

17. That owing, it is alleged by the petitioner, to damaging reports about the property having been circulated by Flower's executors since the date of the compromise, the 27th day of July, 1904, the petitioner was unsuccessful in finding the necessary capital to comply with the terms of the said mortgage, and the mortgagees caused the property to be put up for sale at New Plymouth, on the 10th day of August, 1907, and, there being no bidding by the public at the sale, the mortgagees became the purchasers thereof.

18. That prior to the said sale the executors of the said Wickham Flower had caused the said leases to be registered under the Land Transfer Act.

19. That in the year 1907, and prior to the sale of the said leases under the said mortgage, the petitioner had commenced an action in the Chancery Division of the High Court of Justice in England claiming for redemption of the said mortgage and for accounts.

20. That on or about the 1st day of November, 1907, the executors of the said Wickham Flower moved to have the said action stayed on the ground that it was frivolous, but the said motion was unsuccessful.

21. That notwithstanding the fate of the said motion the petitioner, being advised that the English Courts had no jurisdiction to deal with the matter, allowed the said action to be dismissed for want of prosecution, and proceeded to New Zealand for the purpose of bringing his action in the Supreme Court of New Zealand.

22. That just prior to the petitioner's arrival in New Zealand Messrs. Stafford and Treadwell, the solicitors acting for the petitioner, believing that one Herrman Lewis was negotiating for the purchase of the said leases from the executors of the said Wickham Flower, gave to the said Herrman Lewis notice in writing of the claims of the petitioner to the said leases, but the said Herrman Lewis, nevertheless, became the purchaser of the said leases from the said executors.

23. That the petitioner arrived in New Zealand in February, 1908, and, in order to protect his interests pending the institution of his action, he caused a caveat to be lodged against dealings with the Mokau-Mohakatino Block.

24. That in July, 1908, the petitioner made application to the Supreme Court for an order extending the said caveat, the grounds of the said application being,—

- (a.) That the executors of the said Wickham Flower derived title through the said Wickham Flower, and that the said leases had been purchased by the said Wickham Flower as trustee for the petitioner.
- (b.) That the transfer of the said leases by the said executors to the said Herrman Lewis was not made in good faith, but was made to embarrass the petitioner and to defeat his claim to the said leases, and that the said Herrman Lewis had prior to the said transfer full notice of the said claim.
- (c.) That the title to the lands affected by the said transfer was not properly registrable under the Land Transfer Act.
- (d.) That the King's Bench Division of the High Court of Justice in England had no jurisdiction to make the decree of the 27th day of July, 1904, pursuant to which the mortgage from the petitioner to the executors had been executed.
- (e.) Upon the further grounds appearing in an affidavit of the petitioner sworn on the 29th day of June, 1908.

25. That on the 4th day of July, 1908, His Honour Mr. Justice Edwards made an order extending the said caveat until further order of the Court, and reserving leave to any person interested to apply to discharge the said order.

26. That the executors of the said Wickham Flower thereupon applied to the Supreme Court to discharge the said order of the 4th day of July, 1908, in order to allow of the registration of a transfer from the said executors to the said Herrman Lewis, and the said application came before the Full Bench of the Supreme Court, consisting of His Honour the Chief Justice and their Honours Mr. Justice Williams, Mr. Justice Edwards, Mr. Justice Cooper, and Mr. Justice Chapman.

27. That the petitioner appeared by counsel to oppose the said application to discharge the order of the 4th day of July, 1908.

28. That on the 20th day of July, 1908, the Full Bench of the Supreme Court discharged the said order of the 4th day of July, 1908, on the ground that the only effect of extending the said caveat would be to encourage fruitless, frivolous, and unjustifiable litigation, and that the caveator could not possibly establish any interest in the land affected by the caveat.

29. That the judgments delivered by their Honours the Judges who heard the said application are reported in Vol. xi, "Gazette Law Reports," page 30 *et sequitur*.

30. That the said judgments were unanimous, and were based upon the following grounds:—

- (a.) That section 3 of the Mokau-Mohakatino Act, 1888, contemplates that the title to the Mokau-Mohakatino Block should be registered under the Land Transfer Act, and the said title was therefore properly registered thereunder.
- (b.) That all disputes between the petitioner and the said Wickham Flower were finally settled by the compromise of the action for slander of title brought by the petitioner in England against Flower and others, which compromise was embodied in an order of the King's Bench Division of the High Court of Justice, dated the 27th day of July, 1904.
- (c.) That the King's Bench Division of the High Court of Justice had jurisdiction to hear the said action for slander of title since the words complained of as conveying the slander were spoken in England.
- (d.) That even had the said King's Bench Division not had jurisdiction to hear the said action, the compromise of the said action would nevertheless be binding upon the petitioner.