

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

**CIV-2012-485-2265
[2013] NZHC 1084**

UNDER the Resource Management Act 1991

BETWEEN CLARENCE JOHN FALOON
Appellant

AND PALMERSTON NORTH AIRPORT
LIMITED
Respondent

Hearing: On papers

Counsel: C J Faloon in person
J W Maassen for Respondent

Judgment: 14 May 2013

*In accordance with r 11.5, I direct the Registrar to endorse this judgment
with the delivery time of 12:00pm on the 14th May 2013.*

JUDGMENT OF WILLIAMS J

[1] Mr Faloon has applied without notice to consolidate two proceedings under r 10.12 of the High Court Rules. The first case is an RMA proceeding currently before me: *Faloon v Palmerston North Airport Limited*, and the second case is *Faloon v Commissioner of Inland Revenue* a matter not before me and about which I have limited knowledge. Rule 10.12 grants the court a discretion to consolidate two proceedings if they share a common question of law.

[2] *Faloon v Palmerston North Airport Limited* is an appeal against an Environment Court decision. Mr Faloon applies for a declaration that Palmerston North Airport Limited is diverting water without the required resource consent. The

Environment Court struck out the application because it was vexatious and it disclosed no reasonable or relevant case.

[3] Briefly, the grounds advanced on appeal were:

- (a) the Environment Court should have heard from Mr Faloon before reaching its decision;
- (b) Mr Faloon had no ulterior motive beyond ensuring compliance with s 14 of the Resource Management Act; and
- (c) Mr Faloon's case was arguable.

[4] Mr Faloon argues that *Faloon v Commissioner of Inland Revenue* raises a question of law regarding whether he is “deemed to stand possessed of the 1977-year Kawau Stream diversion by s 21(d) of the Land Transfer Amendment Act 1963.” He argues that this matter is currently before me in *Faloon v Palmerston North Airport Limited*.

[5] It is not. Mr Faloon did refer to s 21(d) in his submissions to me in *Faloon v Palmerston North Airport Limited*, but s 21(d) is about property ownership. This question was not within the Environment Court's jurisdiction, is not relevant to the appeal before me, and I will not address it on appeal.

[6] It cannot therefore be said that the same question of law arises in both cases. The application is dismissed.

Williams J