

IN THE SUPREME COURT OF NEW ZEALAND

**SC 12/2006
[2006] NZSC 16**

BETWEEN THE UNIVERSITY OF NEWLANDS
 LTD
 First Appellant

AND ROCHELLE MARIANNE FORRESTER
 Second Appellant

AND NATIONWIDE NEWS PTY LTD
 Respondent

Court: Elias CJ, McGrath and Anderson JJ

Counsel: Second Appellant in Person for Appellants
 B D Gray and A L Ringwood for Respondent

Judgment: 29 March 2006

JUDGMENT OF THE COURT

- A. The application for leave to appeal is dismissed.**
- B. The appellants are to pay the respondent costs in the sum of \$2,500 plus disbursements, to be fixed if necessary by the Registrar.**

REASONS

[1] The University of Newlands Limited, a New Zealand company, and its Wellington based shareholder and director, Rochelle Marianne Forrester, seek leave to appeal against a judgment of the Court of Appeal which ordered that a proceeding brought by them against Nationwide News Pty Limited should be dismissed.

[2] The appellants brought a claim for defamation in the High Court against the respondent which is the publisher of *The Australian*. The claim arose from what was

said to be publication in New Zealand of an article through its availability on a website. The respondent applied to have the proceeding dismissed, protesting as to the Court's jurisdiction. The basis for the Court of Appeal's decision dismissing the proceeding was that the appellants had failed to show that they had a good arguable case against the respondent on the merits, their claim being speculative.

[3] The appellants seek to raise a number of points in their proposed appeal which they say were wrongly decided by the Court of Appeal. None of these points, however, raise any question of general or public importance. In particular, a further appeal would not be concerned, as the second appellant seems to think, with the circumstances in which defamation occurs in New Zealand as a result of material being available on the internet. The ultimate issue would rather turn on the appellants' apparent difficulties of proving any sort of publication in New Zealand, or that the second appellant had been identified in the statements with which the appellants have taken issue.

[4] In deciding that the Court should not assume jurisdiction over the respondent as a foreign defendant because the appellants had not shown a good answerable case on the merits the Court of Appeal applied principles laid down in *Kuwait Asia Bank EC v National Mutual Life Nominees Ltd (No2)* [1989] 2 NZLR 50 at 54, which judgment was affirmed by the Privy Council at [1990] 3 NZLR 513, and further applied by the Court of Appeal in *Stone v Newman* (2002) 16 PRNZ 77.

[5] That is an entirely orthodox approach under New Zealand law. While the Court does not rule out the possibility that at some point it may revisit these principles in appropriate circumstances they do not exist in this case, and that is not in any event the point of the proposed appeal.

[6] For these reasons the Court is not persuaded that it is necessary in the interests of justice for this Court to hear the proposed appeal. We therefore dismiss the application for leave under s 13 of the Supreme Court Act 2003.

Solicitors:
Bell Gully, Auckland for Respondent