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IN THE HIGH COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRY

M.211/83

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BETWEEN COALGATE MOTORS LIMITED

Appellant

A N D TARCOMAC HOLDINGS
LIMITED

Respondent

Hearing in Chambers: 18 May 1984

Counsel: P.M. James for Tarcomac Holdings Ltd
P.F. Whiteside for Coalgate Motors Ltd

Judgment: 22 MAY 1984

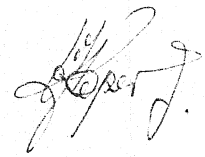
JUDGMENT OF ROPER J.

On the 31st March 1983 District Court Judge C.C. Fraser gave judgment for Tarcomac Holdings Ltd as Plaintiff in civil proceedings in which Tarcomac sought to recover moneys alleged to be owing under three hire purchase agreements affecting motor vehicles, which had been entered into by Coalgate Motors Ltd as vendor and assigned to Tarcomac.

Coalgate Motors appealed, and in his judgment of 10 February 1984 Ongley J. allowed the appeal. Tarcomac now seeks leave to appeal to the Court of Appeal pursuant to s.67 of the Judicature Act 1908. To succeed Tarcomac must show that there is involved some interest public or private of sufficient import to outweigh the cost and delay of a further hearing. Without going into details it is suffice to say that the matters in issue are whether the terms of what might be called a "general" agreement can override the provisions of a later specific agreement which does not refer to the "general" agreement; and whether parol evidence can override the specific terms of an agreement. If that was all there was to

it I doubt whether a grant of leave would be appropriate but there is a further factor which satisfies me that leave should be granted. The present case concerns three specific hire purchase agreements, but now I am told that a further 16 agreements are to be the subject of litigation between the parties. A very considerable sum is involved. Far from it being a case where additional and possibly needless expense will be incurred by granting leave, a determination of the present matter by the Court of Appeal may result in a saving of expense and time. I think there is sufficient interest here to justify a grant of leave and leave is granted accordingly.

Costs reserved.

A handwritten signature in dark ink, appearing to be 'J. K. P. J.', is written in the right margin of the document.

Solicitors:

Saunders & Co., Christchurch, for Appellant
Wynn Williams & Co., Christchurch, for Respondent