

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

CIV 2009-470-320

IN THE MATTER OF an application for a restraining order
 pursuant to s42 of the Proceeds of Crime
 Act 1991

BETWEEN THE SOLICITOR GENERAL
 Applicant

AND DION BRENT MOSS
 First Respondent

AND DEBORAH JAN BEARSLEY
 Second Respondent

AND THE ANZ NATIONAL BANK OF NEW
 ZEALAND LIMITED
 Third Respondent

Hearing: 11 June 2009

Appearances: D McWilliam for applicant
 B J Foote for 1st and 2nd respondents
 No appearance third respondent

Judgment: 11 June 2009

JUDGMENT OF ALLAN J

Solicitors/counsel :
Crown Solicitor Tauranga d.mcwilliam@rhjl.co.nz
RAA Weir Rob@crescentchambers.co.nz

[1] This is an application for orders pursuant to ss42(1) and 43(3) of the Proceeds of Crime Act 1991.

[2] The proceedings, as initially commenced, named TSB Bank Ltd as the third respondent mortgagee. Since the proceeding were issued, the property has been remortgaged. An amended application dated 5 June 2009 correctly records the name of the current mortgagee, the ANZ National Bank of New Zealand Ltd, as third respondent. The third respondent has by its counsel filed a memorandum consenting to the making of the orders now sought.

[3] Mr Foote for the first and second respondents indicates that orders may be made by consent, and they are accordingly made as follows:

- a) The first respondent's undivided half share interest in the relevant property, namely 86A Gluepot Road, Pyes Pa, Tauranga being the land in certificate of title SA 59B/406 being the fee simple estate comprising 4.5462 hectares, on lot 2 deposited plan South Auckland 73691 (the subject property) is not to be disposed of or otherwise dealt with by any person other than the Official Assignee, except by order of this Court.
- b) The second respondent's undivided half share interest in the subject property is not to be disposed of or otherwise dealt with by any person other than the Official Assignee except by order of this Court.
- c) The third respondent's interest in the subject property, pursuant to its registered mortgage, is excluded from this order.
- d) The Official Assignee is to take custody and control of the subject property.

C J Allan J