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IN THE HIGH COURT OF NEW ZEALAND

A. 539/83

AUCKLAND REGISTRY

1229 (2)

BETWEEN M.E. TORBETT LIMITED

FIRST PLAINTIFF

A N D MURRAY EDWARD TORBETT

SECOND PLAINTIFF

A N D KEIRLOR MOTELS LIMITED

FIRST DEFENDANT

A N D HOWARD GASKIN

SECOND DEFENDANT

Hearing: 8 October 1984 (in Chambers)

MEMORANDUM BY CASEY J.

Having discussed this with Counsel in Chambers, I accept that for the reasons set out in Mr Finnigan's memorandum of 27th September there is a right of equitable set-off against the First Defendant notwithstanding my misunderstanding about the identify of the debentureholder. I therefore correct my further judgment of 17th September 1984 by allowing the equitable set off of \$5,500 against the First Defendant for the purpose of calculating interest under the debenture.

Mr Casey J.

Solicitors:

J.T.H. Buxton, Auckland, for Plaintiffs
Keegan Alexander Tedcastle & Friedlander, Auckland, for Defendants

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