

**IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY**

**I TE KŌTI MATUA O AOTEAROA
TĀMAKI MAKĀURAU ROHE**

**CIV-2025-404-3368
[2026] NZHC 1718**

BETWEEN	GODWIN-AUSTEN CONSTRUCTIONS LIMITED Plaintiff
AND	HAIBING (HOLLY) WU Defendant

Hearing: 29 May 2026

Appearances: A R Gilchrist for plaintiff
S S Sharma for defendant

Date of judgment: 17 June 2026

JUDGMENT OF JAGOSE J

*This judgment was delivered by me on 17 June 2026 at 3.30pm
pursuant to r 11.5 of the High Court Rules 2016.*

.....
Registrar/Deputy Registrar

Counsel/Solicitors:
Andrew Gilchrist, Barrister, Auckland
Sanjay Sharma, Barrister and Solicitor, Auckland
Avondale Law, Auckland

[1] The applicant company seeks summary judgment of its claim for payment of \$366,794.93 plus interest by Ms Wu, as contended guarantor under a residential building contract between the applicant and Wisetrade International Limited.

Background

[2] Ms Wu owns Wisetrade, together with her husband. She is its sole director.

[3] The applicant and Wisetrade each are party to a Registered Master Builders Association standard form residential building contract “RBC1-2018 (new build)”. The contract describes the parties respectively as “RMB” and “Owner”.

[4] The contract documents include a pt 8, personal guarantee of directors, stipulating:

(when Owner is a company)

Where the Owner is a company, the directors, the Guarantor(s), of the Owner, in consideration for the RMB entering into this Building Contract, will personally guarantee the obligations of the Owner under this Building Contract.

The Guarantor(s) signs in their personal capacity and jointly and severally personally guarantee to the RMB the payment of all monies owed now or subsequently by the Owner to the RMB under or in connection with this Building Contract.

Below subsequent panels for director and witness signatures, the page concludes:

Note: a person contracting with a RMB as a trustee is personally liable in any event, therefore a personal guarantee is not required. Professional trustees may seek to limit the extent of their liability to the assets of the trust.

[5] In prefatory information titled “Registered Master Builder’s to do list”, noted:

For RMB’s Use Only (this To Do List does not form part of the Building Contract; however, the RMB should use this list to check that the Building Contract has been properly entered and that important forms are used)[,]

the to do list specifies, among other things, “When Signing the Contract (please tick box to confirm)”, one such box querying “If the Owner is a Company, has a signed Guarantee of Company Directors been provided (page 31)?”. That box is not ticked in the document in evidence.

[6] The contract’s signature page—purporting to have been executed by the applicant on 16 March 2021, and by Ms Wu and her husband for Wisetrade on 27 May 2021—includes “NOTE: If the Owner Is a Company, the RMB should request that at least one director sign the personal guarantee included at Part 8”. That guarantee’s signature page purports to have been executed by Ms Wu on 14 April 2021. The page’s panels otherwise for “name of the director(s)” and witness’ names, signatures, occupations and addresses all are blank (although the panel for “signed by the director(s)”, where Ms Wu entered her signature, includes her handwritten name).

[7] The contract required Wisetrade to pay the applicant the price (as may be adjusted under the contract). An arbitral award between the applicant and Wisetrade ordered Wisetrade pay the applicant \$366,794.93. Wisetrade has not paid.

Discussion

[8] The test for granting summary judgment is beyond argument. It is if the defendant has no defence to the claim; that is, there is no real question to be tried:¹

... The Court must be left without any real doubt or uncertainty. The onus is on the plaintiff, but where its evidence is sufficient to show there is no defence, the defendant will have to respond if the application is to be defeated. The Court will “not normally resolve material conflicts of evidence or assess the credibility of deponents”. But:

... it need not accept uncritically evidence that is inherently lacking in credibility, as for example where the evidence is inconsistent with undisputed contemporary documents or other statements by the same deponent or is inherently improbable.

In the end the Court’s assessment of the evidence is a matter of [judgement]. The Court “may take a robust and realistic approach where the facts warrant it”.

¹ *Jaques v Wilson Parking New Zealand Limited* [2026] NZCA 129 at [17], citing *FCL CL Ltd (as trustee of the FCL CL Trust) v Lynch* [2025] NZCA 501 at [25]–[26]; affd [2026] NZSC 17 at [5]. See also *Pemberton v Chappell* [1987] 1 NZLR 1 (CA) at 3; *MacLean v Stewart* (1997) 11 PRNZ 66 (CA) at 69; and *Krukziener v Hanover Finance Ltd* [2008] NZCA 187, [2010] NZAR 307 at [26], citing *Bilbie Dymock Corp Ltd v Patel* (1987) 1 PRNZ 84 (CA) at 85–86.

Discussion

[9] I have real doubt or uncertainty Ms Wu has no defence to the claim. There is a real question to be tried, if the parties had agreed the contract was to be supported by Ms Wu's personal guarantee.

[10] Ms Wu initially received the draft document on 16 March 2021, under cover of an email in which the applicant said "Please find attached our Master Builder Contract for your development ...", for further discussion of "the contract and next steps in detail". On 24 March 2021, the applicant provided an amended draft of the document under cover of an email explaining "We have revised the contract as per our agreement over the phone. Please find attached revised contract for your counter-signing", noting the applicant "has already signed".

[11] Ms Wu says, when she came to sign the document on 14 April 2021, she turned to its end and wrote and signed her name and the date on its page 31. She returned it to the applicant that day by email, saying "Please see signed contract". The applicant responded by email dated 16 April 2021, saying "Can you please also sign ... where my signatures are", attaching a screengrab of the left-hand side of the contract's signature page.

[12] Taken together with the absence of any request by the applicant "that at least one director sign the personal guarantee included at Part 8", the chronology of signatures establishes a material conflict of evidence if the contract was to be supported by Ms Wu's personal guarantee. Ms Wu says provision of a personal guarantee was not discussed with the applicant. The applicant's evidence to the contrary is conclusory from the signed document. The applicant initially asked only Ms Wu 'counter-sign' the document. She returned the "signed" document. In those particular circumstances, the applicant's subsequent request she "also" sign the contract's signature page is not enough to establish the parties had agreed the contract was to be supported by Ms Wu's personal guarantee.

[13] I cannot infer the necessary agreement from the email correspondence. Ms Wu says she "signed the guarantee part of the contract by mistake". In the circumstances I have outlined, that is neither inconsistent with the undisputed email correspondence

nor inherently improbable. Ms Wu has an arguable defence to the claim. The question requires to be tried.

Result

[14] The application for summary judgment is dismissed.

Costs

[15] If the parties cannot agree costs between themselves, they are reserved for determination on short memoranda each of no more than five pages—annexing a single-page table setting out any contended allowable steps, time allocation and daily recovery rate in terms of pt 14 of the High Court Rules—to be filed and served by Ms Wu within 10 working days of the date of this judgment, with any response or reply to be filed and served within five working day intervals after service.

—Jagose J