

IN THE COURT OF APPEAL OF NEW ZEALAND

I TE KŌTI PĪRA O AOTEAROA

**CA394/2024
[2025] NZCA 142**

BETWEEN VIN TOMAR
 Applicant

AND MONIKA KHATRI
 Respondent

Court: French P and Hinton J

Counsel: Applicant in person
 No appearance for Respondent

Judgment: 5 May 2025 at 11 am
(On the papers)

JUDGMENT OF THE COURT

The application for recall is declined.

REASONS OF THE COURT

(Given by Hinton J)

[1] On 19 December 2024 we delivered a judgment declining Mr Tomar an extension of time to appeal against an order adjudicating him bankrupt.¹

[2] On 27 February 2025, Mr Tomar applied for our judgment to be recalled.² He does so on the claimed basis that the judgment was substantively wrong because we

¹ *Tomar v Khatri* [2024] NZCA 691.

² He describes his application as an “Application for review, rescind or vary decision”.

permitted the respondent to submit “fresh evidence” without giving Mr Tomar an opportunity to respond, and because the judgment allegedly contains numerous factual inaccuracies which misrepresent the case history.

[3] The “fresh evidence” to which Mr Tomar refers is a judgment of Associate Judge Taylor dated 6 November 2024, also relating to Mr Tomar’s bankruptcy.³ The Judge declined two applications by Mr Tomar: an application to annul his bankruptcy and an application for leave to appeal an earlier decision of the Judge dated 17 November 2023.⁴ The 6 November 2024 judgment was relevant purely by way of history to the application for extension of time. No reliance was placed on it. We simply noted, at the end of setting out some of the lengthy procedural background, that Associate Judge Taylor had declined the two applications.⁵

[4] Mr Tomar had an opportunity to comment on Associate Judge Taylor’s 6 November 2024 judgment. Being a party he would have been served with it. Further, Ms Khatri emailed the judgment to the case officer for purposes of the application we were considering, copying in Mr Tomar, on 11 November. Our judgment was not issued until 19 December. Mr Tomar’s only comment was to object to the judgment being referred to on the basis that he was appealing it. This is not a basis for objection. A judgment stands unless and until it is set aside.

[5] Any alleged factual inaccuracies would have to be identified in the application, were not identified, and have not been since.⁶ Furthermore an application for recall is limited in scope and is not an opportunity to relitigate, nor a backdoor means of appealing.

[6] There is no operative ground for recall. We consider the application for recall to be without merit.

[7] The application for recall is declined.

³ *Khatri v Tomar* [2024] NZHC 3217.

⁴ *Khatri v Tomar* [2023] NZHC 3240.

⁵ *Tomar v Khatri*, above n 1, at [6].

⁶ Mr Tomar referred in his application dated 27 February 2025 to an affidavit to be filed. None has been.