

1 of 1 DOCUMENT: CaseBase Cases

Methanex Motunui Ltd v Spellman

[2004] 1 NZLR 95

**Court:** NZHC**Judges:** Fisher J**Judgment Date:** 18/8/2003**Catchwords & Digest****Arbitration -- Awards -- Setting aside of award -- Breach of natural justice**

Application to strike out proceedings.

Applicants members of mining consortium entered into contract of sale of gas with Crown.

Crown later sold gas from gas field to sellers including first respondent.

Quantity of gas that consortium was obliged to deliver to Crown was determined by amount of economically recoverable reserves (ERR) in gas field.

Dispute arose as to recalculation of ERR.

First respondent disputed figure reached between consortium and Crown.

Parties ultimately agreed that issue would be submitted to arbitration and that first respondent would agree to accept that determination in return for certain rights to participate in arbitration.

Second respondent appointed as Independent Expert.

Made determination in relation to ERR in final award.

First respondent applied to have award set aside for breach of natural justice.

Applicants sought to strike out respondent's application.

Terms of agreement between parties confined first respondent to specific categories of natural justice as permissible grounds for setting aside award and none of these categories had been pleaded or argued.

Established first respondent had not pleaded or alleged any arguable case that first respondent denied proper opportunity to respond to supplementary information and data provided.





Application dismissed.

Litigation History**Annotations:** All Cases **Sort by:** Judgment Date (Latest First)

Annotation	Case Name	Citations	Court	Date	CaseBase	Country
Related	Hi-Fert Pty Ltd v Kiukiang Maritime Carriers Inc (No 5)	(1998) 90 FCR 1; (1998) 159 ALR 142; [1999] 2 Lloyd's Rep 782; BC9806222	FCA	24/11/1998	CaseBase Entry	

Cases referring to this case



Annotations: All Cases Sort by: Judgment Date (Latest First)
















Annotation	Case Name	Citations	Court	Date	CaseBase	Country
Cited	136 Fanshawe Ltd v Wilson Parking New Zealand Ltd	[2016] NZHC 1854; BC201661861	NZHC	10/8/2016	CaseBase Entry	
Considered	Amasya Enterprises Pty Ltd v Asta Developments (Aust) Pty Ltd	[2016] VSC 326; BC201604786	VSC	17/6/2016	CaseBase Entry	
Considered	Bidois v Leef	[2015] 3 NZLR 474; [2015] NZCA 176; BC201561457	NZCA	18/5/2015	CaseBase Entry	
Considered	TCL Air Conditioner (Zhongshan) Co Ltd v Castel Electronics Pty Ltd	(2014) 232 FCR 361; (2014) 144 ALD 471; (2014) 311 ALR 387; [2014] FCAFC 83; BC201405606	FCA	16/7/2014	CaseBase Entry	
Cited	Kyburn Investments Ltd v Beca Corporate Holdings Ltd	[2014] NZAR 311; [2014] NZHC 249; BC201460214	NZHC	21/2/2014	CaseBase Entry	
Cited	Murray & Roberts Australia Pty Ltd v GB Lifestyles Pty Ltd	[2013] WASC 345; BC201303334	WASC	16/9/2013	CaseBase Entry	
Followed	Castel Electronics Pty Ltd v TCL Air Conditioner (Zhongshan) Co Ltd (No 2)	[2012] FCA 1214; BC201208661	FCA	2/11/2012	CaseBase Entry	
Cited	Downer-Hill Joint Venture v Government of Fiji	[2005] 1 NZLR 554	NZHC	24/8/2004	CaseBase Entry	
















Publications referring to this case







Article Name	Citations	CaseBase
Arbitration and Dispute Resolution	[2004] NZ Law Review 87	CaseBase Entry
The International Arbitration Act 1974: A Commentary (book)	ISBN: 9780409327472	CaseBase Entry

Cases considered by this case**Annotations: All Cases Sort by: Judgment Date (Latest First)**

Annotation	Case Name	Citations	Court	Date	CaseBase	Country
Cited	Forestry Corporation of New Zealand Ltd (in rec) v Attorney-General	[2003] 3 NZLR 328; [2003] BCL 228; BC200369209	NZHC	10/2/2003	CaseBase Entry	
Considered	Checkpoint Ltd v Strathclyde Pension Fund	[2003] All ER (D) 56 (Feb); [2003] 14 EG 124; [2003] 03 EGCS 128; [2003] 1 EGLR 1; [2003] EWCA Civ 84	EW-CACiv	6/2/2003	CaseBase Entry	

Cited	Amaltal Corp Ltd v Maruha (NZ) Corp Ltd	[2003] 2 NZLR 92	NZHC	13/12/2002	CaseBase Entry	
Cited	Acorn Farms Ltd v Schnuriger	[2003] BCL 4; BC200269028	NZHC	6/11/2002	CaseBase Entry	
Considered	Overton Holdings Ltd v Owens Properties Ltd	[2003] ANZ ConvR 224; [2002] BCL 1116; BC200261587	NZCA	24/10/2002	CaseBase Entry	
Cited	Fatac Ltd (in liq) v Commissioner of Inland Revenue	[2002] 3 NZLR 648; [2003] ANZ ConvR 243; [2002] BCL 1058; (2002) 20 NZTC 17,902; BC200261432	NZCA	23/9/2002	CaseBase Entry	
Cited	Pathak v Tourism Transport Ltd	[2002] 3 NZLR 681	NZHC	20/8/2002	CaseBase Entry	
Cited	AIG Europe SA v QBE International Insurance Ltd	[2001] All ER (D) 50 (May); [2001] 2 All ER (Comm) 622; [2001] 2 Lloyd's Rep 268	EWHC QB	3/5/2001	CaseBase Entry	
Considered	Gold & Resource Developments (NZ) Ltd v Doug Hood Ltd	(2000) 9 TCLR 513; [2000] 3 NZLR 318	NZCA	18/7/2000	CaseBase Entry	
Cited	Lobb Partnership Ltd v Aintree Racecourse Co Ltd	[1999] All ER (D) 1300; [2000] BLR 65	EWHC QB	22/11/1999	CaseBase Entry	
Considered	Redcliff Estates Ltd v Enberg	22/07/1999 NZHC Unreported M 150-99	NZHC	22/7/1999	CaseBase Entry	
Considered	Trustees of Rotoaira Forest Trust v Attorney-General	[1999] 2 NZLR 452	NZHC	30/11/1998	CaseBase Entry	
Cited	Peters v Davison	[1999] 2 NZLR 164	NZCA	17/11/1998	CaseBase Entry	
Cited	Hi-Fert Pty Ltd, Cargill Fertilizer Inc v Kiukiang Maritime Carriers & Western Bulk Carriers (Australia) Ltd	(1997) 75 FCR 583; (1997) 145 ALR 500; BC9702865	FCA	30/6/1997	CaseBase Entry	
Considered	Pupuke Service Station Ltd v Caltex Oil Ltd (No 2)	[1995] UKPC 44; [1995] EGCS 180	UKPC	16/11/1995	CaseBase Entry	
Cited	Honeybun v Harris	[1995] 1 NZLR 64	NZHC	29/9/1994	CaseBase Entry	
Cited	Equiticorp Industries Group Ltd v Hawkins	(1993) 8 ANZ Ins Cas 61-207	-	14/12/1993	CaseBase Entry	
Cited	Unit Four Cinemas Ltd v Tosara Investment Ltd	[1993] 44 EG 131; [1993] 2 EGLR 11	EWHC Ch	5/4/1993	CaseBase Entry	
Cited	Paklito Investment Ltd v Klockner East Asia Ltd	[1993] HKCU 613; [1993] 2 HKLR 39	HKHC	15/1/1993	CaseBase Entry	

Cited	Southern Ocean Trawlers Ltd v Director-General of Agriculture & Fisheries	[1993] 2 NZLR 53	NZCA	16/9/1992	CaseBase Entry	
Cited	Manukau City Council v Fencible Court Howick Ltd	[1991] 3 NZLR 410	NZCA	18/4/1991	CaseBase Entry	
Cited	Motrix Supplies Pty Ltd v Bonds & Kirby (Victoria Avenue) Pty Ltd	BC9002025	NSWSC	12/9/1990	CaseBase Entry	
Considered	CBI New Zealand Ltd v Badger Chiyoda	[1989] 2 NZLR 669	NZCA	8/12/1988	CaseBase Entry	
Cited	Navrom v Callitsis Ship Management SA	[1987] 2 Lloyd's Rep 276	EWHC QB	10/2/1987	CaseBase Entry	
Considered	Zermalt Holdings SA v Nu-Life Upholstery Repairs Ltd	[1985] 2 EGLR 14	QBD	23/5/1985	CaseBase Entry	
Considered	Street v Mountford	[1985] AC 809; [1985] ANZ ConvR 318; [1985] 2 All ER 289; [1985] 2 WLR 877	UKHL	2/5/1985	CaseBase Entry	
Cited	Palacath Ltd v Flanagan	[1985] 2 All ER 161; [1985] 1 EGLR 86	EWHC QB	22/2/1985	CaseBase Entry	
Cited	Top Shop Estates v Danino	[1985] 1 EGLR 9	EWHC QB	25/6/1984	CaseBase Entry	
Considered	Fox v PG Wellfair Ltd	[1981] 2 Lloyd's Rep 514	-	6/5/1981	CaseBase Entry	
Cited	Langham House Developments Ltd v Brompton Securities Ltd	(1980) 256 EG 719; [1980] 2 EGLR 117	EWHC Ch	13/6/1980	CaseBase Entry	
Cited	Gas & Fuel Corp (Vic) v Wood Hall Ltd & Leonard Pipeline Contractors Ltd	[1978] VR 385	VSC	11/4/1978	CaseBase Entry	
Cited	H Sabey & Co Ltd v Secretary of State for the Environment	[1978] 1 All ER 586	-	5/7/1977	CaseBase Entry	
Considered	Dugdale v Kraft Foods Ltd	[1977] 1 All ER 454; [1976] 1 WLR 1288; [1977] ICR 48; [1976] IRLR 368	EAT	28/10/1976	CaseBase Entry	
Cited	Fairmount Investments Ltd v Secretary of State for the Environment	(1976) 75 LGR 33; [1976] 2 All ER 865; [1976] 1 WLR 1255	UKHL	24/6/1976	CaseBase Entry	
Cited	F Hoffman-La Roche & Co AG v Secretary for Trade and Industry	[1975] AC 295; [1974] 2 All ER 1128; [1974] 3 WLR 104	UKHL	3/7/1974	CaseBase Entry	
Cited	Roose Industries Ltd v Ready Mixed Concrete Ltd	[1974] 2 NZLR 246	NZCA	8/4/1974	CaseBase Entry	
Cited	Haddad v Norman Mir Pty Ltd	[1967] 2 NSW 676	NSWS	19/6/1967	CaseBase	

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Cited	Societe Franco-Tunisienne D'Armement-Tunis v Government of Ceylon	[1959] 3 All ER 25; [1959] 1 WLR 787; [1959] 2 Lloyd's Rep 1	EW-CACiv	29/5/1959	CaseBase Entry	
Considered	London Export Corp Ltd v Jubilee Coffee Roasting Co Ltd	[1958] 1 All ER 494; [1958] 1 WLR 271; [1958] 1 Lloyd's Rep 197	EWHC QB	10/2/1958	CaseBase Entry	
Considered	Mediterranean & Eastern Export Co Ltd v Fortress Fabrics (Manchester) Ltd	[1948] 2 All ER 186; (1948) 64 TLR 337	-	11/6/1948	CaseBase Entry	
Considered	Heyman v Darwins Ltd	[1942] AC 356; [1942] 1 All ER 337; (1942) 58 TLR 169; (1942) 72 Ll L Rep 65	UKHL	20/2/1942	CaseBase Entry	
Considered	Trustees Executors and Agency Co Ltd v Reilly	[1941] VLR 110; [1941] ALR 105	VSC	12/2/1941	CaseBase Entry	
Considered	Czarnikow v Roth Schmidt & Company	[1922] 2 KB 478; (1922) 12 Ll L Rep 195	EW-CACiv	7/7/1922	CaseBase Entry	
Considered	Naumann v Edward Nathan & Co Ltd	(1930) 37 Ll L Rep 249	-		CaseBase Entry	

Legislation considered by this case

Legislation Name & Jurisdiction	Provisions
Arbitration Act 1908 (NZ)	s 2
Arbitration Act 1996 (NZ)	Art 12, Art 18, Art 19, Art 23, Art 24(2), Art 24(3), Art 31(2), Art 34, Art 34(1), Art 34(2), Art 34(2)(a), Art 34(2)(a)(ii), Art 34(2)(a)(iii), Art 34(2)(b), Art 34(2)(b)(ii), Art 34(4), Art 34(6), Art 34(6)(b), Art 34(6)(b)(ii), Art 35(1), Art 36, Art 36(1)(a)(ii), Art 5, Art 6, Art 7, Art 8, Art 8(1), s 10, s 10(1), s 11, s 12, s 14, s 2, s 2(1), s 5, s 5(a), s 5(b), s 5(c), s 5(d), s 5(e), s 5(f), s 6, s 6(1), s 6(2), s 6(2)(b), Sch 1, Sch 2 cl 7, Sch 3
Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 (New York Convention)	-
Fair Trading Act 1986 (NZ)	-
Illegal Contracts Act 1970 (NZ)	-
International Arbitration Act 1974 (Cth)	-
Interpretation Act 1999 (NZ)	s 5
Judicature Act 1908 (NZ)	r 186, r 477, Sch 2
Trade Practices Act 1974 (Cth)	-

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