

1928.
NEW ZEALAND.

NATIVE LAND AMENDMENT AND NATIVE LAND CLAIMS
ADJUSTMENT ACT, 1927.

REPORT AND RECOMMENDATION ON PETITION No. 257 OF 1927, OF TE AMO KOUKOU PAPARATU,
RELATIVE TO ARANUI BLOCK.

*Presented to Parliament in pursuance of the Provisions of Section 63 of the Native Land Amendment
and Native Land Claims Adjustment Act, 1927.*

Native Department, Wellington, 24th September, 1928.

Petition No. 257 of 1927.—Aranui Block.

PURSUANT to section 63 of the Native Land Amendment and Native Land Claims Adjustment Act, 1927, I herewith forward report of the Native Land Court hereon.

You will note the Court recommends that a sum equivalent to £620 be paid by the Crown. As, however, the suggested compensation is based upon the fact that injury done to the Native arose through a mistake of the Court, the question whether the Government should accept liability in such cases is one of policy.

There is no necessity for legislation upon the matter.

R. N. JONES, Chief Judge.

The Right Hon. the Native Minister, Wellington.

Aranui Block.

In the Native Land Court of New Zealand, Tairāwhiti District.—In the matter of the Aranui Block; and in the matter of petition 257 of 1927, by Te Amo Koukou Paparatu, and referred to the Court pursuant to section 63, Act No. 67 of 1927, for inquiry and report.

At a sitting of the Court held at Wairoa on the 3rd day of February, 1928, before Harold Carr, Esquire, Judge.

After hearing the petitioner and others on his behalf the Court begs to report:—

The title to Aranui (353 acres) was investigated on the 17th September, 1868, when a certificate of title under the Native Land Acts was ordered to issue in favour of (1) Teretiu Take, (2) Heta Kuaha, (3) Rewai, (4) Rawinia Kahuitau, (5) Keita Poneke, (6) Te Rawha, (7) Koukou.

A European, R. D. Maney, who had a lease of the block purchased certain interests. The conveyance reserved 100 acres, described in the deed, for those who sold. Two of the owners, Te Rawha and Koukou, would not sell, and in order to complete his title Maney prevailed on Koukou to sign a conveyance which made no reservation, and at the same time he (Maney) conveyed back to Koukou a specific area of 50 acres (situated within the 100 acre reserve area) as representing Koukou's interest in the original block. Although a consideration of £100 was expressed in the conveyance to Maney, Mr. Hector Duff, J.P., who witnessed the transaction, gave evidence in 1889 that no consideration was paid in his presence, and that he understood Maney was to convey to Koukou the same share back again.

To finalize Maney's purchases the block came before the Court on partition in 1884, when Te Rawha, the other non-seller, was cut out in Aranui No. 1. The balance of the original owners and sellers, inclusive of Koukou, were awarded a parcel called Aranui, contained in two severed areas of 142 acres 1 rood 31 perches and 125 acres 2 roods 10 perches (exclusive of roads). The 142 acres 1 rood 31 perches portion subsequently passed to Maney by virtue of his conveyances, and the sellers were left with the 125 acres 2 roods 10 perches. This division of 1884 was arranged on a basis of equal shares as between the original owners.

In 1889 the 125 acres 2 roods 10 perches portion of Aranui was further divided into five parcels. Koukou's interest was fixed at $10\frac{1}{4}$ acres, which on rehearing was increased to 17 acres, and located in Aranui F. New surveys consequent on these divisions disclosed a greater area in the whole block, and Aranui F was proportionately increased to 19 acres and 16 perches. During these proceedings a request was made to fix Koukou's share at 50 acres, and the attention of the Court was drawn to the conveyance from Maney to Koukou; but the Court, evidently not being informed of the registrations, held that Maney could not give a conveyance over Native land, and the block was divided as if there had been no reconveyance to Koukou. The Court, in this latter partition, also decided, notwithstanding the basis of the division in 1884, that the shares of the original owners were not equal.

Both the conveyances—Koukou to Maney, and Maney to Koukou—were registered on the Deeds Register, but the partition orders of 1889 appear to have been treated as supplanting the deeds. It is questionable if this was so.

As a result of the Court's rulings in 1889 and of the failure of the Court to recognize the full legal effect of the registered dealings, Koukou has suffered an injustice. By assisting Maney to complete title he lost the substance for the shadow—he got an interest in the reserve area, but lost his original share, which evidently was not his or Maney's intention. Although the reserve was mentioned at 100 acres, it seems that it was to be whatever the fenced area contained.

The petitioner asks for a return of his land. While the Court considers that he is entitled to relief, it is not possible to give effect to his wishes by an award of land, as the blocks surrounding Aranui F have been sold. The Court recommends a money payment equal to the present-day valuation of Koukou's interest in the original block, less his award of Aranui F, be made for the loss sustained.

Koukou's interest in the reserve was fixed on rehearing at 17 acres, and on that basis he would be entitled to 48 acres of the original area of 353 acres. The current Government unimproved value of Aranui F is £20 per acre, and 31 acres at the same rate would represent £620.

Koukou died on the 28th September, 1922, and has been succeeded to by the petitioner, Te Amo Koukou, or Paparatu, and eleven others. These people live at Wairoa, and are in poor circumstances; neither are they in a position to properly handle such an amount of cash. It is suggested that, should the Court's recommendation be given effect to, the amount of compensation be administered on behalf of the widow of Koukou and his successors.

As witness the hand of the Judge and the seal of the Court.

H. CARR, Judge.

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