

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

CIV 2009-404-006859

IN THE MATTER OF the Incorporated Societies Act 1908

AND

IN THE MATTER OF the liquidation of Gulf District Plan
Association Incorporated

BETWEEN ANTHONY RAY POPE AND SANDRA
POPE
Plaintiffs

AND GULF DISTRICT PLAN ASSOCIATION
INCORPORATED
Defendant

Hearing: 2 December 2009

Appearances: M Brugeyroux for the Plaintiffs
J Clarke, Secretary of the Defendant, in person

Judgment: 2 December 2009

ORAL JUDGMENT OF WOODHOUSE J

Solicitors:
Ms M Brugeyroux, Wynyard Wood, Solicitors, Auckland
Mr J Clarke, Secretary, Gulf District Plan Association Incorporated, Auckland

[1] The plaintiffs seek an order for liquidation of the defendant incorporated Association.

[2] All of the statutory requirements have been met as evidenced by the documents filed before the hearing and the further documents filed in Court this morning relating to service.

[3] There is a memorandum on behalf of the Association from its secretary, Mr Clarke. Mr Clarke appeared this morning and I heard further submissions from him. As I pointed out to Mr Clarke, the memorandum he has filed confirms that the association is unable to pay its debts. Mr Clarke in his memorandum notes that “the Association is impecunious”. Mr Clarke confirmed today that the Association cannot pay the debt from its own assets. In essence I apprehend that it has no assets of any consequence. What Mr Clarke hopes is that money can be raised from supporters.

[4] The debt arises from an order of the Environment Court made in April. It is evident that the plaintiffs have been seeking payment since then because both parties have referred to negotiations that have taken place. A formal statutory demand was issued in September.

[5] I am sympathetic to the Association’s position as represented by Mr Clarke, but in the circumstances outlined there does not in my judgment appear to be a basis for exercising any residual discretion to decline the order that the plaintiffs are otherwise entitled to.

[6] Accordingly, there will be the following orders:

- a) An order as sought putting the defendant into liquidation.
- b) A consent to act as liquidators from Messrs K W Bromwich and B Van Delden has been filed. They are appointed liquidators.
- c) The plaintiffs are entitled to costs according to scale.
- d) These orders are to lie in Court for a period of 2 weeks from today’s date. They therefore will not become effective until 16 December

2009. If the Association is able to pay the debt and scale costs before that date the order for liquidation will be vacated.

Peter Woodhouse J