

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

**CIV 2009-404-003885**

IN THE MATTER OF     the Insolvency Act 2006  
  
BETWEEN                BODY CORPORATE 170812  
                              Creditor  
  
AND                      ANI MI LIN CHANG  
                              Debtor

Hearing:     29 October 2009

Appearances: J G Connell for Judgment Creditor

Judgment:   29 October 2009

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**ORAL JUDGMENT OF ASSOCIATE JUDGE ROBINSON**

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Solicitors:     J G Connell, Barrister, PO Box 29172, Epsom

[1] The judgment creditor brings these proceedings for an order adjudicating the judgment debtor bankrupt because of the judgment debtor's failure to pay money claimed under a bankruptcy notice. That bankruptcy notice was issued to enforce payment of the sum of \$16,284.94 being the amount due and owing under a judgment of the District Court of 9 June 2009. The amounts referred to in the bankruptcy notice and judgment relate to levies payable by the judgment debtor to the judgment creditor in respect of a unit owned by the judgment debtor in a building. Other unit holders in that building have been levied and have paid their levies.

[2] The judgment debtor is residing in China. Because of difficulties in service the judgment creditor has proceeded by way of substituted service. It seems that the proceedings in the District Court were served by way of substituted service. The bankruptcy notice in this Court was served by substituted service and the proceedings for the debtor's adjudication were by way of substituted service which included advertising in the New Zealand Herald.

[3] Shortly before today's hearing the Court received a lengthy letter from the judgment debtor. In that letter the judgment debtor points out that because of problems with delivery of mail in China she has required service by way of email. She says that she has been endeavouring to obtain particulars of the amount outstanding and that she has from time to time made payments of the amounts levied by the judgment creditor. In response the judgment creditor acknowledges that some payments have been made but points out that there have been a number of levies which have not been met. In particular, there are recent levies amounting to \$36,150.00 payable by the end of this month. In her letter the judgment debtor indicates that she is prepared to pay the levies. She does however require evidence from the body corporate as to the amount of the levies. She also complains that the administration management by the body corporate is not up to an acceptable standard.

[4] In the circumstances, particularly as the judgment debtor was not served personally I am prepared to adjourn these proceedings to enable the judgment debtor to pay the amount outstanding or if she disputes liability to take appropriate steps to

have the judgment set aside. Without in any way pre-judging the matter it would appear that the costs involved in attempting to set aside the judgment probably make that application uneconomical.

[5] The debtor will also need to make arrangements to pay levies that have been properly levied by the creditor since the judgment was entered. I draw to the judgment debtor's attention the fact that judgment entered in the District Court for \$16,254.94 is calculated on the following basis.

Levy due on 20 April 2008	\$3,465.34
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Levy due on 26 March 2009	\$3,465.36
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Penalty interest amounting to	\$4,281.84
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And the balance is made up of costs and a sum of \$114.88 for penalty interest from 6 November 2008 to 7 March 2009.

[6] The judgment debtor is advised that failure to make appropriate arrangements for payment of the outstanding amount will probably result in the Court proceeding and adjudicating the judgment debtor bankrupt at the next hearing. The practical effect of adjudicating the judgment debtor bankrupt will be to place the judgment debtor's assets under the control of the Official Assignee who I suspect will arrange for the sale of the debtor's unit and apply the proceeds in payment of the levies that have been made by the judgment creditor.

[7] For the reasons I have given therefore these proceedings will now be adjourned to 26 November 2009 at 10.45 am. The registrar should email a copy of this decision to the judgment debtor.

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**Associate Judge Robinson**