

**IN THE HIGH COURT OF NEW ZEALAND
TAURANGA REGISTRY**

CIV 2009-470-000026

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| BETWEEN | AVANTI FINANCE LIMITED Plaintiff |
| AND | PHILLIPPA ELIZABETH RITIHIA PARINGATAI First Defendant |
| AND | THE PRESENT ADULT OCCUPANTS OF THE PROPERTY AT 101-103 ROSS ROAD, TAURANGA, OTHER THAN THE FIRST DEFENDANT Second Defendants |

Hearing: 27 April 2009

Appearances: F Wood for the Plaintiff

Judgment: 27 April 2009

ORAL JUDGMENT OF ASSOCIATE JUDGE CHRISTIANSEN

Solicitors:

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[1] The plaintiff advanced the sum of \$735,230.20 to the plaintiff in August 2007. The loan was secured by a mortgage over the first defendant's property. The first defendant's land is freehold land registered pursuant to the provisions of The Land Transfer Act.

[2] The first defendant defaulted on her payment obligations. A property law act notice was served. The plaintiff wishes to have vacant possession in order to effect a mortgagee sale.

[3] The property in question is occupied by the second defendants.

[4] By this proceeding the plaintiff seeks vacant possession, and for costs to be paid by the first defendant.

[5] The plaintiff's claim was filed on 14 January 2009. At that time the first date for call was 23 March 2009. When the matter was called on 23 March 2009 a number of documents were on that date filed on behalf of the first defendant. One was an appearance and protest to jurisdiction. Another was a memorandum to the Court from Ngā Uri Whakatipurunga O Ngarae (Inc). Also filed was:

- a) Notice of authority purporting to authorise the above incorporation to act on behalf of the first defendant.
- b) Notice of wrongful occupation and wilful trespass.
- c) Good faith agreement.

[6] In essence the protest to jurisdiction claims this Court has no authority, rather that any authority lies with Māori.

[7] The notice of wrongful occupation and wilful trespass appears under a seal issued by the above incorporation. The good faith agreement seems to invite acceptance of the first defendant's beliefs.

[8] In many respects all of the aforesaid documents submitted on behalf of the first defendant are incomprehensible.

[9] When this matter was called today no one appeared for the defendants. In inviting me to award judgment the plaintiff submitted I should dismiss the protest as to jurisdiction for it arrived too late. Undoubtedly it did arrive too late but it having been filed on 23 March 2009 Judge Doogue did on that date adjourn the matter to today to enable the defendants to file any affidavit in reply. No such affidavit was filed. But, I defer from making any order on the basis of the plaintiff's claim the defendants' protest was filed out of time.

[10] This matter is not dissimilar to one I dealt with under CIV 2009-404-1152, Auckland Registry on 16 March 2009. In that case as here Mr Bluegum on behalf of Ngä Uri Whakatipurunga O Ngarae (Inc) filed a protest as to jurisdiction. There as here I rejected that protest. There as here the Court was dealing with an interest registered under The Land Transfer Act. There as here I reject any submissions that this Court does not have jurisdiction to adjudicate upon the plaintiffs' claim. Accordingly there is granted to the plaintiff an order against the defendants that they provide the plaintiff with vacant possession of the subject property within 14 days of the date sealed judgment is served on them.

[11] The plaintiff's costs in the sum of \$7,427.19 inclusive of disbursements shall be paid to the plaintiff by the first defendant.

Associate Judge Christiansen