

1911.
NEW ZEALAND.

NATIVE LAND CLAIMS ADJUSTMENT ACT, 1910

(REPORT AND RECOMMENDATION UNDER SECTION 28 OF THE), ON PETITION
No. 397/1909, RELATIVE TO HOROWHENUA 3E No. 2 BLOCK.

Laid before Parliament in compliance with Subsection (4) of Section 28 of the Native Land Claims Adjustment Act, 1910.

In the matter of the Horowhenua 3E No. 2 Block; and in the matter of Petition No. 397 of 1906, by Christina Prouse, praying for validation of a sale to her of an interest in the said land.

REPORT OF THE IKAROA DISTRICT MAORI LAND BOARD.

In accordance with your reference dated the 23rd May, 1911, of the matter of the petition above mentioned, the Board has made inquiry into the circumstances relating to the subject-matter of the petition, and begs to submit the following report:—

1. The Board held a special meeting at Wellington on the 29th June, 1911, to hear evidence for and against the petition. At the hearing of the case the petitioner was represented by her solicitor. Neither of the Natives concerned was present or represented. One of them is now an inmate of a mental hospital; the other knew of the inquiry but made no effort to be present.

2. Horowhenua 3E No. 2 Block contained 1,352 acres, and was owned in thirteen equal shares by thirteen owners. One of these was Kawana Hunia. His interest was awarded by succession order dated the 29th January, 1894, to—(1) Rakera Potatae, one-sixth; (2) Wirihana Hunia, one-sixth; (3) Herata Upokoiri, one-sixth; (4) Warena Hunia, one-sixth; (5) Raraku Hunia, one-sixth; (6) Rangipo Mete Kingi, one-eighteenth; (7) Reupene Mete Kingi, one-eighteenth; (8) Rawea Utiku, one-eighteenth.

3. On the 4th August, 1897, Nos. 4 and 5 signed a transfer of their interests, equal to 34 acres 2 roods 20 perches, for a consideration of £110. This is the transfer sought to be validated. It was signed by the Natives in the presence of Judge Mackay. The transferee is the petitioner, Christina Prouse. Mr. James Prouse has made a declaration that the purchase-money was paid in the presence of Judge Mackay at the Native Land Court at Palmerston North on or about the 7th August, 1897, by him, on behalf of Christina Prouse. The Board has no doubt about the truth of this statement.

4. At the time the transfer was signed the land was subject to restrictions, and before alienation required to be exempted from the provision of section 117 of the Native Land Court Act, 1894. No steps, however, were taken to get the land so exempted.

5. At about the same time as the transfer in question was taken other transfers of interests in the same block from other Natives to Christina Prouse and Richard Prouse were executed, and were confirmed by Judge Mackay and subsequently registered. The transfers were—

- (a.) From Eperaima te Paki to R. Prouse, dated the 3rd September, 1896, and confirmed on the 20th October, 1896, and registered on the 10th May, 1897.
- (b.) From Rawea Utiku and others to R. Prouse, dated the 28th February, 1897, and confirmed the 10th July, 1897. Consideration, £51 18s. 9d., for an interest equal to 17 acres 1 rood 10 perches, and registered the 24th October, 1897.
- (c.) From Iritana to C. Prouse, dated the 14th April, 1897, and approved by Judge Mackay as being in conformity with law on the 17th May, 1897: registered on the 17th June, 1897.

6. The transfer now sought to be validated is dated the 4th August, 1897, but before it could be confirmed in the ordinary process of Court procedure Judge Mackay had found that the land was subject to the restrictions imposed by section 117 of the Act of 1894. He could not, therefore, confirm the transfer, although he had witnessed the Natives' signatures and payment to them of the money, and had previously confirmed the similar transfers referred to in paragraph 5 hereof.

7. In view of the fact that persons of the experience in Native law of Judge Mackay and the District Land Registrar had assumed that this block of land was not subject to the restriction imposed by section 117 of the Native Land Court Act, 1894, there is some justification for the petitioner's belief that she was actually within the limits of the law in purchasing the land. The price paid for the land was at the same rate as other shares had been purchased for and confirmed, and we can only assume that it was a fair price.

8. The Board is loth to recommend the validation of resurrected deeds taken in violation of statutory law, but in this particular case there is no doubt that the purchaser was misled by a mistaken view of the law taken by Government officers. Both Native vendors are well provided with land. Mrs. Prouse is a qualified purchaser under Part XII of the Native Land Act, 1909. We therefore recommend that her transfer be validated.

Given under the seal of the Ikaroa District Maori Land Board, this 1st Day of September, 1911.

J. B. JACK, President.
E. NICHOLSON, Member.

To the Hon. the Native Minister, Wellington.

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