

1913.
NEW ZEALAND.

NATIVE LAND CLAIMS ADJUSTMENT ACT, 1910:

REPORT AND RECOMMENDATION ON PETITION No. 273/1910, RELATIVE TO
NGAMOE BLOCK.

Laid before Parliament in compliance with Section 28 of the Native Land Claims Adjustment and Laws Amendment Act, 1910.

The Hon. the Native Minister, Wellington. Native Land Court (Chief Judge's Office),
Taneatua, 18th November, 1912.

Ngamoe Block.

I HAVE the honour to transmit herewith report of Judge Jones in connection with the petition (No. 273/1910) of Tieki Peka, praying for inclusion in the title to the above-mentioned block.

JACKSON PALMER,
Chief Judge.

In the Native Land Court of New Zealand.—In the matter of the Ngamoe Block, and of
Petition No. 273/1910 to House of Representatives.

THIS matter having been referred to the Native Land Court for inquiry and report, the Court begs to report as follows:—

1. The title to the Ngamoe Block was investigated by the Native Land Court in 1886, and four certificates under the Native Land Court Act of 1880 issued for Ngamoe 1, 2, 3, and 4.

2. As far as the Court can ascertain, the contest lay between two parties, the claimants under Raana Pakau and Tuta Nihoniho alleging it to be papatupu land of Tangihaere. This section admitted that some of the other section should be included in the title. The other section, under Eruera Kawhia and Hana Maraea, and calling themselves "Ngaitangihaere," claimed exclusive possession of the block by virtue of a subsequent conquest over Ngatiruanuku. Both sides gave evidence of what they claimed to be their respective occupation.

3. After hearing evidence the Court awarded "the land under adjudication to the members of the Ngaitangihaere, who had occupied the land and who were descendants of the Te Rangiwhaanga, Te Atuakairoa, and Nohanganui, as shown in the lists of Eruera Kawhia and Hana Maraea."

4. The defeated section forthwith lodged an application for rehearing. This was sent to the Judge hearing the case to report upon. The translation of the application and a copy of the Judge's report are hereto attached.

5. The Court cannot find any record of this having been formally heard, but the application is noted by the Chief Judge, "I refuse a rehearing.—11/11/86."

6. Notices of dismissal were prepared, sent to the Chief Judge for signature, and the applicants were notified on the 23rd November, 1886. Notice of dismissal appears in the *Gazette* of 1886, page 1547.

7. On receiving the notice of dismissal the applicants renewed their application and stated they would continue applying to the Chief Judge to grant a rehearing.

8. It appears that from time to time the applicants have approached Parliament by petition, and one of these lodged in 1903, No. 728, was referred to the Royal Commission appointed under section 11 of the Maori Land Claims Adjustment and Laws Amendment Act, 1901.

9. That Commission reported as follows: "The statements in this petition are vague and misleading, and point to a mistake having been made by the Court in substituting the list of names of the defeated party for that of the other party. No such mistake, however, occurred, and the

petition is really an attempt on general grounds to obtain a rehearing. The petitioners have wholly failed to show any grounds for reopening the case. So far as we can judge, the decision of the Court was in accordance with the evidence, and, as nothing new has been adduced, there are no grounds for a rehearing. We recommend that no further action be taken in the matter of this petition."

10. It seems to the Court that the claim asserted in the original Court, on the application for rehearing and on the various petitions to Parliament, is the one thing—viz., that some claiming to be rightfully entitled are excluded from the title. They claimed that Ngaitangihare were entitled; that a certain section was admitted, and others claiming descent from the same ancestor were excluded. This the Court thinks is what is meant when it is alleged that the Court awarded the land to the petitioners, "but got hold of our opponent's list instead of ours and included it in the title." In this Court it was shown that some of the persons claimed through the ancestors named, but it is alleged by the other side they had no occupation on this land. The Judge hearing the case evidently came to a similar view.

11. If it is correct, as it would appear from the records, that the Chief Judge proceeded as if he had jurisdiction to dispose of the matter upon reading the application and the Judge's report, and without hearing the applicants or giving them an opportunity to be heard, this Court thinks the issue of the certificates of title was an excess of jurisdiction, inasmuch as they were issued before the rehearing was properly disposed of.

12. Possibly had the Chief Judge inquired fully into the matter, he would not have found sufficient material, in his opinion, to justify his granting a rehearing. At the same time this Court is of opinion that there was at least sufficient of doubt in the matter to have constrained the Chief Judge to grant such rehearing, and to allow the disputed matter to be finally settled by a higher tribunal. However, while this Court thinks it is a pity that an opportunity was not so afforded, it does not feel justified in setting its opinion against that of the Royal Commission comprised of two experienced Native Land Court Judges, who practically affirmed the decision of the Lower Court and said there were no grounds for rehearing.

Dated this the 8th day of November, 1912.

The Chief Judge, Native Land Court, Wellington.

For the Court.

R. N. JONES, Judge.

Whareponga, 23rd June, 1886.

[TRANSLATION.]

To Mr. MacDonald, the Chief Judge, Native Land Court.

It is only a short time since the Ngamoe Block was put through the Court. We are the only persons who applied for the investigation of the title to this land and applied for its survey.

We based our claim on our ancestral rights from Tangihaere. We very clearly stated the evidences, commencing from the time of our ancestors down to our time—the pas, burying-places, plantations, kumara-pits, eel-ponds, fern-hills, and snaring-places of our ancestors, and the houses, horses, cows, pigs, and other things of ours, and our constant occupation of this land. We had opponents—viz., Eruera Kawhia and Hana Maraea, descended from another branch of Tangihaere—and instead of asserting their ancestral claims they claimed through conquest. They recognized the pas, whares, and cultivations claimed by us, and on the day judgment was given at Waiomatatini we were excluded, although we were the only applicants.

When this land was put through the Court the claims of those two and their tribe were recognized. They also admitted our ancestor, and our right from Tangihaere before the Court. And those who opposed us were put in and we were excluded; consequently we ask that a rehearing of this land should be granted.

We are,

RAANA PAKAU.
MOKENA KAHU.
And Others.

Auckland, 3rd September, 1886.

Ngamoe: Remarks on an Application for a Rehearing of Ngamoe made by Tuta Nihoniho and Others.

NGAMOE Block contains 8,733 acres. The hearing occupied seven days. All that the petitioners had to say was heard and noted by the Court: all the questions they wished to ask the other side were allowed to be put. They were not required even to prepay their fees for hearing, and I do not think they have paid them yet. The Assessor and myself agreed in the decision.

The claimants were Tuta Nihoniho and party—known as "Te Aetanga-Mate," a branch of Ngaitangihare. Their claim was No. 310 on the list. At the outset they alleged that the survey was theirs, but it turned out that this was not so.

The counter-claimants were Eruera Kawhia and party, representing five hapus of Ngaitangihare. Their claim was on list No. 51. The plan was a copy made by the Survey Department of Eruera Kawhia's survey. The Survey Department at Gisborne would not pass Kawhia's plan, because the surveyor who made it had offended them; but the Department devised the above expedient, and this was how the plan came before the Court. I mention the foregoing in answer to the latter portion of the first paragraph of the petition, which is misleading.

Eruera Kawhia and party convinced us that they were the rightful owners and occupiers of the land before the Court. They did not recognize Tuta Nihoniho and his hapu Te Aetanga-Mate in the slightest, and this petition is untruthful in making that assertion. Had they been recognized they would have been admitted.

Tuihana, one of the petitioners, is included in the title to Ngamoe. Her father was a tohunga, and as such had general functions among the hapus of his tribe Ngaitangihaere, and on the whole, though with some hesitation, we decided to admit her.

The judgment, attached, shows the grounds that influenced our decision, coupled, however, with evidence too diffuse to be mentioned therein.

Thus, we found that Tangihaere, the father of Poromata, had lived and died at Taranga, and though he visited his son at Ngamoe, Tangihaere had no pas or places there; thus his papatupu that Te Aetanga-Mate allege had no existence whatever.

We found that Poromata, who moved there from Uawa, was the first Maori colonist at Ngamoe (his brother went there also); but Poromata and his sons were killed and their colonizing was suddenly stopped. At the time of Poromata's death his daughter Mate had long been living with her husband at Turanga. From her are descended Te Aetanga-Mate, Tuta's hapu, on behalf of whom he claimed this Ngamoe land.

It was not until after Atakura's son Tuwhakairiora had completed the conquest of Ngamoe that Mate heard of it, and in the following year she sent a war-party from Turanga under her grandson Pakanui. I say "in the following year," because it transpired that preparations in planting food for the *tava* had been made at Turanga. This expedition landed south of Ngamoe Block, at Mataahu.

Pakanui carried his arms inland in a direction parallel to the course his cousin had taken, and a few miles south of same. Thus he did not interfere with Tuwhakairiora's conquest. The line laid down ten years ago by Te Aetanga-Mate themselves, which is the northern boundary of Whareponga and now forms the southern boundary of Ngamoe Block, was in our opinion the line of demarcation between these conquests.

Pakanui requested assistance from Tuwhakairiora, but that chief refused to come to his aid, and from Hokamau's (his representative) evidence in other claims at Hicks Bay, it would seem that Tuwhakairiora had at that time other wars on hand. Finally Rikipapaki, Pakanui's brother, took Kahuitara Pa, and the enemy was completely expelled. Pakanui then settled on the land acquired, and built a large house of ponga-trees—hence the name of the village where he lived, "Whareponga," and which is the name of one of Tuta's Aetanga-Mate blocks of land there.

J. A. WILSON.

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