

registered owners was not given to such voluntary arrangement. They say that orders of the Native Land Court made in pursuance of a voluntary arrangement under the said section are in the nature of conveyances by the registered owners, and the assent of every one of the registered owners was necessary to the validity of every such order, and such assent was not given.

22. The plaintiffs say that even if there were any voluntary arrangement within section 56 aforesaid (which they deny), then that the orders purporting to have been made by the said Native Land Court pursuant to such voluntary arrangement are void, because the Native Land Court, in purporting to give effect to such voluntary arrangement, did not exercise any judicial discretion as by law required, but, on the contrary, declared that it had no power to exercise and did not exercise such judicial discretion.

23. The plaintiffs allege that the order as to Subdivision No. 14 made by the said Native Land Court on the 3rd day of December, 1886, if intended to be made in favour of the defendant Meiha Keepa te Rangihiwini beneficially (which they deny), was made without that Court having jurisdiction to make it, because it was a condition precedent to the exercise of jurisdiction by the Native Land Court that before division of lands owned by Natives could be made under "The Land Division Act, 1882" (under which Act the Native Land Court was then acting), all instruments of title should be surrendered on an order made for their cancellation, and the certificate of title to the defendant Meiha Keepa te Rangihiwini of the 27th day of June, 1881, was neither surrendered nor was an order for its cancellation made before the said Native Land Court proceeded to exercise jurisdiction.

24. The plaintiffs allege that if the Native Land Court on the said 3rd day of December, 1886, made an order for Subdivision No. 14 in favour of the defendant Meiha Keepa te Rangihiwini beneficially (which they deny) the land effected thereby lay entirely to the eastward of the railway-line, and that subsequently to the making of that order, and after the said Native Land Court had become *functus officio*, the Judge who sat at the time of the making of such order signed and sealed an order in favour of the defendant Meiha Keepa te Rangihiwini for Subdivision No. 14, which order included about 589 acres lying to the westward of the railway-line, and being portion of Subdivision No. 11, thereby decreasing the area of the land to which the persons in whose favour Subdivision No. 11 was awarded were entitled. Such alteration was made without the consent of the beneficial owners of Subdivision No. 11, and the provisions of "The Native Land Court Act, 1880," sections 28 to 31, were not complied with before the said order was signed and sealed, and the plaintiffs say that the said order so signed and sealed was in excess of jurisdiction, and therefore void.

25. The plaintiffs allege that if the defendant Meiha Keepa te Rangihiwini did obtain the assent of the 143 registered owners of the said Horowhenua Block to the giving to him of the said Subdivision No. 14 (which they deny) he did so by pressure and fraud upon the *cestui que trustent*, and therefore such assent was invalid.

26. The plaintiffs say that neither at the said subdivisional Court of 1886 nor at any time was an order made in favour of the defendant Meiha Keepa te Rangihiwini beneficially for the said Subdivision No. 14.

27. On the 19th day of July, 1888, a certificate of title under "The Land Transfer Act, 1885," was issued to the defendant Meiha Keepa te Rangihiwini, and registered in the office of the District Land Registrar at Wellington as Vol. xlviii., folio 148, for the said Subdivision No. 14, for an estate in fee-simple. The plaintiffs allege that such certificate of title was wrongfully issued, because the land comprised in such certificate was not then subject to the provisions of "The Land Transfer Act, 1885," and the defendants cannot claim any protection under the provisions of "The Land Transfer Act, 1885"; and the plaintiffs further allege that the defendant Meiha Keepa te Rangihiwini was then and now is a trustee of the said Subdivision No. 14 for the persons named in the registered list under section 17 of "The Native Land Act, 1867."

28. The plaintiffs allege that, notwithstanding that the defendant Meiha Keepa te Rangihiwini, under the said certificate of title of the 19th day of July, 1888, Vol. xlviii., folio 148, was a trustee of the said Subdivision No. 14, he, in fraud of that trust, dealt with the said Subdivision No. 14 as if he were the beneficial owner thereof by making the following dealings, which were registered under "The Land Transfer Act, 1885":—

- (a.) A lease, dated the 5th September, 1892, to the defendant Sir Walter Lawry Buller of part of the said land, which was registered in the books of the District Land Registrar for the District of Wellington, under "The Land Transfer Act, 1885," as No. 1967.
- (b.) A lease, dated the 20th day of May, 1892, to the said defendant Sir Walter Lawry Buller of part of the said land, which was registered in the books of the District Land Registrar for the District of Wellington, under "The Land Transfer Act, 1885," as No. 1968.
- (c.) A lease, dated the 31st day of October, 1892, to the said defendant Sir Walter Lawry Buller of part of the said land, which was registered in the books of the District Land Registrar for the District of Wellington, under "The Land Transfer Act, 1885," as No. 2003.
- (d.) A transfer, dated the 20th day of May, 1892, to the said defendant Sir Walter Lawry Buller of part of the said land, which was registered in the books of the District Land Registrar for the District of Wellington, under "The Land Transfer Act, 1885," as No. 20454, and under which a certificate of title, registered in Vol. lxvi., folio 152, was issued.
- (e.) A transfer, dated the 31st day of October, 1892, to the said defendant Sir Walter Lawry Buller, of part of the said land, which was registered in the books of the District Land Registrar for the District of Wellington as No. 20743, and under which a certificate of title, registered in Vol. lxvi., folio 152, was issued.