

EXHIBITS.

EXHIBIT A.

In the Supreme Court of New Zealand, Wellington District.—Action No. 6147.—Between the PUBLIC TRUSTEE, Plaintiff, and Sir WALTER LAWRY BULLER, K.C.M.G., and MEIHA KEEPA TE RANGIHIWINUI, Defendants.

Special case stated by the consent of the parties, pursuant to Rule 241.

1. This action, numbered 6147, was commenced in this Honourable Court by the Public Trustee, as plaintiff, under section 10 of "The Horowhenua Block Act, 1896," against the defendants.

2. The said action came on for hearing on the 11th day of August, 1897, before His Honour the Chief Justice; and by consent of counsel for the plaintiff and the defendants the following decree was made:—

In the Supreme Court of New Zealand, Wellington District.—Action No. 6147.—Between the PUBLIC TRUSTEE, Plaintiff, and Sir WALTER BULLER, K.C.M.G., and MEIHA KEEPA TE RANGIHIWINUI, Defendants.

This action, coming on for trial before his Honour the Chief Justice on Wednesday, the 11th day of August, 1897, and Mr. Cooper, Mr. Stafford, and Mr. Baldwin appearing as counsel for the plaintiff, and Mr. Bell and Mr. A. P. Buller appearing as counsel for the defendant Sir Walter Buller, and Sir Robert Stout appearing as counsel for the defendant Meiha Keepa te Rangihwinui.

This Court doth by consent order that, inasmuch as Wirihana Hunia, an aboriginal co-plaintiff, has been struck out by order of his Honour the Chief Justice, made upon the application of the said original co plaintiff, on the 7th day of August, 1897, the statement of claim be amended by substituting the word "plaintiff" for the word "plaintiffs" wherever the latter word appears therein, and by making all consequential grammatical amendments.

And by consent of Sir Robert Stout as counsel for the defendant, Meiha Keepa te Rangihwinui, and by consent of Mr. Cooper as counsel for the plaintiff, this Court doth order and decree that this action be dismissed as against the said defendant, Meiha Keepa te Rangihwinui, without prejudice to the determination of any matters which are by "The Horowhenua Block Act, 1896," to be determined by the Native Appellate Court.

And the plaintiff admitting by his counsel that he can adduce no evidence to substantiate the charges against the defendant Sir Walter Buller alleged in the statement of claim, and submitting to a final judgment in favour of the said defendant Sir Walter Buller establishing the validity of the alienations and dealings specified in sub-paragraphs (a) and (f), inclusive of paragraph 28 of the original statement of claim, this Court doth further decree and order that the validity of each and every of the alienations and dealings specified in sub-paragraphs (a) to (f), inclusive of paragraph 28 of the original statement of claim, is established by this final judgment in this action.

And all parties consenting that Peter Bartholomew, of Levin, sawmiller, should be added as a party to this action in respect of the dealings appearing upon the certificate of title for Division No. XIV. of the Horowhenua Block as lease numbered 2196, this Court doth order that the name of the said Peter Bartholomew be so added as a defendant in this action; and this Court doth further adjudge and decree that the validity of the said dealing is established by this final judgment in this action.

And this Court doth further adjudge and decree that each and every of the dealings specified in sub-paragraphs (a) to (f), inclusive of paragraph 28 of the original statement of claim, and the said lease, No. 2196, by the defendant Meiha Keepa te Rangihwinui to the said Peter Bartholomew is, and each of them are entitled to be re-registered pursuant to section 10 of "The Horowhenua Block Act, 1896."

And this Court doth further adjudge and decree that the plaintiff do pay to the said defendant, Sir Walter Buller, his costs of this action, computed at the sum of £335 8s. 5d.

And this Court doth further adjudge and decree that the plaintiff do pay to the said defendant, Meiha Keepa te Rangihwinui, his costs of this action, computed at the sum of £300 9s.

By the Court.

W. A. H., D.-R.

(L.S.) W. A. HAWKINS, Deputy-Registrar.

3. The defendants under the said decree have applied to the plaintiff, the Public Trustee, for payment of the costs awarded under the said decree. In answer to such application the Public Trustee says that he cannot by law pay these costs.

4. Under an order of his Honour the Chief Justice, made on Wednesday the 13th October, 1897, the Public Trustee was examined before his Honour the Chief Justice as to the matters mentioned in Rule 327. A copy of the evidence given by the Public Trustee on such examination is as follows:—

In the Supreme Court of New Zealand, Wellington District. In Chambers. Before his Honor the CHIEF JUSTICE.—THE PUBLIC TRUSTEE v. MESSRS. BULLER and KEMP. Saturday, 16th October, 1897.

Examination of Mr. J. C. MARTIN, Public Trustee.

MR. STAFFORD, with him MR. BALDWIN, for the PUBLIC TRUSTEE. MR. SKERRETT, with him MR. A. P. BULLER, for MESSRS. BULLER and KEMP.

Mr. Skerrett (to witness).] Your name is James Crosby Martin?—Yes.

And you are the person holding office as Public Trustee?—I am.

You are aware that in this action judgment has been recovered against you in the sum of £636 as costs?—Yes, I think so. I take your figures for it, but I do not know the exact amount. It is £600 odd.

That decree was obtained by consent of counsel representing yourself?—Yes.

You have not paid the amount of the judgment?—No.

Why?—Because I am advised by my solicitors that I have no property which I can legally apply to the payment of that judgment; nor will the Audit Office pass the amount for payment without the Minister's approval, nor will the Minister approve of my paying it.

Have you taken any steps with a view to place yourself in a position to obtain the necessary funds to pay the amount of the judgment?—Yes.

Have you any objection to state what those steps are?—No.

Do you mind stating what they are?—Before these proceedings were commenced at all, in looking at the Act which directed me to take these proceedings I noticed that no provision had been made for paying the costs, and as the property affected by the action was not in any way vested in me or under my control, I doubted whether I could legally pay any costs under the provisions of the Public Trust Office Act, and as far back as the 18th December I wrote to the office solicitors—Messrs Stafford and Co.—amongst other things, as follows:—"A further question arises in connection with this matter as to which I should be obliged by your advice. It is this: Have I any right to devote the funds of this office to the prosecution of this action? The Horowhenua Block Act contains no provision for furnishing the necessary costs, and it seems to me that, as the block is not an estate in the office, that I have no right to use any of the funds of the office, but must apply to the Government for such moneys as may be necessary to enable me to carry into effect the direction of the Legislature." In answer to that, I received this: "As to applying the funds of the Public Trust Office to the proceedings, under section 10, I am satisfied that you ought not to apply any