

In the Native Land Court, Waiariki District.—In the matter of Matata, Section 39; and in the matter of section 35 of the Native Land Amendment and Native Land Claims Adjustment Act, 1921–22.

REPORT OF NATIVE LAND COURT HEREIN.

To the Chief Judge, Native Land Court, Wellington.

AN inquiry was duly held by the Court into this matter (Petition 345 of 1920, of Haki Tamati) at Whakatane on the 13th April, 1922, and I desire to report as follows:—

1. Matata, Section 39, contained an area of 13,675 acres, and was the subject of a Crown grant (under the New Zealand Settlement Act, 1863, and the New Zealand Settlement Amendment and Continuance Act, 1865) bearing date the 25th September, 1878, in favour of (1) Hohepa Rokoroko, (2) Tomeniko te Otene, (3) Anania te Otene, (4) Karaitiana Kahuwhero, (5) Harata Paraone, (6) Hirini, (7) Paora, (8) Raimona Petera, (9) Whakarau Petera, and (10) Rangitukehu, their heirs and assigns for ever, as from the 2nd January, 1868.

At the inquiry before me it appeared to be common ground that the land was confiscated because the owners were thought to be disloyal, and that when their loyalty was established it was given back to the ancestral owners. Whakarau Petera, who opposes the petition, admitted in his evidence that after the confiscation the land was returned to the ancestral owners. The whole question is, For whom was the land returned?

I have not been able to trace the minutes of the Compensation Court upon whose award the grant was issued, and I believe they were lost some years ago when the Government offices at Tauranga were burned. That Court consisted of Major Mair and Mr. Wilson as Commissioners, and Captain Gilbert Mair and Mr. H. T. Clarke were also present. After the grant the Crown obtained a conveyance from five of the grantees, and on the 23rd June, 1883, an application was before the Native Land Court to have the Crown interest defined. Captain Mair appeared for the Crown, and he was opposed by some of the non-sellers. (See Maketu Minute-book No. 5, pages 371–78. Copy minutes attached.)

The following are important extracts from the evidence then given:—

1. Raimona Petera (a non-selling grantee), at page 372: “I oppose any further surrender, as the hapus occupying the land refuse to alienate it. This was one of the first blocks dealt with by the Compensation Court. The ten persons named in the grant were really trustees; they were nominated by those interested in the land.”

2. Hataraka Patutohora (successor to Karaitiana Kahuwhero (a non-selling grantee), at page 374: “I consider that 5,000 acres would be a fair allowance to the Government, leaving 5,000 acres to us five who had not sold, and the balance—3,675 acres—to the hapus (i.e., to those interested, but not named).”

3. Paora Patu (not Paora the grantee, and apparently not an owner), at page 375: “I remember the first hearing of this case at Matata before Major Mair and Mr. Wilson as Commissioners: Captain Mair and Mr. H. T. Clarke were also present. This was confiscated land. These parcels were returned by the Crown to the chiefs and their people—Rokoroko, Taminiko and others; I was not included. . . I do not think that the sellers ought to have done so without the consent of their co-grantees, and without a judicial subdivision of the block.”

The Court apparently considered that the wording of the habendum of the Crown grant excluded the possibility of a trust, (see page 373), and the Crown was awarded one-half of the block—viz., 6,837 acres 2 roods. The remaining half of the block (viz., 6,837½ acres) was, by order dated the 25th June, 1883, awarded to the following five non-selling grantees:—(1) Raimona Petera, (2) Karaitiana Kahuwhero, (3) Paora, (4) Whakarau Petera, and (5) Anania te Otene—and called Matata 39A.

At Whakatane on the 1st September, 1905 (Judge, Captain Gilbert Mair) an application was made to define relative interests in Block 39A, but it was adjourned, at the request of all parties, to see if it were possible to add to the title names of owners who had been left out. (Copy minutes attached from Whakatane Minute-book No. 8, page 337.)

As I could not get the evidence of Captain Gilbert Mair, I deemed it advisable to write to him on this subject, as he took part in the war, and was present at the Compensation Court, and on other proceedings in Court concerning the land in question. A copy of his reply is attached hereto, and it shows that the grantees held the land for themselves and others by their respective sub-hapus.

It may be, as Captain Mair mentions, that the large area of Matata 39 (viz., 13,675 acres) was given because of the unswerving loyalty of the grantees, whilst many of their hapus joined in the rebellion; but that will be a matter for whatever tribunal is set up (should the title be reopened) to consider in allocating shares.

At the inquiry before me, Haki Tamati, the petitioner, said that the title to the portion awarded to the Crown would not be attacked, so we are now only concerned with Matata 39A. This block has been subdivided, as a perusal of the Court file, 256 B.P. (enclosed herewith), will show.

There are no confirmed alienations, but there is before the Board at present a resolution under Part XVIII of the Native Land Act, 1909, to lease Matata 39A No. 2E to Brian Chaytor and others. Further consideration has been postponed under Petition 348/1909 in order that the shares of dissentient owners may be cut out, and I have now, as President of the Board, directed that further consideration of the resolution is to be held over until the result of this petition to Parliament is known.