IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY

I TE KŌTI MATUA O AOTEAROA
TĀMAKI MAKAURAU ROHE

CIV-2024-404-1825
[2026] NZHC 3202

BETWEEN	XING (STELLA) ZHAO First Plaintiff
	FEDERAL PROPERTY DEVELOPMENT LIMITED Second Plaintiff
AND	HONGCHENG ZHANG First Defendant
	CHENG HOMES LIMITED Second Defendant

Hearing: 14 October 2026

Appearances: D B Hickson for Plaintiffs
A Ho and S Liu for Defendants

Judgment: 16 October 2026

JUDGMENT OF GORDON J

This judgment was delivered by me on 16 October 2026 at 3 pm
pursuant to r 11.5 of the High Court Rules 2016.

Registrar/Deputy Registrar

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Solicitors:
PCW Law, Auckland
Crimson Legal, Auckland

[1] The plaintiffs, Xing (Stella) Zhao and Federal Property Developments Limited (Federal), seek orders and declarations concerning the sale of a property owned by Federal at 8 Kumukumu Road, Long Bay, Kumukumu (the Property).

[2] The plaintiffs commenced this proceeding in July 2024 against Hongcheng Zhang and his company, Cheng Homes Limited (Cheng Homes), seeking recovery of unpaid loans totalling more than $1.6 million. The defendants have counterclaimed, alleging a joint venture.

[3] Ms Zhao and Mr Zhang are former partners whose personal and business relationships came to an end in early 2024. They owned several properties through their companies, with the Property being the last one remaining unsold.

[4] The parties have been unable to agree on a market value for the Property, and the plaintiffs now seek orders imposing a mechanism by which a market value can be set and the Property sold.

[5] They also seek orders concerning:

(a) what percentage of the proceeds of sale and net rental of the Property should be held on trust pending final determination of the substantive proceeding;

(b) what costs incurred by Federal in preparing the property for sale may be deducted from the sale proceeds; and

(c) a declaration that there be no restrictions imposed on Federal as to how and when the Property may be offered for sale.

[6] The defendants resist the application. They say the orders sought are substantive and broad and would unfairly confer final relief. Therefore, they are not "interlocutory orders" as defined in r 1.3 of the High Court Rules 2016. They add that even if the application were to be considered as an application for an injunction, the application does not satisfy the necessary requirements.

Background

[7] Ms Zhao and Mr Zhang were in an intimate relationship from 2017. At some stage they also commenced a business relationship.

[8] The precise characterisation of their business relationship is disputed. Mr Zhang pleads that the parties entered into a verbal agreement to jointly undertake property development projects for profit. Ms Zhao characterises the business relationship as an "informal collaboration". However, it is common ground that:

(a) Mr Zhang and Ms Zhao were involved in three property developments, being the Property (the subject of this application), 6 Kumukumu Road and 14 Headsail Drive.

(b) Mr Zhang and Ms Zhao both made contributions towards those projects.

(c) The parties chose to utilise corporate entities, being Federal and Koi Properties Limited (Koi), to conduct the venture.

[9] Federal was incorporated on 7 February 2020. Upon incorporation, Mr Zhang held 100 per cent of shares in Federal and was its sole director.

[10] That is where the common ground appears to end.

[11] I next set out the respective versions of events that led to Ms Zhao's claim and this application. However, I make it clear that on this interlocutory application, the Court is not concerned with making factual findings on matters in dispute. That will be for the substantive hearing.

Mr Zhang's version of events

[12] In June 2020, Mr Zhang attempted to obtain a loan from Kookmin Bank in Federal's name. As Mr Zhang had already guaranteed substantial borrowings with Kookmin Bank, he was advised that the bank would not approve a loan to Federal unless there was another shareholder who was willing to act as guarantor.

[13] For the purposes of obtaining a loan from Kookmin Bank, Mr Zhang asked Ms Zhao whether she would be willing to become a minor shareholder in Federal. No financial contribution was necessary, but she would be required to sign as guarantor. Ms Zhao accepted, and on 5 June 2020, she became a 25 per cent shareholder of Federal. Ultimately, the loan application with Kookmin Bank did not proceed, but Ms Zhao retained her shares in Federal.

[14] In late 2020, Mr Zhang was interested in purchasing five parcels of land in Long Bay and caused Federal to enter into agreements to purchase those five parcels.

[15] His original plan of funding that development did not proceed. Mr Zhang on-sold two plots of land. He then sought to involve Ms Zhao to fund the acquisition and development of the three remaining sections. The three plots would become the Property, 6 Kumukumu Road, and 14 Headsail Drive.

[16] On 14 April 2021, Mr Zhang paid $222,100 to Federal. Those funds were then paid by Federal as deposits for the three plots. Settlement was due to occur in June 2021. Mr Zhang sought finance from Kookmin Bank.

[17] In June 2021, Kookmin Bank advised Mr Zhang that it would not approve a loan to Federal while Mr Zhang remained its director and majority shareholder. Solely for the purpose of obtaining a loan, Mr Zhang asked Ms Zhao to become Federal's sole director and registered shareholder and to hold his shares in Federal on a bare trust for him.

[18] On 9 June 2021, Mr Zhang transferred 51 per cent of his shares in Federal to Ms Zhao. On 11 June 2021, Mr Zhang transferred the remaining 24 per cent of his shares in Federal to Ms Zhao. Ms Zhao also became the sole director of Federal.

[19] On 29 June 2021, Federal settled the purchase of the Property along with 6 Kumukumu Road. Headsail Drive was settled by Koi. Settlement occurred with a loan from Kookmin Bank and funds from Ms Zhao's father.

[20] The properties were then developed with contributions from both Mr Zhang and Ms Zhao.

[21] On 30 November 2023, Federal sold 6 Kumukumu Road. After repayment of the secured lending, Federal received net sale proceeds of approximately $1,107,397.12. On the same day, Ms Zhao transferred $1,000,000 from Federal to herself.

[22] It is not disputed that in early February 2024, Mr Zhang and Ms Zhao had a serious argument. In anticipation of separating, Ms Zhao prepared a spreadsheet with a reconciliation of their financial contributions.

[23] The spreadsheet recorded the parties' respective financial contributions and other adjustments. On Ms Zhao's calculation, the net amount payable to Mr Zhang was $555,756.30, which included $60,000 identified as his share of the profit from 6 Kumukumu Road.

[24] At that time, Ms Zhao also stated that once the Property and 14 Headsail Drive were sold, she would pay Mr Zhang his share of the proceeds.

Ms Zhao's version of events

[25] As for the broader facts, Ms Zhao says the parties' business dealings must be viewed through the prism of their intimate relationship, which was maintained despite Mr Zhang's marriage to another woman.

[26] In April 2022, Mr Zhang ostensibly returned to his wife, but Ms Zhao says he told her he intended to continue his relationship with her (that is Ms Zhao), and that if he ever did end his relationship with her, he would relinquish all claims he might otherwise have had to the monies that he and his companies had invested in the building projects.

[27] Ms Zhao describes this promise as the "glue which held their relationship together", especially after Mr Zhang had a child with his wife, two years after he began his relationship with Ms Zhao. For example, while Ms Zhao seems to accept that the

she adds that the transfer was also about "further cementing" their personal relationship. Likewise, she considers Mr Zhang's final transfer of his last 24 shares in Federal to her was to further their relationship and was done out of affection.

[28] Ms Zhao's application takes a narrower factual focus. Mr Hickson, counsel for Ms Zhao, submits simply that the genesis of the application was an agreement reached between the parties in late September or early October 2025 regarding the basis upon which Mr Zhang would remove his caveat on the title to the Property, which he had lodged in September 2024.

[29] Ms Zhao's position is that Mr Zhang agreed, at the time, that it was in the interests of both parties to sell the Property as soon as possible (this is disputed by Mr Zhang). To that end (after a number of communications back and forth between the parties' legal representatives), Mr Zhang agreed that he would not apply to sustain the caveat, provided Federal held 50 per cent of the net proceeds of sale and 50 per cent of all net rental earned to date in Federal's solicitor's trust account, pending final determination of the substantive proceeding. This was consistent with his claim which he maintained until recently, that the parties were in a joint venture in which each held a 50 per cent interest (that has since increased to a claim of 75 per cent). Ms Zhao notes that it was also agreed that offers for the Property would be put to Mr Zhang for his approval.

[30] Ms Zhao and Federal did not agree with Mr Zhang's claim to a 50 per cent interest in the property, but in order to effect a sale, they agreed to Mr Zhang's terms for removing the caveat and allowing the sale to proceed. The parties agree that the caveat was allowed to lapse on the following terms:

(a) Any offers would be provided to Mr Zhang for his approval.

(b) Federal would not increase the existing encumbrances over the Property pending trial.

(c) 50 per cent of the net rental income from the Property and, if the Property were sold, 50 per cent of the net sale proceeds would be held

in Federal's solicitor's trust account pending final determination of the proceeding.

[31] Mr Zhang also made it clear that no factor other than price would affect his decision on whether to approve a sale. The parties had disagreed as to the Property's value from the outset. Mr Zhang claimed it was worth $2.35 million, whereas Ms Zhao considered it was worth between $2.1 to $2.2 million. The property was also tenanted at that time which, in combination with the dispute about market value, caused Federal to hold off on offering the property for sale until March 2026.

[32] On 11 May 2026, Federal received an offer of $1.73 million. Not seeing it as a serious offer, Ms Zhao did not refer it to Mr Zhang and immediately counter-offered $2.198 million. She accepts this was a mistake and that she should have sought Mr Zhang's approval. She then received an increased offer of $1.88 million, which she referred to Mr Zhang. He complained that Ms Zhao was in breach of their agreement and refused to consent to her proposed counter-offer of $2.192 million.

[33] Ms Zhao's solicitor then advised Mr Zhang that she would be happy for him to select his own real estate agent to sell the property after the agency with Federal's current agents expired. Mr Zhang did not reply to this.

[34] Ms Zhao then suggested a mechanism for assessing the current market value, which required each party to appoint their own valuer to prepare a valuation, with the valuers conferring if the valuations differed. She proposed that if no agreement could be reached, the matter could be decided by a third valuer appointed by the New Zealand Institute of Valuers, jointly funded by both parties. Mr Zhang did not accept this proposal.

[35] Ms Zhao says Mr Zhang then reneged on their prior agreement that 50 per cent of proceeds of sale and rental proceeds be held pending the result of the substantive proceeding, and insisted that 100 per cent be held pending determination. He threatened to bring proceedings for an injunction if Ms Zhao did not agree.

Counterclaims

[36] Mr Hickson notes that in each of the first three statements of defence and counterclaims, the defendants alleged a joint venture and sought, amongst other things, a declaration that the first defendant held a 50 per cent interest in each of the development projects which the parties worked on together, including the Property. However, in the third amended counterclaim dated 24 June 2026, filed almost three weeks after the plaintiffs filed this application, the defendants allege a 75 per cent interest in each of the development projects and a 75 per cent interest in Federal. Mr Zhang now says Ms Zhao holds this 75 per cent of the shares in Federal for him on trust and explains the change of position based on the defendants having just instructed new counsel.

[37] As the litigation continues, there is no agreement as to how to assess fair market value, and consequently the Property remains on the market without a serious prospect of sale.

The application

[38] The application seeks orders that:

(1) The following mechanism be adopted by the parties to this proceeding for determination of the fair market value of the Property:

(a) each party to obtain a valuation of the Property from a registered valuer who can provide their valuation within 14 days;

(b) if the valuations are within five per cent of each other, a figure midway between the two valuations is to be treated as the fair market value of the Property;

(c) if the valuations differ by more than five per cent, the valuers are to confer within five days to try and agree a fair market value which will be binding on the parties;

(d) if the valuers are unable to agree a fair market value within that five-day period, the parties to request the New Zealand Institute of Valuers (NZIV) to appoint a valuer (NZIV valuer) who can complete the task set out in order (e) below within 14 days and whose costs will be shared equally by the parties; and

(e) the NZIV valuer to review the valuations prepared by the parties' valuers and assess current market value of the Property as at the date he or she is instructed and then make a final determination as to fair market value of the Property which is binding on the parties.

(2) The first defendant be debarred from withholding his approval to the sale of the Property for a sum which is equal to or more than the fair market value as determined by the mechanism set out in orders (1)(a)–(e) above.

(3) The first defendant be debarred from resiling from his agreement that 50 per cent of the net proceeds of rental of the Property and 50 per cent of the net proceeds of sale of the Property are to be held in the trust account of PCW Law Ltd, the solicitors for the second plaintiff, pending a final determination of these proceedings.

(4) In determining the net proceeds of sale of the Property which are to be held in trust by PCW Law Ltd pending a final determination of these proceedings, the cost of all works undertaken by the plaintiffs to prepare the Property for sale amounting to $5,612.00 to be deducted from such proceeds of sale together with all marketing expenses, real estate agent commissions and all other incidental expenses incurred in the sale of the Property.

[39] The plaintiffs also seek a declaration that the agreement reached between the parties by email in late September and early October 2025 concerning the sale of the Property, nor any other matter whatsoever, impose any restrictions on Federal as to:

(a) when the Property might be offered for sale; or

(b) how the Property may be offered for sale, whether by auction, negotiation, tender or by requesting offers over a stated sum or at a stated asking price.

Legal principles

[40] Section 4 of the Senior Courts Act 2016 provides that an interlocutory application:

> (a) means any application to the High Court in any civil proceedings or criminal proceedings, or intended civil proceedings or intended criminal proceedings, for—
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> (i) an order or a direction relating to a matter of procedure; or
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> (ii) in the case of civil proceedings, for some relief ancillary to that claimed in a pleading; and
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> (b) includes an application to review an order made, or a direction given, on any application to which paragraph (a) applies.

[41] Rule 1.3 of the High Court Rules provides that interlocutory order:

> (a) means an order or a direction of the court that—
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> (i) is made or given for the purposes of a proceeding or an intended proceeding;
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> (ii) concerns a matter of procedure or grants some relief ancillary to that claimed in a pleading; and
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> (b) includes—
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> (i) an order for a new trial;
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> (ii) an order striking out the whole or part of a pleading; and
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> (iii) an order varying or rescinding an interlocutory order.

[42] In his submissions, Mr Ho, counsel for Mr Zhang, addressed the legal framework and principles that apply to injunctions and made submissions as to why, if the Court were to treat the application as an application for a mandatory injunction, it could not succeed.

[43] At the hearing, Mr Hickson made it clear that although Ms Zhao, in making her application, is seeking to hold Mr Zhang to what she says was agreed in September/October 2025 when Mr Zhang removed his caveat, she is not seeking a mandatory injunction.

[44] Accordingly, I do not refer to the principles that apply when the Court is considering an application for a mandatory injunction.

Ms Zhao's position

[45] The essence of Ms Zhao's position is that, in light of the disagreement about the Property's value, method of sale and proportion of proceeds to be held, it has been necessary to apply to the Court to determine such matters.

[46] Mr Hickson submits the Court is not being asked to resolve factual disputes. All that Ms Zhao is seeking to do is to hold Mr Zhang to what he agreed when the caveat was lifted.

Submissions for Mr Zhang

[47] Mr Ho refers to *Waterhouse v Contractors Bonding Ltd*, in which the Court of Appeal refused to grant summary judgment finally disposing of one plaintiff's claim which had been made on an interlocutory application.[1] The Court held that the focus is on the substance and effect of the decision: an interlocutory decision is ordinarily one made in the course of proceedings which leads to or facilitates the hearing and ultimate disposition of the claim, rather than one which finally determines substantive rights. The Court also held that the definition of "interlocutory order" in r 1.3 is exhaustive.

[48] Likewise, in *Alan H Reid Engineering Ltd v Ramset Fasteners (NZ) Ltd*, the plaintiff sought urgent interlocutory relief in a dispute concerning allegedly false statements made by a competitor about the safety of its products. Among other things, it sought mandatory orders requiring the defendant to circulate a corrective statement

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1 *Waterhouse v Contractors Bonding Ltd* [2013] NZCA 151, [2013] 3 NZLR 361 at [16] and [22].

and to recover and surrender copies of its earlier circular.[2] Gault J refused, holding that those orders would provide the plaintiff with substantive relief, notwithstanding that the underlying facts remained disputed and could only properly be determined at trial.

[49] Mr Ho adds that in the present case the orders sought do not fall within either limb of the statutory definition of an interlocutory application.

[50] First, the orders do not concern a matter of procedure. They do not regulate the manner in which the proceeding is to be prepared for, heard or determined. Rather, they concern whether Federal may dispose of the Property, the circumstances in which Mr Zhang may withhold approval, and the price at which that approval may be compelled. Those matters concern substantive rights. Under the arrangement reached in September and October 2025, Mr Zhang allowed his caveat to lapse in return for protections which included that any offer to purchase the Property would be referred to him for approval. The present application seeks to alter the substance of the arrangement.

[51] In particular, Mr Ho says the plaintiffs seek a regime under which an independently determined market value would become the effective threshold for sale, and Mr Zhang would be forced to approve an offer meeting that threshold. They also seek relief concerning when and how Federal may offer the Property for sale. If granted, those orders would determine presently disputed rights concerning the disposal of the Property.

[52] Secondly, the orders are not relief ancillary to that claimed in a pleading. The plaintiffs' substantive claims are debt claims. No pleaded cause of action seeks an order compelling the sale of the Property, a declaration as to the circumstances in which Mr Zhang must approve a sale, or a determination that Federal is entitled to dispose of the Property at a price fixed by reference to current market value.

[53] Nor does the defendants' counterclaim make the proposed orders ancillary. Mr Zhang seeks, among other relief, recognition of his beneficial interest in Federal, accounts relating to Federal and its assets, and relief concerning the value of his

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2 *Alan H Reid Engineering Ltd v Ramset Fasteners (NZ) Ltd* (1990) 3 PRNZ 676 (HC) at 681–682.

interest. None of that relief requires the Property to be sold before those claims are determined.

[54] Mr Ho submits the practical effect of the proposed orders is also inconsistent with their characterisation as interlocutory. Mr Zhang's concern is that a sale cannot be reversed if he succeeds at trial in establishing his claimed beneficial interest. The proposed orders would therefore bring about an irreversible disposition of the principal asset over which the parties' substantive dispute exists, before those rights have been determined. This, he says, must be viewed in the context of Ms Zhao's conduct in relation to Federal's assets.

[55] Mr Ho submits that Ms Zhao has dissipated Federal's assets. He says that Federal has paid more than $200,000 in legal fees for this proceeding, even though a large part of the proceeding relates to the counterclaim against Ms Zhao personally. The plaintiffs have not distinguished legal fees incurred for Federal and legal fees incurred for Ms Zhao personally, and that Ms Zhao is applying Federal's funds for her personal legal costs. This is of particular concern to him given Federal's financial position.

[56] As at August 2026, Federal has $108.10 in its bank account and the Property is now Federal's only substantial remaining asset. On that basis, the defendants take issue with any proposal to sell the only remaining asset without Mr Zhang's consent and before his claimed 75 per cent beneficial interest in Federal is determined at trial.

[57] The defendants therefore submit that the relief sought is not properly available by interlocutory application under section 4 of the Senior Courts Act and r 1.3 of the High Court Rules.

Analysis

[58] Mr Hickson agrees that the orders sought do not relate to a matter of a procedure. But he says that what Ms Zhao is seeking is relief ancillary to the relief claimed in the proceeding. In that regard, he says that the sale of the Property now will assist the Court hearing the substantive application because the accounting and valuation of Federal sought as part of the relief in the counterclaim will be made easier

with the asset (the Property) having already been sold. The sale price will be known and, accordingly, the orders sought will facilitate the claim. In that way, Mr Hickson submits the relief is ancillary to the claim.

[59] However, a sale is not necessary in order to facilitate the claim. There is no impediment to the Property being sold after any orders for accounting or valuation are made as part of the substantive judgment. There is no good reason why the Property needs to be sold now. It was not suggested that there was a need to do so. For example, there was no evidence that it is a wasting asset requiring a sale to preserve its value.

[60] I also do not accept that the orders are simply to seek Mr Zhang's compliance with what the parties agreed in September/October 2025. The evidence is that Mr Zhang was holding out on the sale price. Initially, the minimum price at which Mr Zhang was prepared to approve a sale was $2.35 million. He was then prepared to reduce the reserve price to $2.32 million.

[61] There is some ambiguity in the words "balancing the need for a quick sale" in the email from his then-solicitor. Mr Ho asserts that the balancing referred to there was Ms Zhao's wish for a quick sale. Regardless of what that phrase meant, Mr Zhang made his view on price clear. His expectation could well prove unrealistic, but nevertheless there was no agreement on price. Accordingly, the orders as sought do not seek to enforce what was agreed.

[62] As to whether the orders sought would result in a final decision on the rights of the parties, Mr Hickson argues that an order that 50 per cent of the net proceeds of rental and of the sale price be held in his firm's trust account does not prevent the Court hearing the substantive application making an order that Mr Zhang is entitled to a greater share (whether 75 per cent as now claimed or some other percentage). Mr Hickson says that Mr Zhang does not lose his rights if the orders were made. He would have a court judgment as to his 75 per cent share on which to sue if necessary. Mr Hickson adds that Ms Zhao would be prudent to put aside half of her 50 per cent share in case Mr Zhang was successful at trial.

[63] I am not persuaded by that submission. If Ms Zhao is to be paid out 50 per cent of the net proceeds of sale, that is some form of substantive relief when she has not yet established her entitlement. Mr Ho argues that Ms Zhao has dissipated Federal's assets. That was hotly contested by Mr Hickson, who referred the Court to evidence that appeared to contradict each aspect of Mr Ho's dissipation submission. Nevertheless, in the absence of an undertaking by Ms Zhang to hold half of what would be her 50 per cent share aside, an order made now would change the status quo by opening the asset at least to the potential of dissipation.

[64] The Court does have some sympathy for Ms Zhao's evident frustration at what she considers to be Mr Zhang's change of position — from agreeing to 50 per cent of the net sale price and net rental income being held in her solicitor's trust account, to now opposing the orders sought.

[65] However, since that (partial) agreement in September/October 2025 (with price still being unresolved), Mr Zhang has amended his pleading (now claiming a 75 per cent share), apparently as a consequence of receiving different legal advice from new solicitors. The substantive claim will be determined on the basis of the amended pleading.

Result

[66] The application is declined.

Costs

[67] I did not hear from counsel on costs. The defendants, as the successful parties, are prima facie entitled to costs.

[68] The costs rules are straightforward and easily applied. I would expect counsel to be able to agree costs. I direct that a joint memorandum on costs be filed. If there are any areas of disagreement, they can be identified in the joint memorandum.

[69] The joint memorandum is to be filed within 20 working days of the date of this judgment.

[70] I will make my decision on costs on the papers.



Gordon J