

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

CIV 2009-470-871

BETWEEN BELLA ARAPERA KARAKA
 ROBINSON
 Appellant

AND THE BISHOPS CHOICE LTD
 Respondent

Hearing: 7 December 2009

Appearances: Georgina Robinson Wiki on behalf of Appellant
 Warren Pyke for Respondent

Judgment: 7 December 2009

JUDGMENT OF HARRISON J

SOLICITORS

(copy to Appellant in person)
Evans Bailey (Hamilton) for Respondent

COUNSEL

WC Pyke

[1] Ms Bella Robinson appeals against a decision given by Judge Ingram on 29 September 2009 in the District Court at Tauranga dismissing her appeal against a decision of the Tenancy Tribunal made on 18 August granting possession of premises at 79 McGlachlan Drive, Te Puke to The Bishops Choice Ltd.

[2] On 17 November 2009 Venning J pointed out to Ms Robinson that an appeal to this Court lies only on a question of law: s 119 Residential Tenancies Act. He observed that the grounds set out in Ms Robinson's notice of appeal did not readily identify a question of law. The Judge had granted leave to a Ms Georgina Robinson Wiki to appear for Ms Robinson. He requested her to identify the point of law associated with the appeal. The Judge directed that she file an amended notice of appeal identifying a question of law by 27 November.

[3] Ms Robinson Wiki filed an amended notice of appeal. It failed to identify an arguable question or questions of law. Nevertheless, she appeared today. She advanced, on behalf of the nominated appellant, various arguments to the effect that the property was vested in a Maori incorporation which had granted an exclusive licence to occupy in Ms Robinson's favour. Legal, equitable and unencumbered title lay with the incorporation. She referred to the Te Ture Whenua Maori Act 1993.

[4] The law is settled, as Mr Pyke submits, and the Judge found, following *Faulkner v Tauranga District Council* [1996] 1 NZLR 357. In this case title must be regarded as one derived from the Crown by virtue of its registration under the Land Transfer Act 1952. All customary rights were thereby extinguished. Legal title to the property is vested in The Bishops Choice. The company has an absolute right of possession. As a result no arguable point has been raised.

[5] The appeal is dismissed. The Bishops Choice is entitled to costs. They are fixed according to category 2B together with a 50% uplift for advancing an argument which Ms Robinson knew or must have known failed to identify an arguable question of law.

Rhys Harrison J