

**Subway Properties Ltd v Freeth 13/9/02, Morris J, HC Auckland M1015-IM02**

Successful application for removal of caveat - urgent application because applicant had sold land to a development company - removal of caveat condition of sale - whether heads of agreement signed with second respondent still on foot - whether the land still belonged to second respondent - land had previously been in second respondent's name and was sold under mortgagee sale.

Held, caveat was in a form which justified registration - sale to applicant not a sham - Heads of Agreement "more likely than not" to have been terminated - second respondent struck off the register for failure to file returns on the day on which proceedings issued - second respondent accordingly ceased to exist - only remaining genuine parties applicant and Official Assignee - parties I agreement that caveat be removed.