

**Jackson v Ford Baker Realty (Christchurch) Ltd 1/10/02, Panckhurst J, HC
Christchurch AP29/02**

Successful appeal by J against entry of summary judgment - FBRL introduced subsequent purchaser of J's property, but FBRL closed down and property was sold under private sale - in District Court ("DC") it was accepted introduction of subsequent purchaser was effective cause of sale, summary judgment was entered in FBRL's favour, and FBRL was entitled to commission - DC saw crucial factor as being R's recognition of property after visual sighting and not from advertisement placed by J in newspaper - J claimed DC had erred in law by distinguishing case law allegedly indistinguishable on facts.

Held, R did not decide to purchase straight after sighting property as there was re-inspection of work carried out before initial visit and decision was made after talk of other prospective buyers - this is not a straightforward case where decision was made as soon as purchasers recognised property as one they had been shown earlier by agent - R's affidavit cast doubt on causative effect of original introduction by FBRL - FBRL has not satisfied Court ultimate onus upon it was met - this case raises important questions not capable of resolution in summary judgment context - summary judgment is set aside and case is remitted back to DC - appeal allowed.