

IN THE HIGH COURT OF NEW ZEALAND
WHANGAREI REGISTRY
IN ADMIRALTY

AD. 1/83

475

ADMIRALTY ACTION IN REM:

BETWEEN ALAN LLOYD PILCHER,
STEPHEN RAY DRAKE and
RICHARD IAN McQUEEN

PLAINTIFFS

A N D THE SHIP "ENTERPRISE"

FIRST DEFENDANT

A N D HANS WALTER ROECK

SECOND DEFENDANT

A N D MARATHON RANCHING COMPANY
LIMITED (also known as
MARATHON RANCHING LIMITED)

THIRD DEFENDANT

A N D SYNERGETICS

INTERVENER

A N D ADDLAND ENTERPRISES

INTERVENER

A N D GENERAL ELECTRIC CREDIT
CORPORATION

INTERVENER

Judgment: 23 March 1984

Hearing: 23 March 1984

Counsel: Claire Bradley for Plaintiffs
D.S. Hislop for First and Second Intervener
B.P.C. Carter for Third Intervener

ORAL JUDGMENT OF CASEY J.

This application on behalf of the Defendants to have the Plaintiffs' case dismissed for want of prosecution and other orders was called this morning and there was no appearance by their Counsel, although Counsel for the Plaintiffs and the Three Interveners were present. Enquiries were made by

the Registrar and it appears that Auckland Counsel was not notified of the fixture and was unable to attend at such short notice. There seems to have been a breakdown in communication between him and his Whangarei agent, but Counsel who appeared before me expressed their concern with the delay. There is currently a stay of proceedings against the ship until these matters are disposed of and it is described as deteriorating badly. I have no option in the circumstances but to adjourn the matter because of this misunderstanding, as it may be doing an injustice to dismiss the motion in the light of the information which the Registrar has obtained. I do so with reluctance and direct that a priority fixture be given for its disposal as soon as possible, on the basis that Counsel will be expected to attend or arrange other representation. Counsel for the other parties have also applied for costs for their fruitless appearance this morning and I think it appropriate to award them, as the delay was none of their making and the effective responsibility will have to be sorted out between Counsel and his Whangarei agent. I make an order for costs to each Counsel of \$100, in respect of the parties they represent - i.e. \$300 in all.

Mr Casey J.

Solicitors:

Chapman Tripp & Co., Whangarei, for Plaintiffs
Thorne Dallas Perkinson & McGregor, Whangarei, for First and
Second Intervener
Connell Lamb Gerard & Co., Whangarei, for Third Intervener