

It is very probable, therefore, that some partitions awarded on a valuation basis of from 10s. to 15s. per acre have timber on them to the value of several pounds per acre. Although this was not a ground in any one of the petitions, it was mentioned to the Court at the inquiry and we now draw attention to it.

Petition by William Baker and others (No. 66 of 1936).

The history of this matter is shortly as follows :—

Thomas Baker, the grandfather of the petitioners, went to Tarawera as a member of the armed constabulary. He married there a woman of Tuhoe, and took an informal lease of a portion of the Tarawera Block, including the land that was known as 5A. On this block his children were born ; and when his first wife died he married Rihī Nene, a member of the Ngatihineuru tribe. Rihī Nene was devisee under the will of Pani te Kaanga, a nominated grantee, to the extent of one-third of her interest, and in turn Rihī devised her interest to the following of her husband's children : Robert Baker, William Baker, and Mary Baker.

On the partition in 1922, 5A, containing 726 acres and 2 roods, was awarded to the three Bakers named above, and in pursuance of this order a Land Transfer title, Vol. 41, folio 40, issued.

The Court of 1925, although it cancelled most of the orders made in 1922, left the order for 5A as it was. In addition to this, the Bakers were awarded 449 shares each in the Hineuru award. Henare Peka, a brother of Robert, William, and Mary, was also included in the award for 449 shares.

At the Court of 1929, the order for 5A was cancelled, and the Bakers were included in the order defining the relative interests as follows :—

Robert Peka ..	..	..	..	..	..	..	118
William Peka ..	..	..	..	..	..	..	118
Mere Peka ..	..	..	..	..	..	..	118
Henare Peka ..	..	..	..	..	..	..	118
							472

Therefore, by this order they had their shares reduced from 1,796 to 472 and, in addition, the order in their favour for 5A was cancelled.

No appeal was lodged against this award. It was stated that they had no knowledge of the proceedings of the Court, and because a Land Transfer certificate of title was issued for 5A they did not think for a moment that the block would be in any way affected by the proceedings. On the allotment of shares to the several partitions in 1934, 5A was valued at £1,685, which equalled 3,841 shares. It was decided to award it to the Baker family, but as they had only 472 shares Mihiroa Tinimene had to be included in the title for 3,569 shares to make up the area.

A rehearing of this award was applied for and dismissed, and an appeal was lodged which came before the Appellate Court in June, 1935, and was also dismissed. It was argued before the Appellate Court that they had an indefeasible title for 5A and that the Court of 1929 was wrong in disregarding and cancelling it. The Appellate Court, however, held that the issue of the Land Transfer title for 5A did not preclude the Native Land Court from taking that part of the Tarawera Block into consideration in dealing with the matter under section 46 of the Act of 1928.

The petitioners now ask that Tarawera 5A be deemed to be excluded from the scope of the investigation under section 46 or that, in the alternative, the petitioners be awarded compensation for the land they have lost through the inclusion of 5A within the provisions of section 46.

The position complained of has arisen almost wholly through the Act of the Legislature in 1924 in reopening the whole matter, and we do not consider that because the petitioners had a Land Transfer title issued to them before 1924 that they were thereby placed in any better position than the representatives of the other grantees who had divisions awarded to them in 1922, but did not obtain Land Transfer titles.

The comments regarding timber in the report on the petition of the Pohe family apply to this petition also. The Court was given to understand that this is one of the divisions on which there is milling-timber and if the timber were appraised the value placed on it might necessitate a somewhat different award.

Petition by Matewai Utiera and others (No. 301 of 1936).

The petitioners in this case are the representatives of Hoani Ngarangi, one of the persons whose names were inserted in the title in pursuance of the Act of 1920.

On the partition of 1922, the petitioners, six in number and an outsider, were awarded Tarawera No. 3, containing 3,740 acres, in equal shares.

The Court of 1924 did not disturb this award, but made an additional award to them of 752 shares in the residue, the Ngatihineuru division. On the 6th October, 1927, the Native Land Court incorporated Tarawera No. 3 and appointed the whole seven owners as a committee of management. The body corporate, we were informed, sold the timber to one, Gardner, but no particulars of the transaction were supplied to us --we understand the agreement has expired by effluxion of time, although the timber has not all been taken off. There was in this case, also, no appraisal by the State Forest Service or consent by the Commissioner.

The Court of 1929, by implication, cancelled the order for the residue, and for No. 3 the former owners of No. 3 were included in its order defining relative interests for 2,393 shares.

The Court of 1934 again located these shares in Tarawera No. 3. As stated before, this block contained 3,740 acres, which was equal to 5,110 shares, valued at £2,242. As the Utiera family had only 2,393 shares, it was necessary to include other owners to make up the total shares.