

No. 78.

In the Supreme Court of New Zealand, Wellington District.—*Re* claim in the Native Land Court of Hiko Piata and other aboriginal Natives to the Wairarapa Lakes, *ex parte*, Piripi te Maari.—In Chambers, judgment of Richmond, J.

In this case Mr. Olliver moved for a *rule nisi* for a prohibition to the Native Land Court. It appears that the Court has made an order in favour of the Crown "for seventeen undivided interests in the Wairarapa South Lake," and a precisely similar order for seventeen undivided interests in the Wairarapa North Lake. It does not appear what is the nature of the interests then recognised and affirmed, nor into how many shares the entirety is supposed to be divided. The fraction has no denominator. However, the question at present is not whether the orders are valid or invalid, but whether the Court has exceeded its jurisdiction. It is asserted that it has done so, because it is said "that no right can exist according to Native custom to the soil beneath a lake, nor is the same recognised by Maori custom as being capable of ownership." Now, it is quite plain that the Supreme Court cannot interfere with the Native Land Court upon any such ground as this, for that Court is the only existing jurisdiction for the ascertainment of Native custom. Under "The Native Rights Act, 1863," the Supreme Court has a nominal cognisance of Native custom, but by the same Act is bound to refer all questions relating thereto to the Native Land Court. Supposing that the applicant is right in his view of Native custom, there seems to be no reason why the Native Land Court should not issue certificates of title to rights of fishing as tenements distinct from the right to the soil, which would then be in the Crown. The word "land" in "The Native Land Court Act, 1880," is used with the epithet "Native," but I see no reason why the word should not have the extended signification given to it in statute law by "The Interpretation Act, 1878." Rule refused.

NOTE.—Definition of word "land" in "Interpretation Act, 1878": "Land" includes messuages, tenements, and hereditaments, houses, and buildings, unless there are words to exclude houses and buildings, or to restrict the meaning to tenements of some particular tenure.

No. 79.

"THE NATIVE LAND COURT ACT, 1880."

CERTIFICATE of TITLE ordered to be issued by the Native Land Court of New Zealand at a Court holden at Greytown, in the District of Wairarapa, in the Provincial District of Wellington, on the 13th day of November, 1883, District of Wairarapa, County of Wairarapa West, Provincial District of Wellington. In the matter of a parcel of land at Wairarapa, in the District of Wairarapa, in the Provincial District of Wellington, called Wairarapa Moana.

To all to whom these presents shall come: It is hereby certified that the persons whose names are written within [Raniera te Iho and 138 others] are the owners according to Native custom of all that piece or parcel of land at Wairarapa, in the district of Wairarapa, in the Provincial District of Wellington, called or known by the name of Wairarapa Moana, and containing by admeasurement 24,950 acres, be the same more or less. Bounded towards the north by Sections 198, 194, 389, 21, 22, and 27, a Native reserve, the section last named, and Section 31 of Block VII., of the district of Wairarapa; towards the east by a public road, by Section 105, the Maramamau West Block, and Sections 32 and 33 of Block XI., and Section 34 of Block X., and Sections 35, 37, 17, and 44, and the Tipua and Mapunatea Native Reserve of Block XIV., and Section 86 of Block XIII., of the said district of Wairarapa, and by Block I., of the Haurangi district, and by Sections 85, 76, and 84, and a Native reserve of Block V., and by a Native reserve and a Government reserve of Block IX., of the said Haurangi district; towards the south by the sea; and towards the west by a line and Section 61 of Block VI., and Section 64, and Crown land, and Section 102, 101, 100, and 99 of Block VII., of the Onoke district, and Sections 67, 68, 57, and 56 of the said Block I., of the district of Haurangi, and Sections 54 and 12 of Block IV., and Sections 14, 20, and 75 of Block II., of the said district of Onoke, and Sections 76, 77, 79, 78, and 80 of Block IX., and Section 81 of Block V., and by Sections 82, 9, 8, 83, 92, 512, 205A, 205, 202, and 200 of Block VI., of the district of Wairarapa aforesaid, save and excepting therefrom the island called Ngaawapurua, containing 142 acres, more or less: as the same is delineated on the plan drawn hereon or hereunto annexed; together with all the rights, members, and appurtenances thereunto belonging.

Given under the hand of John Edwin Macdonald, Esq., Chief Judge of the said Court, and issued under the seal thereof.

Dated the 13th day of November, 1883.

J. E. MACDONALD, Chief Judge.

No. 80.

THIS DEED, made the day of , one thousand eight hundred and eighty one, between the aboriginal Natives, whose signatures are affixed hereto, and who are hereinafter called the vendors, of the one part, and Her Majesty the Queen, of the other part. Whereas by a deed dated the fourteenth day of February, one thousand eight hundred and seventy-six, a number of Native chiefs, of the Ngatikahungunu Tribe, who executed the same, did, in consideration of eight hundred pounds, surrender and convey to her said Majesty such eel fishing-rights and other rights and interests of any kind whatsoever which they claimed to have in the Wairarapa Lakes called Okorewa and Wairarapa, or in the borders of such lakes, whether in lands or whether in the water thereof between the lands already sold to her said Majesty bordering on the said lake as therein specified; and whereas it was intended that the said deed should convey to her said Majesty the fee-simple of the lands underneath the waters of the said lakes as well as the said fishing-rights: And whereas the vendors all claim to have been the owners of or to be interested in the said lands underneath the waters of the said lakes, and have agreed to execute this deed for the purpose of confirming the conveyance intended to be made by the hereinbefore recited deed in the manner hereinafter appearing: Now, therefore, this deed witnesseth that the vendors do, and each of them doth, hereby ratify and confirm the conveyance and assurance made by the said deed herein recited, and do, and each of them doth, hereby convey, assure, and confirm unto her said Majesty, her heirs, and successors, the land, rights,