

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

**CIV-2012-404-004700
[2014] NZHC 848**

UNDER Section 266 of the Companies Act 1993

IN THE MATTER OF the liquidation of NZ Properties Holdings
Limited (in liquidation)

BETWEEN DAMIEN GRANT and STEVEN KHOV
Applicants

AND CHARLES UDAI NARAYAN PANDEY
First Respondent

JASWANTI DEVI RAI PANDEY
Second Respondent

PRAKASH PANDEY
Third Respondent

intituling cont'd over ...

Judgment: 1 May 2014

JUDGMENT OF COURTNEY J

This judgment was delivered by Justice Courtney
on 1 May 2014 at 4.00 pm
pursuant to R 11.5 of the High Court Rules

Registrar / Deputy Registrar

Date.....

CP ASSET MANAGEMENT LIMITED
Fourth Respondent

CP INVESTMENTS LIMITED
Fifth Respondent

CP ASSET INVESTMENTS LIMITED
Sixth Respondent

CP CARPARKS LIMITED
Seventh Respondent

CP CARR ROAD LIMITED
Eighth Respondent

CP ENTERPRISE PROPERTIES
LIMITED
Ninth Respondent

NORTHBRIDGE TRUSTEE LIMITED
Tenth Respondent

MARAC FINANCE LIMITED
Eleventh Respondent

LUMLEY FINANCE (NZ) LIMITED
Twelfth Respondent

IAG NEW ZEALAND LIMITED
Thirteenth Respondent

[1] In my decision 1 April 2014 I made orders under s 266 of the Companies Act 1993 and directed that the liquidators have costs on a 2B basis. Counsel have been unable to agree on the costs. There are three main issues between them.

[2] The first is that, although the application was brought as an interlocutory application it could have been brought as an originating application and the liquidators have sought to have me deal with it on that basis for the purposes of costs. This issue arose in related proceedings.¹ I concluded in the related proceeding that fixing costs on a defended application of this kind as if it were an originating application did not offend against the rules and would, in any event, justify a departure from the strict reading of r 14.

[3] The present application raises the same issues as I was considering in the related case and, for the same reasons, I consider it right that costs be awarded on this application as if it were an originating application.

[4] The second issue relates to further affidavits filed. Mr Hucker objects to costs being awarded in relation to the affidavit of Mr Grant dated 11 October 2013 on the basis that it was not complex but merely updating the Court. The other affidavits (17 and 18 March 2014) were very short, simply attaching documents.

[5] I accept that these affidavits were necessary. The fact that they were limited in scope does not detract from this. Further, the affidavits were, in part, needed because of the respondents' failure to respond earlier to what I have found their obligations to have been.

[6] The third point is the time claimed for hearings on 18 and 19 March 2014. Mr Norling has calculated those items on the basis of half a day, whereas Mr Hucker correctly points out that the hearings occupied only a quarter of a day and should be calculated on a .25 of a day basis.

[7] The end result is that there are be costs in favour of the liquidator in accordance with the calculation attached to Mr Norling's memorandum 7 April 2014

¹ *Grant v Pandey* [2014] NZHC 559.

save that item 42 relating to the hearings on 18 and 19 March 2014 are to be calculated on .25 of a day.

P Courtney J