

house there, on land which he admitted belonged to the ancestor Maroro, and upon which he stated he was allowed to live by Hohaia te Wera. With regard to this the Court will here quote an extract from the decision of the Appellate Court of 1900 relating to the claims of two other chiefs to another portion of Mangahauini. The remarks contained therein apply to Wi Pewhairangi's position also: "It seems a singular thing that both these men, who are admitted to have been of rank and influence, should have consented to have lived on their wives' property, especially when they both possessed property of their own in the immediate neighbourhood."

To this Court Wi Pewhairangi's case seems much more singular, for he was not even living on his wife's land, but on a stranger's, although there was land immediately alongside which he claimed was his.

Before the Appellate Court of 1900 no fresh evidence was offered by Wi Pewhairangi, and the Court itself called Hone Paputene, who had been living on Waiparapara for many years. This man is a descendant of Maroro and Kopae as well as of Keteiwi and Rerekohu. Before the Native Land Court he made no separate claim to Waiparapara under Rerekohu, but came in under the Wh'a Kaipakihi claim. He even persisted, against the desire of the Court, in giving the boundaries of the land in the Mangahauini Block which he asserted belonged to each hapu. To quote the minutes of the Court: "The Court explains that this hapu is one of those admitted by the claimants, and that there is no necessity for a fresh case; but the applicant seems to be afraid that the vast rights he has to the block may be lost sight of unless he is allowed to come forward and urge them personally, and the Court, after fully explaining the position to each hapu—he still being desirous of having an independent case—allows it."

He then gave the boundaries of the Wh'a Kaipakihi land, which are practically identical with the present boundaries of Mangahauini No. 7; but, although he was, and had been for a long period, living on the part which is now called 7A, he did not indicate to the Court then, or at any time during the investigation, that that part was a separate and distinct block of land held under a different right, or was otherwise than a portion of No. 7. His name was included in the Wh'a Kaipakihi list, and he did not appeal against the Native Land Court's decision, nor does he appear to have objected to it in any way until the Appellate Court called him as a witness.

Before the Appellate Court he shifted his ground of claim altogether, denied the right of the Wh'a Kaipakihi, and asserted that Waiparapara, or 7A, belonged to Rerekohu and his descendants. His explanation of this change, although it does not appear to this Court to be either clear or conclusive, was apparently accepted by the Appellate Court as satisfactory. In its judgment the Court stated: "With regard to Hone Paputene's occupation, the descendants of Maroro assert that it is not derived from Rerekohu, but from Maroro, through the intermarriage of Hinetokore, a descendant of Maroro, with Te Whawhaiti, a son of Rerekohu. Against this contention there is the peculiar circumstance to be considered that Hone Paputene is a descendant of both Te Keteiwi, from whom he claims, and also from Maroro, who the descendants of that *tipuna* assert he derives his right from. Assuming that he has ulterior motive to serve in denying his right from Maroro, it seems only fitting that the Court should decide in favour of the ancestral right on which the claim to the land is founded."

The "ulterior motive" seems to this Court to have been very apparent. It is quite a common practice in cases of the investigation of title to papatupu land, where there is an especially valuable part like this Waiparapara, for a small section of the claimants to set up a right to it separate and distinct from the right to the main block of which it is a part. This is for the purpose of confining the ownership to as few persons as possible, and keeping out persons who would otherwise have a right by occupation under the grounds of claim set up for the bulk of the block.

It was admitted in evidence that there were three Wh'a Kaipakihi pas just outside the alleged boundaries of Waiparapara, and that the occupants of these pas worked in common the maaras on that piece. Amongst them were many Wh'a Kaipakihi who were not descendants of Rerekohu. Wi Pewhairangi practically admitted this in his evidence, for he asserted that the pure Kaipakihi who lived permanently on these places (Maungatio and Waiparapara) had no right. This Court has no doubt that in the interval between the sittings of the Native Land Court and of the Appellate Court Hone Paputene came to realize that if Waiparapara were awarded to the descendants of Rerekohu alone it would be much to his advantage, inasmuch as Wh'a Kaipakihi not descended from Rerekohu, who could otherwise prove a right by occupation, would be excluded from the title, and therefore when the Appellate Court gave him the opportunity he promptly changed his grounds of claim. He denied the correctness of much of the evidence given by Wi Pewhairangi before the Native Land Court, and where his and Wi Pewhairangi's conflicted the Appellate Court appears to have accepted his version and to have decided the matter on his evidence alone.

The Wh'a Kaipakihi, on the other hand, asserted that Waiparapara, or Mangahauini 7A, was a part of No. 7, and not a separate and distinct block of land, as claimed by the descendants of Keteiwi; that Keteiwi and his descendants, as such, had no interest in it; and that it was, together with the main block, owned by the Wh'a Kaipakihi under their right from the ancestors Maroro, Kopae, and Korongaungau. They gave detailed evidence as to the cultivations on the land and as to the persons who worked them. Their occupation was in fact admitted. It must be noted in the first place that, as stated before, Wi Pewhairangi and his family were the only claimants who were descendants of Keteiwi and Rerekohu and who did not at the same time belong to the Wh'a Kaipakihi; and, further, that the Appellate Court found they had come on to the land in 1880, and that therefore their occupation was only of a very recent date.

In cases of investigation of papatupu land it is just and proper to assume—(1) That if a family or section of Natives have been in occupation for some generations, that this occupation is founded on some right; (2) that if there are conflicting grounds of claim, to assume further that the ground