

that the *take* to this land originated in a gift from the original owner Parore te Awha to Te Rikihana, the father of Wiremu Rikihana, in return for services rendered by Te Rikihana in some tribal dispute in which Parore had been engaged. The facts of the tribal dispute, and of the assistance given by Te Rikihana, and of the gift from Parore te Awha to Te Rikihana, are admitted by all parties. It is further admitted that Mikaera Urututu and twenty-one others were included in the title by Te Rikihana's son Wiremu (the petitioner) out of *aro*ha, though Rapata Katete in his more recent evidence says they were included through "*aro*ha and money." The Court is satisfied that if Mikaera Urututu or any of the others included in the title paid any money to Wiremu Rikihana at time of such inclusion the amounts paid were very small, and were almost certainly paid in respect of their shares of the survey charges. Such payments gave no *take* to the land.

The Court is attaching to this report a full copy of the evidence taken at Opononi on the 2nd May, 1925, together with extracts from evidence in previous cases containing admissions as to the gift from Parore te Awha to Wiremu Rikihana.

The Court is satisfied that the full evidence was not brought under the notice of the Appellate Court at the hearing of the appeal in December, 1913, otherwise it could not have been held that the right of Mikaera Urututu was ancestral, and that the next-of-kin were entitled.

The Court, for record purposes, will give the Court Minute-book references in this case:—

- (1.) Kaipara Minute-book 5, folios 109–10: Succession order *re* Parore te Awha (deceased) was made 26/2/1889 in favour of Wiremu Rikihana and twenty-two others, including Mikaera Urututu, but with shares undefined.
- (2.) Kaipara Minute-book 6, folio 78: Date, 18/1/1892. Partition order was made in favour of Wiremu Rikihana and twenty-two others in equal shares.
- (3.) Kaipara Minute-book 12, folio 157: Date, 15/10/1910. Partition of adjoining land, Opanaki 2k 2.

The Court, after referring to the presence of Mate Anania, Ngakuru Pene, Rapata Katete, Niheta Puti, and Haratiera Noa, goes on to say, "They state that the whole block was left to Rikihana by Parore te Awha's will, and that he could have retained the whole of it if he had wished, but had admitted all the others through *aro*ha." Yet in 1913 and 1925 Rapata Katete is the principal opponent of Wiremu Rikihana's claim. He claims for his client in 1913 through occupation or ancestry, and in 1925 through "*money*" only.

- (4.) Kaipara Minute-book 12, folios 290–93: Date, 31/10/1911. Succession to Mikaera Urututu. Copy of the evidence is attached and marked "A." It shows the important admissions of Wiremu Rikihana's right by Pouaka Parore, a grandson of Parore te Awha. With regard to the terms of the informal will of Parore te Awha, referred to in the minutes, the Court is satisfied that Parore drew up the list of twenty-three names for inclusion in this title at the request of Wiremu Rikihana, and that these names owe their inclusion in the informal will solely to Wiremu Rikihana.
- (5.) Kaipara Minute-book 13, folios 38–39: Date, 3/9/1912. The Court made a succession order in favour of the following names, submitted by Wiremu Rikihana: Wiremu Rikihana, 3 acres 2 roods 38 perches; Poroa Puhipi, 2 acres; Rakuera Topia, 2 acres 2 roods: total, 8 acres 38 perches.

The Court rejected the claim of Hipiriona Topia. It will be observed that the Court adopted the proportions as well as the names submitted by Wiremu Rikihana, thus indicating that it was Wiremu Rikihana who allowed the others to share with him.

- (6.) Auckland Appellate Court Minute-book 9, folios 273–74: Date, 22/12/1913. The Appellate Court on appeal awarded Hipiriona a one-fourth interest, and held that the next-of-kin to Mikaera Urututu were entitled to succeed. A copy of the decision is on the petition file.
- (7.) Petition 328 of 1922 lodged with Parliament, and referred to Court for inquiry and report: The block affected should be 2k 1, and not 2E 1, as shown in the schedule to the Act of 1923.
- (8.) Inquiry at Opononi, 2nd May, 1925, Hokianga Minute-book 5, folios 319–28. Full copy of the evidence taken is attached hereto and marked "B."
- (9.) There are no alienations affecting the interest of Mikaera Urututu in Opanaki 2k 1. Opanaki 2k 1 was partitioned on the 16th July, 1919, into 2k 1A for Hipiriona Titaha, and 2k 1B for the other successors to Mikaera Urututu. This partition order should be cancelled.

*Report.*—The Court begs to report—

- (1.) That the right of Mikaera Urututu in Opanaki 2k 1 was not ancestral or occupational.
- (2.) That the *take* to this land came through Wiremu Rikihana solely, by virtue of a gift to Wiremu Rikihana's father from one Parore te Awha, the original owner, for services rendered.
- (3.) That this gift has been admitted by all parties to be the *take* to this land.
- (4.) That Mikaera Urututu was put into the title by Wiremu Rikihana out of *aro*ha.
- (5.) And that, as Mikaera left no issue of the body, the interest should go back to the source from which it came—*i.e.*, to Wiremu Rikihana.

*Recommendation.*—The Court begs respectfully to recommend that legislation be passed cancelling any succession orders heretofore made either by the Native Land Court or by the Native Appellate Court in respect of Mikaera Urututu's interest in the Opanaki 2k 1 Block, and cancelling also any partition of the interest of the successors, and directing the Native Land Court to issue a succession order in favour either of Wiremu Rikihana solely or in favour of such persons and for such shares as the said Wiremu Rikihana shall in writing appoint.

F. O. V. ACHESON, Judge.