

**P H Van Den Brink Ltd v PCL Industries Ltd 30/8/02, Rodney Hansen J, HC
Auckland CP416-SD01**

Successful application for declaration that there has been an assignment for the purposes of a lease - plaintiff ("PH") owned two properties which defendant ("PCL") traded out of - the lease agreements provided for an increase in rent if there was ever assignment to a third party - PH alleged PCL had assigned the leases in terms of the agreement and now have to pay market rent - PCL argued the new leases cannot be interpreted in the same way as the original leases and they do not permit a rent review within the first 5 years - PCL claimed the leases had been completely renegotiated.

Held, the clauses PCL rely on cannot be read in isolation and when reading provisions together in context of present situation it is clear the new agreements were to apply to an assignment - if Court is wrong on this point and common intention of parties were not provided for, it will be appropriate to order rectification as Court is satisfied parties reached a definite agreement - assignment is deemed to have occurred when there was effective change of management - application granted.