

No. 14 had been cut off for Major Kemp to give to the Ngatiraukawa he retains that block for himself. I say that this in itself is absolutely clear and conclusive evidence that Sir Walter Buller, at any rate before the second dealings in October, 1892, and before he can have expended any sum of money of any consequence in respect of the first dealings, *was fully aware that a trust was asserted by Major Kemp and by Warena Hunia in respect of No. 14.* Out of Sir Walter Buller's own mouth it is thus proved beyond the shadow of a doubt that in the month of September or October, 1892, at the latest, he had full notice that a trust was asserted in No. 14. And yet counsel for the Public Trustee say there was no evidence. And Sir Walter Buller knew more. Prior to his taking his mortgage in October, 1894, he knew it was very questionable whether the whole partition of the block and the whole title to Section 14 was not utterly bad and invalid, and whether the legal flaws did not of themselves in law constitute Major Kemp a trustee of No. 14. Sir Walter Buller, as solicitor for Major Kemp, was responsible for a statement of claim in an action of Kemp and others against Warena Hunia in which several allegations of law, all of which were relied upon in the statement of claim as invalidating the title to the sections of the Horowhenua Block, were put forward as destroying the title of the certificated owners of Block 11, a block the title to which stood in identically the same position as No. 14. And yet Sir Walter Buller, in full knowledge that Kemp and Hunia alleged a trust in No. 14, in full knowledge that these law points existed, which Kemp's own lawyers alleged invalidated the title to the block, took from Major Kemp a mortgage, thus further incumbering as against the tribe this piece of land, No. 14. And yet the counsel for the Public Trustee says there was no evidence. They may be right from a legal standpoint, but if the law of the land says that knowledge of facts such as these is not sufficient to invalidate the title of a skilled lawyer and a skilled Native agent, then so much the worse for the law of the land. But, be the law what it may, any upright man would say that any one who, with the knowledge that Sir Walter Buller possessed, dealt with trust property in breach of the trust, was dishonest, dishonourable, and fraudulent in his dealings.

See statement of claim, Kemp v. Warena te Hakeke.

SIR WALTER BULLER'S LEASES.

And now let us turn to these leases, and transfers, and mortgages of Sir Walter Buller's. The Public Trustee, in his statement of claim, said that the leases were made at a fraudulent undervalue. Not being a lawyer, I do not presume to say what constitutes, in law, a fraudulent undervalue; but it cannot be gainsaid that Sir Walter Buller gave the Native owner, who was his unskilled client, far less for these lands than he should have done, and far less than he knew he should have done. Sir Walter Buller, besides dealing with Major Kemp, dealt with some other Natives, to whom he did not stand in the relation of solicitor, for parts of an adjoining block. The leases were passed by Judge Mackay as Trust Commissioner, and evidence was adduced to satisfy him that those leases were fair and proper leases, and that the rent was adequate. Now, the evidence given was that the bush part of the adjoining block, Waiwiri, which was leased by Sir Walter Buller—and which was an unworkable, badly-shaped, wedge-like piece of land—was 3s. an acre per annum. And yet for this adjoining piece of land, this Horowhenua No. 14, the lower portion of which is a picked piece of land—a piece of land having a peculiar value of its own, as stated by Sir Walter Buller's own witnesses in the famous action that he brought against Jillett—a piece of land of a good square shape, with a long road and railway frontage, Sir Walter Buller gave a rental of 2s. 6d. an acre—under 3 per cent. of the capital value, even disregarding the special value of this particular section. And yet counsel for the Public Trustee state that they had no evidence to substantiate their charge of fraudulent undervalue. That may be so in strict law; but I do say this: that any man who has the least regard for his own reputation, or who had any nice sense of honour, would never, acting as the solicitor to a Native, have induced that Native to lease to him either that Native's own property or any one else's property at such a low rental. In this connection, it might be instructive to mention a little incident which occurred in connection with Sir Walter Buller's purchase of the adjoining Waiwiri Block. An old Native woman, a poor, landless woman, had some seven or eight acres adjoining the lake which Sir Walter Buller coveted. The law has, wisely or unwisely, provided that no Native shall sell his land unless he has sufficient other land for his occupation and support. Sir Walter Buller, however, induced this old woman, who had no other land, to sell him this piece of land at a high value, no doubt—namely, £10 per acre; but when he came to have the transfer passed before Mr. Mackay, Mr. Mackay declined to certify to it, on the ground that the Native had no other land. Sir Walter Buller seems to have suggested, as a way out of the difficulty, that he should lease to this old woman, for a time long enough to last her lifetime, a portion of the No. 14 Block *for her personal occupation and residence*; and on this being promised, Judge Mackay seems to have handed over to Sir Walter Buller the transfer of this old woman's interest. Sir Walter Buller, having obtained the transfer, seems to have been very averse to carry out his part of the bargain, and seems to have raised all sorts of difficulties against doing what he promised. However, Judge Mackay was firm, and eventually Sir Walter Buller did lease to this woman a piece of No. 14. It will hardly be credited that what he leased to her was a piece of land situated right at the south-eastern portion of the block, away back across the Ohau River, miles from the railway, chains from a road, dense bush-country, without any means of access, and without the slightest possible value to the Native as a place of abode. Moreover, this lease was never registered, and, as far as can be seen from the Land Transfer books, Sir Walter Buller held his land free from any incumbrances in the way of sub-leases, even during the term of that sub-lease. These facts are on record, and speak for themselves. I cannot think that any honourable man would have done a thing of this sort.

See Waiwiri, Trust Commissioner's file.

See certificate of title.

SIR WALTER BULLER'S MORTGAGE.

And now, lastly, to deal with the mortgage. It is alleged by the statement of claim of the
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