

1937.

NEW ZEALAND.

THE NATIVE PURPOSES ACT, 1936.

REPORT AND RECOMMENDATION ON PETITION No. 203 OF 1936, OF TUTAWA PARAEROA AND OTHERS, RELATIVE TO THE OWNERSHIP OF OTAUTU No. 17 (SECTION 136, BLOCK VII, CARLYLE SURVEY DISTRICT).

Presented to Parliament in pursuance of the Provisions of Section 13 of the Native Purposes Act, 1936.

Native Land Court (Chief Judge's Office),
Wellington, C. 1, 18th June, 1937.

The Right Hon. the NATIVE MINISTER, Wellington, C. 1.

PETITION No. 203 OF 1936.—SECTION 136, BLOCK VII, CARLYLE SURVEY DISTRICT.

PURSUANT to section 13 of the Native Purposes Act, 1936, I herewith transmit the report of the Court herein.

It transpired that, although the petition originally referred to Otautu No. 7 Block, it really referred to the Otautu No. 17 Block. Shortly, the facts are that three distinct blocks of land held under grant to identical owners were treated as one area to be partitioned among the respective parties of owners as if they were tenants in common of the whole. The partition was made on a valuation basis, and Otautu No. 17, which comprised the whole of the land formerly known as Hukatere, was allotted to Irihapeti Raukura and Ihipera Korua in equal shares. On 28th September, 1915, a partition order was made accordingly. Later Irihapeti died, and her interest became vested in Ngarangi Katitia, the person mentioned in the petition. A person of this name was an owner of the original Hukatere Block. The partition order subsisted for over twenty years, and apparently without complaint until recently.

The land was awarded to actual persons named in the grant. It seems to be too late now to return the land to its former state of title, and the Chief Judge does not recommend any legislative action in the matter.

R. N. JONES, Chief Judge.

Office of the Native Land Court,
Wanganui, 24th February, 1937.

The CHIEF JUDGE, Native Land Court, Wellington.

PETITION No. 203 OF 1936.—OTAUTU No. 17.

I HAVE the honour to inform you that the Court, sitting at Patea on the 18th instant held the inquiry directed by you into the petition by Tutawa Paraeroa and others relative to the ownership of Otautu No. 17, Section 136, Block VII, Carlyle Survey District, and I beg to report as follows:—

Otautu No. 17, containing 21 acres 1 rood 10 perches, is a division of three blocks—viz., Otautu, Oteha, and Hukatere, all originally owned by the same persons. They were partitioned as one block by the Court on the 25th January, 1915, under the provisions of section 15 of the West Coast Settlement Reserves Amendment Act, 1913, and section 55 of the Native Land Amendment Act, 1913.

The petitioners alleged that Otautu No. 17 included the Hukatere Block, that Hukatere was an ancient Kainga, that they did not understand it was partitioned in conjunction with the other two blocks, and that they were entitled to share in Hukatere under Native custom.

On the partition at Patea on the 25th January, 1915, a committee of the owners was set up and the partitions arranged on a valuation basis. There is no record of any claim to Otautu No. 17 by the petitioners or any objection on their part to the award of No. 17, as arranged by the committee, to Irihapeti Raukura and Ihipera Korua.

The interests of the petitioners on a valuation basis were located in Otautu 5A (89 acres), Otautu 5B (51 acres), and Otautu No. 6 (74 acres). Of these areas they have sold portions and leased portions.

From statements made to the Court it appears the reason for the petition is that the petitioners approached the Taranaki Trust Board for a loan to enable them to build a house. The Board informed them that it could not consider the application until they had some land upon which to build. They had no convenient or suitable land of their own so they picked on Hukatere, and, as an excuse for their selection, it was stated to the Court they did not understand the effect of the consolidation and partition. They had arranged in the first place for Tupito Maruera to represent them at the hearing of the petition, but when it was pointed out to Tupito that he actually was the Chairman of the Committee that arranged the partitions in 1915 he retired in favour of Maui Onekura.

There was no evidence adduced, only an assertion that the petitioners did not understand the position with regard to Hukatere, and were always under the impression that they still retained their shares in that block.

It is difficult to believe this. They were certainly represented at the partition, and no doubt some of them were present in Court. The records show that they obtained land in Otautu Nos. 5A, 5B 1, and 6 to the total value of their shares in the three blocks, that they accepted the award without question, and have alienated parts of it. The two to whom Otautu No. 17 was awarded, or their representatives, have been in sole occupation ever since the award, and, so far as this Court is aware, their right to occupy exclusively has never been questioned until the present time.

Hukatere appears to have been an ancient Kainga, but when this Court went over the land in 1917 there were no traces of the Kainga, and the only persons in occupation were the representatives of the present owners. Many of the divisions into which the three blocks were divided have been sold or leased. Any alteration in the partition as arranged and confirmed would lead to endless confusion, and, in this Court's opinion, no valid reason has been brought forward as to why any alteration should be made. If an alteration were made in one case it would almost certainly lead to applications for alterations in other cases.

JAS. W. BROWNE, Judge.

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