

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

**I TE KŌTI MATUA O AOTEAROA
TĀMAKI MAKAURAU ROHE**

**CIV-2019-404-1572
[2019] NZHC 2703**

BETWEEN

JINGQIU TANG
First Plaintiff

SUNBOW GROUP LIMITED
Second Plaintiff

SUNBOW INVESTMENT LIMITED
Third Plaintiff

AND

SUNBOW LIMITED
First Defendant

YING ZHONG
Second Defendant

Hearing: 14 and 17 October 2019

Appearances: J Land and K Sun for the Plaintiff
R Reed and A Manuson for the Defendants

Judgment: 23 October 2019

JUDGMENT OF POWELL J

This judgment was delivered by me on 23 October 2019 at 10 a.m. pursuant to
R 11.5 of the High Court Rules

Registrar/Deputy Registrar
Date:

Solicitors/Counsel: Duthie Whyte Lawyers
Prestige Lawyers Limited, Auckland
J Land, Bankside Chambers

[1] A number of different applications and cross-applications came before me as Duty Judge on 17 October 2019. The applications had previously come before Lang J on 9 September 2019, but His Honour concluded it was not necessary to make formal orders on that day:¹

Instead, I propose to allocate a fixture before the Duty Judge to deal with the question of “interim interim” relief in the event that the parties are unable to reach agreement regarding that issue themselves. I then propose to allocate a fixture before a Judge to deal with the question of interim relief in the event that the parties are unable to reach agreement regarding that issue following, or at, the earlier hearing.

[2] In accordance with this direction and in addition to the “interim interim” hearing before me on 17 October 2019, Lang J also allocated a half-day fixture on 4 December 2019:²

... to finalise the terms of interim relief in the event that the orders made on 17 October 2019 are not sufficient to protect the parties’ respective positions pending determination of this proceeding.

[3] Given the limited time available on 17 October 2019 the hearing preceded more in the nature of a settlement conference. Following discussion with counsel, the proceedings were stood down to enable discussions to occur as between the parties, in the course of which considerable progress was made. Following further discussion which indicated that agreement was imminent it was agreed that counsel would retire to refine draft interim orders that met the requirements of both parties and unless further assistance was requested of the Court, I would then issue orders on the papers.

[4] In the event the parties have developed a comprehensive set of orders for interim injunction. These are annexed as Appendix “A” and by consent I make orders accordingly.

[5] The one issue the parties were unable to reach agreement on involves two properties, described in the parties’ submissions as the Kumeu and Sunnyhills properties, which the plaintiffs say were acquired from the same ultimate source as the

¹ Minute of Lang J, 9 September 2019, CIV-2019-404-1572 at [2].

² At [4].

other properties at issue in these proceedings but which the defendants contend were and are the personal property of the second defendant.

[6] I have interpreted the memorandum filed on behalf of the parties as an invitation to determine whether interim relief should be provided in respect of the Kumeu and Sunnyhills properties up to the hearing on 4 December 2019. Having considered the submissions of both parties and the relevant evidence, and in particular the evidence contained in the second affidavit of Allen Wu on behalf of the plaintiffs, I conclude that separate interim orders should be made in respect of these properties in the form set out in paragraph 4 of the joint memorandum, as per Appendix B attached. I note specifically that Ms Reed, on behalf of the defendants, confirmed in the course of the hearing that although some marketing had begun in respect of one of the properties, that property now required remedial work and that work is still to be undertaken. In the circumstances I see no prejudice to the defendants if the orders issue pending the hearing on 4 December 2019. Unlike the other orders which will remain in force unless revoked, the orders in respect of the Kumeu and Sunnyhill properties will lapse on 4 December 2019, unless further extended by a Judge at that hearing.

[7] Finally, for completeness, I note that earlier in the week applications made on behalf of the defendants to disqualify the plaintiffs' instructing solicitors from acting further on the proceedings were adjourned to the hearing on 17 October but were not addressed at the hearing. For completeness I formally adjourn those applications through to the hearing on 4 December 2019 for hearing on that date, if not resolved in the meantime.

Powell J

Appendix B

Kumeu and Sunnyhills Properties

1. In these orders "Other Assets" includes:
 - (a) The residential property at 114 Pomona Road, Kumeu, comprised in record of title NA1071/141; and
 - (b) The residential property at 12 Suzetta Place, Sunnyhills, comprised in record of title NA 17C/854.

2. The second defendant is restrained from causing or permitting the sale or other disposition of the Other Assets (as defined above) until 5 December 2019 or further order of the Court unless:
 - (b) The sale or other disposition is at market value, as supported by an independent valuation;

 - (b) The proceeds of sale are placed in the trust account of Loo & Koo, solicitors, pending determination of this proceeding subject to all obligations of the Sunbow Companies to the Bank of New Zealand, DBR Limited and Inland Revenue Department in relation to that particular sale.