date in para 2 for the rental increase coincided with the date for the first rental review under the lease. The initial rent was of course the same as under Nauhria's lease. Despite what he said in para 5, Mr Nauhria did not approach Bayleys. His evidence was that he told Mr Evans to do that, and understood he had done so. He did not pursue the matter of guarantees either.

The deed of assignment which the partnership's solicitor had prepared and which was delivered to Mr Nauhria on 18 September contained a warranty by the assignor that the lease had been observed in all respects, and it had attached to it a guarantee by Mr Nauhria of the obligations of the assignee. Mr Nauhria's evidence was that he had a general discussion with Mr Bond, who had brought it, and that while he did not indicate that it would be signed, he made it clear that he would not sign any personal guarantee. It may be added here that one of the receivers said that they would not have signed the deed in the form in which it was drafted, for they would not have given the warranty, and would have required a disclaimer of personal liability. However they were never shown the deed or asked to sign it.

Bayleys learnt of the arrangement between Nauhria and Kelmarvan when they received, apparently from Mr Evans, a copy of Mr Nauhria's letter of 7 September. When that was is not clear. Bayleys' witnesses could say no more than that it was late in September or early in November. After receiving it, Mr Bond spoke to Mr Evans and on 18 November wrote to him confirming that the partnership approved the "sub-tenancy" to his company.

Mr Nauhria did nothing at all about the deed of assignment, although his company continued to pay the rent, which in turn it collected from Kelmarvan. Requests that the deed be executed were either met with a non-committal response or totally ignored. In February 1988 Bayleys obtained and sent to Mr Nauhria a valuation report assessing the rent payable from the date of the first review on 1 March 1988, and the report was discussed when Mr Bond met him later that month. The Judge held that nothing conclusive emerged from the meeting. Certainly Nauhria did not pay the new rent, nor despite prompting did it take steps to dispute the valuation. On 12 April Mr Bond telephoned Mr Nauhria about a dishonoured cheque. Mr Nauhria told him that his company did not consider itself bound and would accept no further responsibility under the lease; Bayleys should look to Kelmarvan for the

rent. On 3 May Mr Nauhria wrote to confirm "that as from 1 May 1988 we are no longer taking any responsibility for the lease", and sent a cheque for all moneys due under the lease to that date; from which "we have no more interest in the above building". Included in the cheque was a contribution to the valuation fee, which Mr Nauhria had earlier refused to pay.

On 23 May the partnership's solicitors wrote to Production Profiles' solicitors outlining the history of the matter and concluding:

> As our client has no direct contract with Nauhria Hardware Limited, it would like Production Profiles Limited to appoint this firm as its solicitors for the purposes of enforcing the agreement with Nauhria Hardware Limited. All costs will be met by the partnership. Please advise as soon as possible whether this is acceptable to your client. Our client will otherwise be forced to look to your client and the guarantors should the rental fall in arrears.

Kelmarvan made two direct payments to Bayleys on account of rent at the original rate from 1 May, but in June intimated its intention to vacate at the end of that month. In early July it ceased trading, but it did not then vacate, for Bayleys agreed to allow it to use the premises for storage for $1,000 a month. This arrangement continued until March 1989, and in the meantime the property was put on the market for lease or for sale. By this time the market was depressed, there was little interest, and it was not until July 1990 that the partnership was able to find a lessee, at a much lower rent.

It seems that earlier in 1990 the partnership had commenced winding up proceedings against Nauhria, for on 23 March 1990, in support of an application to restrain publication of advertising, Mr Nauhria swore an affidavit which the partnership treated as a repudiation of the lease. By letter of 3 May it accepted the repudiation. Then, following the completion of the new lease, it commenced this proceeding,

claiming arrears of rent at the new rate and outgoings to 3 May 1990 totalling $446,842.85, together with damages and interest.

Mr Nauhria's evidence was essentially that he did not agree to anything with Bayleys. His company had bought Production Profiles' stock and plant to assist Mr Stephenson, who was a friend; this had to be kept somewhere in the meantime, and he had agreed to pay the rent for Mr Stephenson, but when he found that his friend had let him down he felt under no further obligation to pay his rent. The Judge described Mr Nauhria as an astute businessman, and found him precise and impressive; so much so that on the several occasions on which other witnesses said that Mr Nauhria had orally committed his company, the Judge preferred Mr Nauhria's evidence that he had deliberately not done so. Despite Mr Akel's submissions to the contrary, we consider that this Court must accept this finding as to credibility.

Robertson J did not of course rely on Mr Nauhria's evidence to construe the agreement of 23 June. Applying the well settled objective test, he concluded that:

> It was a contract which concerned the undertaking of financial obligations of a lease in return for a right to occupy the premises the subject of the case, but objectively it was not an assignment of that lease.

He went on to observe that dealings between the partnership and Nauhria could not constitute an assignment; only the lessee could assign, the lessor's role being to give or withhold consent. He said:

> Here the plaintiff could not have assigned, and the defendant could not have agreed to take an assignment of the lease directly. To hold otherwise would be to allow PP Ltd to be bound by an agreement or course of conduct between parties, not including itself, which purported to dissolve its interest.

This is of course quite correct.

The Judge then turned to a submission that Nauhria was estopped from denying that there had been an assignment. Referring to *Tichborne* v *Weir* (1892) 67 LT 735 in which the possibility of such an estoppel was considered by the Court of Appeal in England, the Judge said that despite the weight of that authority he doubted the power of an estoppel to bind a third party (the lessee); but that in any event he did not think that Nauhria's representations would give rise to one in this case. As to the agreement with Kelmarvan, the Judge thought this could be no more than "a loose licence to occupy", for Nauhria had no interest to transfer.

In this Court, considerable argument was directed to whether there had in law been an assignment of Production Profiles' lease to Nauhria, and to whether the partnership had consented to it. However, the real issue in the case is whether there was an estoppel, for the argument that there was an assignment is untenable.

An assignment is an alienation, a conveyance or transfer, of property or property rights. An assignment of a lease is a transfer of the leasehold interest of the lessee. In the case of an unregistered lease, which creates an equitable estate (*De Luxe Confectionery Ltd* v *Waddington* [1958] NZLR 272) it is normally accomplished by the execution and delivery of a deed of assignment. That procedure is effective to convey the lessee's interest (*Dufaur* v *Kenealy* (1908) 28 NZLR 269, 295 per Edwards J, and see s 44 of the Property Law Act 1952 and the note by Mr E C Adams in [1958] NZLJ 106 at 108). A standard New Zealand text on conveyancing precedents, *Goodall & Brookfield*, 3ed, p 125 gives, for the purpose of assignment of lease, a form of deed of assignment. Whether anything less will suffice need not be considered, for the partnership's solicitors themselves perceived a need for a deed, and that is what they prepared in order to give effect to the transaction as they understood it.

The agreement of 23 June 1987 does not purport to be an assignment of the lease. Indeed the only reference to the lease is that already quoted which appears under the heading "Rental". There are no words of transfer or conveyance, simply an acceptance of liability. The agreement on its face is no more than one of indemnity. But even if it can be construed more generously it is at best an agreement to assign. It is impossible to construe it as the assignment itself. Whether the document should indeed be construed as an agreement to assign may be open to argument. Mr Akel submitted strongly that it was such an agreement, binding as between Production Profiles and Nauhria. Even if that were so, it would not assist the partnership. The partnership can hold Nauhria to the lease only if there were privity of estate between them. That required passing of the leasehold by Production Profiles, not simply an agreement to assign it. It is therefore unnecessary to determine the nature of the contractual relationship between Production Profiles and Nauhria.

Assuming for the moment however that it was an agreement to assign, the case has similarities with *Rodenhurst Estates Ltd* v *W H Barnes Ltd* [1936] 2 All ER 3, decided in the Court of Appeal in England and adopted by this Court in the *De Luxe Confectionery* case. In *Rodenhurst* there was an assignment of an individual's business as a going concern to his company, with an agreement to transfer existing leases. The lessor's consent was obtained and the company went into possession. The company paid the rent, but no assignment was ever completed. The company was therefore an equitable assignee. The Court accepted as "an indisputable proposition" that the mere fact that an equitable assignee goes into possession and pays rent does not create privity of estate with the lessor and does not render it liable upon the covenants of the lease. On the other hand, in the words of Scott LJ at p 12:

> Where, however, the equitable assignee leads the lessor to understand quite definitely that he, the equitable assignee, is more than an equitable assignee and has the term as a legal assignee, then, if the landlord acts upon that representation in such a way as to alter his position, you have every constituent of a common law estoppel.

It was held that there was an estoppel in that case, created by the company, following the request for and the grant of consent, putting up its sign on the premises, paying the rent and, again in Scott LJ's words (at p 13) doing:

> everything that they could do to show to the landlords that they and they only were the owners of the term, and that consequently they were the tenants under the lease of the landlords.

In *Tichborne* v *Weir* at 737, Bowen LJ put the estoppel point in this way:

> If a man pays rent to the landlord on the footing of accepting a term and the liabilities under it, and the landlord accepts the rent on those conditions, then such a person might be estopped from denying that he has become tenant to the landlord on those conditions. But the terms of payment of the rent in this case fall short of showing that the defendant meant to stand for all purposes in the shoes of the original lessee.

In the earlier case of *Williams* v *Heales* (1874) 9 LRCP 177, the lease was assignable without consent, and lengthy occupation, including subletting in the occupier's own name, the collection of sub-rents and the payment of the head rent was held to estop the occupier from denying that he held as assignee. As Keating J said at 184:

> To hold otherwise would create an unjust state of things: the landlord can know but little of the way in which the estate devolves; and the defendant might take the profits and escape liability for the head rent.

Reference may also be made to *Official Trustee of Charity Lands* v *Ferriman Trust Ltd* [1937] 3 All ER 85, where it was held that the payment of the head rent by a sublessee did not estop the sublessee from denying the lessor's claim that it was an assignee of the head lease.

We were referred to a number of other estoppel cases, but they are all examples of the application of well-established principle to the particular facts, and the present case must be decided by applying those principles to its particular facts.

Expressed in orthodox estoppel terms, the inquiry must be whether Nauhria, by words or conduct, represented to the partnership that it had taken an assignment of the lease and induced the partnership in reliance on that representation to act to its detriment.

This case is very different from *Williams* v *Heales*, for here the lessor's consent to an assignment was required. Whether that consent was given is important in an assessment of Nauhria's conduct. The fact that there was no consent would not have prevented an effective assignment as between lessee and assignee: see for example *Hyde* v *Warden* (1877) 3 Ex D 72, *Property and Bloodstock Ltd* v *Emerton* [1968] 1 Ch 94 at 119 per Danckwerts LJ, *In re Christopher Duggan* (1882) 2 NZLR SC 144. And in the absence of consent, the lessor will be hard put to establish an estoppel against the alleged assignee. But as the *Rodenhurst* case shows, where consent has been given the actions of an alleged assignee in occupation may assume a very different aspect.

Mr Akel contended that the partnership's actions showed that it had consented. He referred to its continuing acceptance of rental from Nauhria, and indeed of Nauhria's occupation of the premises, its approval of the "sub-tenancy" to Kelmarvan, and its preparation of the deed of assignment. We do not think that consent is to be found in these facts. Rather, the reality is that the partnership did not ever consent. It is plain that there was no express consent. Mr Bond's letter of 8 July was an intimation that consent was likely to be forthcoming, but it did not convey consent. The partnership's willingness to consent was implicit in the delivery of the deed of assignment to Mr Nauhria on 18 September; but it was plainly a conditional willingness: conditional on execution of the document by the assignor, which was to give a warranty, by the assignee, which was to covenant so as to create privity of contract, and by Mr Nauhria who was to give a guarantee. All conditions could of course have been waived by the partnership, and it is doubtful whether the partnership could have insisted on the warranty. But it was entitled to the covenant and the

guarantee by virtue of clause 11(a) of the lease. The question of the warranty did not in the event arise; but clearly the partnership did not waive the guarantee for it continued to press for execution of the deed containing it. In certain circumstances the acceptance of rent will amount to an implied consent to an assignment: *Hyde* v *Pimley* [1952] 2 QB 506. No doubt in different circumstances Nauhria could have claimed that here. But the partnership cannot assert it in the face of its insistence that the deed be executed.

We think it clear that at any time the partnership could have taken steps towards re-entry and forfeiture. The lessee was in breach of clause 11, and Nauhria could have avoided the consequences only by execution of the deed of covenant and the guarantee to which the lessor was entitled under subclause (a) of that clause. The partnership cannot rely on its failure to take these steps to establish a consent which it plainly had not given.

The partnership is in similar difficulty in demonstrating that it acted in reliance on any representation by Nauhria that it had taken an assignment. The matter principally relied on by Mr Akel, in addition to Nauhria's occupation of the premises and its payment of rent - which as the authorities show are on their own equivocal - was the arrangment Nauhria made with Kelmarven. This certainly was consistent only with Nauhria having acquired the leasehold estate. It was not an arrangement made on behalf of Production Profiles. The letter of 7 September was clearly an offer of a sub-lease by Nauhria, whatever one makes of Mr Nauhria's explanation that he did not consider the legal implications. Mr Asher pointed out that the letter was not addressed to the partnership nor did Mr Nauhria produce it to the partnership. Nonetheless the arrangement required an approach to the partnership for its approval to the "sub-lease" and the letter's ultimate production by Mr Evans may properly be seen as a representation by Nauhria through his agency.

Even so, we do not consider the partnership was entitled to infer that there had been an assignment. The document its own solicitors had prepared in order to effect an assignment remained unexecuted. Mr Nauhria had made it clear that he would not sign the guarantee which formed an integral part of it. The partnership was in our opinion entitled to infer no more than that Nauhria was in occupation under an undefined arrangement with Production Profiles. The evidence suggests that this is in fact all it did infer. For on 21 March 1988 the partnership's solicitors wrote to Nauhria a letter in these terms:

> We act for Bayley Managements Limited, S T J Gilbert, J A Chunn, C V Griffiths, M J Peterson and S A Ubels, who are owners of the premises at 30 Hastie Avenue, Mangere.
>
> The premises are presently leased to Production Profiles Limited. We understand that your company has been occupying and subleasing the premises for some months. A Deed of Assignment of Lease was forwarded to you last year but has still not been executed by you despite numerous requests.
>
> We advise that the occupation of the premises by you constitutes a breach of the lease until the deed of assignment has been executed by all parties.
>
> Our client has instructed us to commence legal proceedings if the deed of assignment is not executed and returned forthwith. Please also note the remedies available to our client under the lease for breaches thereof.
>
> We have also advised the Receiver of Production Profiles Limited, Mr John Cregten of Arthur Young that the deed of assignment of lease has not yet been executed. We understand that there is a contract between your company and Production Profiles Limited whereby you agreed to purchase the assets of Production Profiles Limited and take an assignment of the lease.
>
> You will therefore be in breach of this contract and Mr Cregten will no doubt also be considering taking legal proceedings to enforce the contract. Our client also requires the sublease to be formalised pursuant to the terms of the lease.

That letter fairly summarises the legal position and demonstrates quite clearly that there is no basis for the claim of estoppel.

The question of the lessee's rights, mentioned by the Judge, does not call for consideration.

Mr Akel also invoked s 4 of the Contracts (Privity) Act 1982, on the basis that the provisions of the agreement of 23 June 1987 under the heading "Rental" conferred or purported to confer a benefit on the partnership. We have already indicated a view that these provisions were simply an indemnity addressed solely to Production Profiles. If they amounted to more than that, so as to confer a benefit on the partnership, there would be no need for completion of the deed of covenant, insisted on by the partnership, by which privity of contract would be established between lessor and assignee. There is a proviso to s 4:

> Provided that this section shall not apply to a promise which, on the proper construction of the deed or contract, is not intended to create, in respect of the benefit, an obligation enforceable at the suit of that person.

We do not accept that the agreement conferred or purported to confer a benefit on the partnership. But even if it did, we are quite satisfied that there was no intention to confer on the partnership a right to enforce it. The agreement cannot be construed as creating obligations other than between Production Profiles and Nauhria.

The appeal is dismissed, with costs to the respondent of $5,000 together with disbursements including the reasonable travelling and accommodation expenses of counsel as fixed by the Registrar.

Solicitors
Simpson Grierson Butler White, Auckland, for appellant
Penney Patel, Auckland, for respondent