referred to Kahu (*i.e.*, Kahutomokia), it was absolutely correct. ' It is, in our opinion, a very much more probable and reasonable assumption that such was the case than that Rangiwhetu committed perjury in such a barefaced manner. His evidence can in no particular relate to Te Kaho, who was a man, and died in 1879, while Te Kahu was a girl, and died in November, 1886, only a year before the order was made.

It is a leading principle of law that fraud is not to be presumed: it must be proved. To our minds it certainly is not proved in this case.

The Native Land Court twice refers to Te Raho as "she," whereas it is beyond doubt or dispute that Te Raho was a man. This again tends to show that Rangiwhetu's 1887 evidence could not refer to Te Raho, at all events.

There was a suggestion that, as Te Raho was admittedly a young child at the time, he would not have been awarded so many as thirty shares in the block. To this it is answered that Karere and Pipi, also minors, each received thirty shares. Rangimahu, a child of Rangiwhetu, also included in the grant, got also thirty shares, to which Rangiwhetu succeeded on the former's death. But not much importance can be attached to this point. Our diligent search and inquiry has failed to discover when or how these relative interests were defined, and we conclude that they were defined in the manner prescribed by section 15 of the West Coast Settlement Reserves Act 1881 Amendment Act, 1884, and that the record of the inquiry and definition has gone astray.

The Native Land Court was mistaken in saying that Te Raho was "put into the grant for thirty shares." No shares were fixed in the *grant*, but at some subsequent period, as we have said.

It was suggested by petitioners that Te Raho was not born in time to be included in the grant. The Native Land Court does not decide this, but expresses itself as somewhat doubtful. We have gone carefully into this question, and have come to the conclusion that Te Raho was born probably not later than 1880—possibly a year or two earlier. We do not place great reliance on the contradictory statements of the Native witnesses on the respective sides. Native statements as to dates, however honest they may be, are, as a rule, entirely unreliable. But the chief witness for the petitioners on this question, Tonga Awhikau, is clearly wrong both as the date of birth and as to the order in which the children of Te Raho's parents were born. The witness on the other side says the child preceding Raho was born in 1877, and this may be correct.

The Chief Judge, in his memorandum of the 15th September last to yourself, refers to succession order to Te Raho in 1914, pointing out that there were four children all shown as adults, and therefore Te Raho must have been more than a mere infant in 1882. But reference to the minutes shows that this order was wrongly drawn up. The minutes apparently show that three of the four children were minors in 1914, inasmuch as trustees were appointed for them, though no ages were given. The eldest child, Te Warena, was described as a male adult, in which case he would be born not later than 1893. But before us evidence was given on behalf of petitioners that Te Warena was now about twenty-three, and a certificate of baptism produced giving his birth as 15th July, 1900. This baptism did not take place till 30th April, 1910, and there is, of course, nothing to show how the date of birth was arrived at. A mistake might readily have occurred after so long a period since birth. The grandmother of Te Warena, Motuhanga, stated in her evidence that Te Warena was married before he went to the war, and is now married a second time. It certainly would not be a safe assumption on the evidence that Te Raho was not born in 1882, or even earlier. But he clearly was a young child.

This, however, does not affect the matter to any extent. It would be quite in accord with Maori ideas to include even a new-born child in the list of names of owners of a block of land. And Rangiwhetu certainly included another child of his—namely, Rangimahu. It is not at all improbable that Rangiwhetu, who is alleged by the Te Raho side to have been the person who took the most prominent part in settling the list of names, took advantage of the fact that Te Kaho was dead, and his family not represented, to leave them out, as well as others who might have had a claim to inclusion, and to give his own family an unduly large share—or he may have been moved by the grievance against Te Kaho previously referred to. All this, however, is mere surmise.

The petitioners' claim appears to rest entirely upon a series of assumptions. We are decidedly of opinion that they have not discharged the burden of proving that an error has been made in the names of the persons in the grant. It is possible that this has happened, but much more than that is needed. There is no actual proof of any kind. Short of that, it would be a most dangerous precedent to divest people of rights which have been asserted and acted upon, as in this case, for many years, and which on the face of the records belong to them.

The most that can be said in this case is that the petitioners *may* be right—certainly not that they *are* right. Their real grievance, if they have one, is not so much this alleged error in the names as the exclusion of Te Kaho from the title. On this question we are not called upon to express our opinion.

We therefore recommend that no action be taken in the direction of passing legislation to settle the identity of the person named "Te Raho" in Grant No. 3749 of Okahu Block.

We have, &c.,
CHAS. MACCORMICK, Judge.
W. E. RAWSON, Judge.

The Hon. Native Minister, Wellington.

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