

The claims for investigation of the title to Waihirere did not come before the Court until the following year (1882). The principal claimant was Wi Pere (the grandfather of one of the petitioners). He set up a claim through ancestry and occupation of the brothers Tutearitonga and Rongotuamaro, the former being the father of Whakahihipa, the donee in Kopaatuaki.

No claim was then made on behalf of the gift, although one of the counter-claimants on cross-examination attempted to lay down the boundaries of the land affected by the gift, but he could not complete it.

The Court upheld the ancestral claims set up by Wi Pere and party and Matenga Taihuka and party, and, after making awards for Waihirere Nos. 2, 3, and 4, a title issued to Matenga Taihuka and others for Waihirere (proper) to contain 1,750 acres.

The two petitioners are descendants of Tutearitonga, the father of Whakahihipa, and received 70 shares out of 1,200 shares allotted to Tutearitonga on definition of shares in 1919.

The petitioners now seek to extend the operation of the gift (that was successful in Kopaatuaki) across and into Waihirere. They ask for 230 additional shares for themselves and 100 shares for Apihaka Tawhiro, Mika Rore, Paora Kingi, and Rewai Hapu—all now dead—because these four people are descendants of Mahu (the original donee in Kopaatuaki) and because they lived on the land.

Dealing firstly with the last part of the claim (for the 100 shares), this would appear to be an afterthought as it was not mentioned in the petition. Apikara Tawhiao and the other three persons are already in the title to Waihirere as original owners, and an attempt to increase their ancestral shares on proceedings for the recognition of a gift cannot be entertained.

Before this Court the petitioners submitted that the boundaries of the gift covered all Waihirere proper with the exception of a small area to the north, but that they did not intend to claim at this stage all this area, but would confine the claim to additional shares (as set out above).

To successfully establish a gift claim the Courts have always held that, amongst other essential conditions—the reason of the gift must be known—the boundaries of the gift must be clearly defined and the donee must occupy exclusively.

Not one of these requirements have been fulfilled. At the Kopaatuaki hearing Mika Rore placed the gift at the south end of that block. Wi Pere placed it in the west; Paora Parau agreed with Mika. At the Waihirere hearing one witness could not complete the boundaries. At this hearing the petitioners enlarge the gift as applicable to almost the whole of Waihirere, but modestly content themselves with extra shares, at the same time ask for more shares for some of the original owners because they have occupied.

A gift of land cannot be satisfied with an award of shares to be held in common with the donors who remain in occupation.

This Court is of opinion that the claims of the gift as far as it affects Waihirere have little merit, and reports accordingly.

For the Court,

H. CARR, Judge.

The Chief Judge, Native Land Court, Wellington.

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