

In the Native Land Court of New Zealand, Tairarawhiti District.—In the matter of the Ngamotu Block, and of a reference by the Chief Judge under section 32 of the Native Land Laws Amendment and Native Land Claims Adjustment Act, 1920, in respect of Petition No. 203 of 1920.

At a sitting of the Court held at Wairoa, before Robert Noble Jones, Chief Judge, the above matter came on for hearing, and the Court submits the following report:—

1. The Ngamotu Block was investigated by the Court in 1892, and, after a prolonged hearing, an order was made vesting the block in 383 Natives, in the shares set out in the order.

2. This Court, with all due respect, has come to a very definite conclusion that the Court of 1892 admitted to the title many persons who were not entitled to ownership. It is not now necessary or wise to give reasons for arriving at that conclusion, since it is also of opinion that, after thirty years possession, it would not be right or just to exclude such persons from the title, unless it is admitted beyond all doubt that they are not so entitled.

3. The Court says this because most of the persons of doubtful ownership were either admitted by the rightful owners or fought their way into the title, and ample opportunity was given at a later Court in 1896 to reject those without right; in fact, objections of such a nature were specifically invited by the Appellate Court (Appellate Court, Vol. 10, folio 1). That was the proper occasion for testing the rights of the various parties, and if they neglected that opportunity the petitioners have now only themselves to blame.

4. After the Court decided in 1892 certain counter-claimants were to be admitted, the parties all lodged fresh lists, the claimants especially having a very large number of names in their list. The Court, being under the impression that the claimants were swelling their lists for the purpose of securing an undue proportion of the land, adopted a system of defining the relative interests, which gave to the recognized principal owners only $\frac{1}{3}$ ths, or less than one-half, the block.

5. The claimants' side appealed, and the matter came before the Native Appellate Court in 1896. From the records it would appear that the claimants on that occasion were endeavouring to confine the counter-claimants to at least specific portions of the block. Eventually it was decided that all who were in the block should remain, and they should get what were called "equal shares"—that is, two shares for an adult and one share for a minor.

6. The Appellate Court gave its judgment on the 22nd October, 1896, awarding the block to 390 persons in the shares set out, and directed that a new order on investigation of title should be prepared accordingly, to bear date and take effect on the 31st August, 1892.

7. The next step in the title was the vesting of the block in the Tairarawhiti Maori Land Board, under section 4 of the Maori Land Settlement Act Amendment Act, 1906. The Proclamation is dated the 10th February, 1908, and the land remains vested in the Maori Land Board under Part XV of the Native Land Act, 1909.

8. On the 28th May, 1917, the block, with the consent of the Maori Land Board, was partitioned into several parcels among the various equitable owners. There was an appeal against this, which was subsequently withdrawn or abandoned.

9. On the 31st October, 1917, the Native Land Amendment and Native Land Claims Adjustment Act, 1917, was passed, which contained, *inter alia*, clause 5:—

"The Native Land Court is hereby authorized and directed to reopen the question of the ownership of the Ngamotu Block in the Tairarawhiti Native Land Court District, but only so far as to determine whether any names should be omitted from the title under an order of investigation dated the twenty-second day of October, eighteen hundred and ninety-six, and to determine the relative interest of the owners. This section shall not affect any valid alienation heretofore made of the land or of any portion thereof."

10. Although, doubtless, the intention moving the Legislature was that there should be a scrutiny of the title, and a rejection of those found not entitled, and that the shares should be rearranged accordingly, that intention is not so clearly expressed as it might be. It is to be noted that the section referred to ignores the fact that the legal ownership is vested in the Maori Land Board, in trust for the whole 390 persons; makes no provision for the position that the equitable estate had been partitioned among those 390 beneficiaries; incorrectly cites the date of the order of investigation, which should be the 31st August, 1892, and not the 22nd October, 1896; overlooks that the relative interests had already been determined by the Native Appellate Court; and, finally, makes no provision for deleting any names, or amending the title in any way.

11. The Native Land Court, assuming it had the power, heard the matter, and on the 12th September, 1919, made an order reciting the order of investigation as bearing date the 22nd October, 1886, and determining that the names of Te Aira Akuhata, Hori Marena, Rewi te Nahu, Rora Pareke, Rapihana None, and Netana Tinohi (six persons in all) should be omitted from the title of the block, and that the remaining owners are entitled beneficially to the Ngamotu Block in the relative interests as set opposite their respective names.

12. The partition of the 28th May, 1917, does not appear to have been cancelled or amended, but seems to have been treated as superseded, either by the Act of 1917 or the order of the 12th September, 1919.

13. An appeal was lodged against the order of the 12th September, 1919, but that appeal only affected the shares allotted to a particular section. An attempt was made to have it applied to the whole proceedings, but the other parties were not before the Court, consequently the appellants were confined to their grounds of appeal, and a slight readjustment of shares took place.

14. On the 7th October, 1920, the equitable estate of the beneficiaries was again partitioned, leaving out the six names referred to in paragraph 11, and treating the order of the 12th September, 1919, as defining the relative interests. The Court cannot find any record of a consent being given to this partition, as required by section 113 of the Native Land Act, 1909.