

FILED 0 2 DEC 2005

**IN THE DISTRICT COURT
AT QUEENSTOWN**

CRN 4059500073

NEW ZEALAND OVERSEAS INVESTMENT COMMISSION
Informant

v

LANCE CONNELL WELLOR
Defendant

Hearing: 14 November 2005

Appearances: S McKenzie for the Informant
D Lloyd for the Defendant

Judgment: 14 November 2005

SENTENCING NOTES OF HIS HONOUR JUDGE S G ERBER

[1] In this case Mr Wellor is an overseas citizen, resident in the United States of America. He purchased land near Queenstown on or about 19 January 2001 and for various reasons that need not concern me he was required to get the consent of the New Zealand Overseas Investment Commission. The Commission is tasked amongst other things with protecting the citizens of New Zealand from purchasers of land who may not be bona fide and consequently the Commission imposes conditions on the use of the land to whose purchase it consents.

[2] In this case Mr Wellor was subject to various conditions which need not concern me but one in particular which does and that was a condition that he, over a

period of time, plant chestnut trees and douglas fir trees. He sold the land in August 2004 and on the face of it, according to the prosecutrix, made a profit of over \$700,000. At that time he had not complied with any of the conditions which are before me as having been breached, namely the planting the trees.

[3] Instead of that what he did was he started to build a house which was to be a very expensive building. An architect was engaged and plans were drawn up and indeed a lot of money was spent in the foundations. Then a cold financial wind blew through Mr Wellor's business affairs and he in effect ran out of money. It was at this point that he decided to liquidate some assets and this was one of the assets which he liquidated.

[4] There is in this country justifiable concern regarding foreign purchases of lands. Those concerns are sometimes concerns relating to the preservation of the environment and other concerns are that people come into New Zealand buy land without any intention of enhancing the land or indeed the common weal of the New Zealand citizen. Instead they are interested in making a profit.

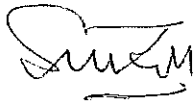
[5] It is perfectly clear, notwithstanding the gloss which Miss Lloyd seeks to place on the situation, that Mr Wellor decided to ignore the conditions because they did not suit him. This is unacceptable. It must be perfectly clear to people who buy land here that conditions are to be complied with.

[6] I note that the legislation has been superseded by other legislation which will impose on persons of Mr Wellor's inclination a very considerably higher maximum of fine regime together with the ability to pull back, if I can put it that way, any profits made on sales of land together with the costs of prosecution. Indeed, Mr Wellor is fortunate that he is not subject to that regime.

[7] The maximum fine is \$30,000 or 12 months imprisonment. Mr Wellor has not appeared. I permitted him not to appear provided that in the event that I considered that more than a fine should be imposed that I would adjourn the case and require him to appear. I have decided that the matter can properly be dealt with by a fine which in terms of the legislation to which he is subject must necessarily be

considerable. I bear in mind that he has pleaded guilty but it was a late plea and I suspect that he was hoping that he might persuade the Commission not to proceed with the prosecution in which hope he has been confounded.

[8] Bearing the matters which I have to consider in mind and bearing the relevant provisions of the Sentencing Act in mind, particularly that portion of the Sentencing Act which requires sentences to be imposed which not only deter the person being sentenced but also persons in a like position and with a like mind, I conclude that the appropriate fine, but for the plea of guilty, would have been a fine of \$20,000. He having pleaded guilty, but at a late stage, he is fined \$17,000 with Court costs \$130 and a solicitor's fee which I fix, bearing in the mind that the case was prepared fully for trial, in the sum of \$5,000. Stand down.



S G Erber
District Court Judge

Solicitors:

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D Lloyd, Macalister Todd Phillips Bodkins, PO Box 653, Queenstown.