

1948  
NEW ZEALAND

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**REPORT AND RECOMMENDATION ON PETITION No. 9 OF 1944, OF  
TURUHIRA HINETOIA AND ANOTHER, CONCERNING THE  
DIVISION OF THE SHARES AWARDED TO HIRIA IN THE  
MANGATU No. 1 BLOCK**

*Presented to Parliament in Pursuance of the Provisions of Section 13 of the Maori  
Purposes Act, 1944*

Maori Land Court (Chief Judge's Office),  
P.O. Box 3006, Wellington C. 1, 15th July, 1948.

Memorandum for the Right Hon. the MINISTER OF MAORI AFFAIRS.

MANGATU No. 1 BLOCK

PURSUANT to section 13 of the Maori Purposes Act, 1944, I transmit the report of the Court on the claims and allegations contained in petition No. 9 of 1944, of Turuhira Hinetoia and another, concerning the division of shares awarded to Hiria in the Mangatu No. 1 Block.

The petitioners seek to amend the allocation of shares awarded to the descendants of one Hiria by increasing the allocation to their mother and reducing the allocation to other members of the group.

The Court has reported, after a full investigation, that in its opinion the petitioners have not established that there has been a wrong distribution of shares, and I recommend that no further action be taken in respect of the claims and allegations in the petition.

D. G. B. MORISON, Chief Judge.

In the Maori Land Court of New Zealand (Tairāwhiti District).—In the matter of the Maori Land Act, 1931, and of section 13 of the Maori Purposes Act, 1944 : and in the matter of the land known as Mangatu Nos. 1 and 4 Blocks and of a petition No. 9 of 1944, of Turuhira Hinetoia and another referred to the Court for inquiry.

At a sitting of the Court held at Gisborne on the 12th day of March, 1948, before David Gordon Bruce Morison, Esquire, Chief Judge, and Ivor Prichard, Esquire, Judge.

The Court reports that :—

The petitioners, and persons adversely affected by the claims of the petitioners, were represented before the Court.

In 1881 the Maori Land Court investigated the title to the Mangatu Block, a large block containing approximately 160,000 acres. On this investigation the block was subdivided into several portions, including Mangatu No. 1, containing approximately 100,000 acres, and Mangatu No. 4, containing approximately 6,000 acres. The order on investigation for Mangatu No. 1 was made in the names of twelve trustees, and the names of the persons claimed to be the beneficial owners were recorded in the minute-book. An order was made for Mangatu No. 4 in which the names of the beneficial owners were set out.

By the Mangatu No. 1 Empowering Act, 1893, it was declared that the persons set out in the Schedule to the Act and the successors according to Maori custom of those who had died since the 30th April, 1881, were the owners of Mangatu No. 1. The persons set out in the Schedule appear to be the persons whose names were recorded in the minute-book in 1881.

In 1917, as a result of a petition to Parliament, the Maori Land Court was empowered to inquire and determine what members of the Whanau-a-Taupara Hapu were entitled to be declared to be Maori owners of the Mangatu No. 1 Block and the Mangatu No. 4 Block in addition to the owners declared by the Mangatu No. 1 Empowering Act, 1893, and as to the Mangatu No. 4 Block in addition to the owners set out in the order of 1881.

Proceedings upon this inquiry extended from 1918 to 1922 before the Maori Land Court and the Maori Appellate Court. In these proceedings the Court first of all determined that certain persons of the Whanau-a-Taupara were entitled to be included as owners in Mangatu Nos. 1 and 4. The Court then determined the total number of shares which the original owners as a group, and these new owners as a group, should be entitled to respectively. The Court then proceeded to allot the relative shares to the individual owners within each group.

Early in the proceedings a representative committee was formed to settle the lists of owners for submission to the Court and the relative shares to be awarded. The operations of the committee extended over a lengthy period, and the evidence before this Court showed that persons claiming to be admitted had an opportunity of presenting their claims to the committee.

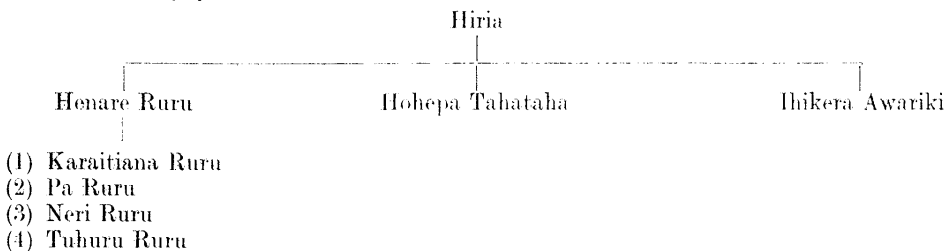
The claims under these various lists were in due course put before the Court ; the Court adopted the usual practice of hearing argument for and objections, if any, against the various lists before giving its decision.

There were appeals against the Court's decision on some of the lists, and when these had been disposed of, the owners and their relative shares became finally determined in the year 1922.

The petition is really the petition of Alex Curtis, who is disappointed over not the number of shares his wife, Hinetera Ruru Curtis, now holds, but the number she obtained under the will of Hohepa Tahataha.

The question is one of whether the shares in the 1922 order should, as regards the Whanau-a-Taupara, be allotted as drawn up by the committee and approved by the Court, or whether they should be divided *per stirpes*.

The whakapapa as given is : —



The award was 5,100 shares to Henare Ruru, 100 shares to Hohepa, and 500 shares to Ihikera Awariki.

The evidence of Alex Curtis is that when the shares were approved by the Court he objected and later appealed, and that "I have been at the Court many times"—all without success.

His plea, which he continually repeats, is that the shares should be allocated purely by descent—*i.e.*, a brother and sister should have the same number of shares.

This principle has, however, never been recognized in investigation. There are many other things which come into consideration, including, of course, the degree of occupancy and number of names in the title. In the case of the Whanau a Taupara shares in Mangatu, the position was that until 1917 there was a completed title in the Wahias and the Ngarikis, and it took much organizing and work to get the Act of 1917 passed to enable the title question to be reopened. Then there was a difficult contest (the Tauparas engaged Mr. Morison, K.C.) in the Maori Land Court and a decision of the Supreme Court before they were admitted. As regards the shares, a representative committee sat over a period of years and decided how they should be allotted. This determination was accepted by the people generally, and the Court heard those who objected. Some appealed, and in those cases the Appellate Court reconsidered the judgment of the Court.

At first sight it would appear that there is something peculiar in the award of 5,100 shares to Henare Ruru and 100 to Hohepa. The explanation given by one independent witness is that Henare Ruru was the instigator of the Taupara claims, he did extensive work over a period of years, and that without his efforts there would have been no Taupara claim and thus no award of shares at all. A further reason is that in 1918 Hohepa was dead without issue and the small award was in the nature of a token one to keep his name alive. The Committee knew that this small award would go to the two beneficiaries under the will and that they had or would receive awards from other sources. In this respect we express no opinion as to whether the petitioners were really entitled to take the shares under a will.

When asked why his wife should have more shares and just what she should have, Alex Curtis is vague. He agrees that he himself has 188 shares and his brother 48 only, and states that the brother did not collect for the expenses and that he, Curtis, fixed the family shares himself and handed them in to the organizer for authorizing. So in this respect he did not agree on the equal descent equal shares principle.

One of the petitioners, Hinetera Ruru Curtis, is a daughter of Pa Ruru, one of the sons of Henare Ruru, and is stated to have inherited 316.65 shares from this source, while the other petitioner, Turuhira Hinetoia, inherited 1,000 shares from her mother, who was also a Taupara. The brother of Hinetera Ruru Curtis appeared before us and stated that he was satisfied with the shares as allocated. One of the sons of Henare Ruru stated in evidence that under the equality of descent system the petitioner, Hinetera Ruru Curtis, would receive 34.61 shares only.

The petitioners were very vague as to what relief they desire. Eventually Hinetera stated that she desired not equality right through, but "300 or 400 shares" to be taken from the Henare Ruru group and awarded to Hohepa Tahataha, deceased, and then under his will to the two petitioners. She has already, as stated above, received 316.65 shares as part-successor to one of Henare Ruru's sons.

We are unable to accept the contention that distribution of shares should be *per stirpes* equally. Such a method would disregard all the reasons which were accepted by the committee in deciding on the allotment of shares and which were, in the main, adopted by the Court both at the original hearing and on appeal, and would upset every Taupara award made following the lengthy 1918 to 1922 hearings. In other words, it would require a total rehearing of the allocation of the 32,667 Taupara shares for no good reason.

We repeat that in our opinion the petition is the effort not of the two petitioners, but of Alex Curtis, the husband of one of them. He reiterates that he wants more shares for his wife at the cost of the Henare Ruru group, but cannot give any adequate reason why.

We are of opinion, therefore, that the petitioners have not established that there has been a wrong distribution of shares which calls for redress.

For the Court,

D. G. B. MORISON, Chief Judge.  
IVOR PRICHARD, Judge.

To the Chief Judge, Maori Land Court, Wellington.

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