

1936.
NEW ZEALAND.

THE NATIVE PURPOSES ACT, 1935.

REPORT AND RECOMMENDATION ON PETITION No. 66, OF 1935, OF TE AUTA TE ROU NGATAI
RELATIVE TO THE SALE OF LOT 108B, PARISH OF TE PAPA.

Presented to Parliament in pursuance of the Provisions of Section 22 of the Native Purposes Act, 1935.

Native Land Court (Chief Judge's Office),
Wellington, C.1, 7th August, 1936.

The Right Hon. the NATIVE MINISTER, Wellington.

PETITION No. 66, OF 1935.—LOT 108B, PARISH OF TE PAPA.

PURSUANT to section 22 of the Native Purposes Act, 1935, I transmit herewith the report of the Court upon the above petition.

From the report it will be seen that the petitioner has, through the neglect of the Court and Maori Land Board, lost a quarter interest in Lot 108B, valued at £23 2s. The District Land Registrar has followed out the order of the Native Land Court, and the Maori Land Board has confirmed the dealing as being one by the registered proprietor. It is doubtful if, under the circumstances, the Land Transfer Assurance Fund would recognize any claim upon it. The amount involved is so small that it would probably be eaten up with the cost of legal proceedings.

It is recommended that the Crown consider the advisability of making a monetary grant to the petitioner to recoup her loss.

R. N. JONES, Chief Judge.

In the Native Land Court of New Zealand, Waiariki District.—In the matter of the Native Purposes Act, 1935, and of Petition No. 66, of 1935, respecting Lot 108B, Parish of Te Papa, referred to the Court for inquiry and report.

REPORT OF COURT.

At a sitting of the Court held at Tauranga on the 24th day of July, 1936, before Robert Noble Jones, Esquire, Chief Judge.

1. The land referred to in the petition was originally granted to Hori Ngatai and Renata Porori in trust for the Matewaitai hapu under the names of Lot 21 (containing 32 acres) and Lot 108 (containing 50 acres), Parish of Te Papa.

2. Pursuant to jurisdiction conferred upon it, the Court ascertained that there were thirty-eight owners, including one Pirihiira Hiria (then deceased).

3. As part of the proceedings the Court appointed Te Aomarama te Rehutai and Te Aota te Rou (the petitioner) as successors to Pirihiira Hiria (deceased) in equal shares.

4. The Court then proceeded to partition the land amongst the owners, awarding Lot 108B (containing 4 acres 1 rood 10 perches) to Mere Peka Paama and Pirihiira Enoka in equal shares. There is no doubt that Pirihiira Enoka was intended to be Pirihiira Hiria. The order was drawn up accordingly in favour of Mere Peka Paama and the two successors of Pirihiira Hiria.

5. An appeal was lodged against the partition on the ground that one party had been awarded the swamp portion of the land, and on the 5th June, 1918, a new partition took place. The swamp complained of was cut off and vested in all the owners as a reserve, and the good land was divided *pro rata*. In this way the area of Lot 108B was reduced to 3 acres 2 roods 29 perches, but the order as drawn up purported to be in favour of Mere Peka Paama and Pirihiira Enoka in equal shares.

6. For some reason the Clerk followed out the Judge's minute exactly, instead of putting the successors of Pirihiira Hiria into the title; the successors, Te Aomarama te Rehutai and Te Aota te Rou, appear correctly in the order for Lot 21A (the swamp portion).

7. On 14th October, 1919, Te Aomarama te Rehutai signed by mark a transfer of Pirihiira Enoka's share in Lot 108B under the name of Pirihiira Enoka, *alias* Te Aomarama Hirini, in the presence of J. M. Walker, Justice of the Peace, and George Moore, licensed interpreter, and the transfer was confirmed by the Waiariki Maori Land Board on 27th November, 1919. The minutes show that no question was raised as to the identity of the seller. The confirmation certificate was completed on 29th September, 1922.

8. The Government value was £75 for the whole section (108B), and the consideration paid for the half of it was £46 4s., half of which should have gone to the petitioner and the other half to Te Aomarama te Rehutai.

9. There is no chance of contesting the transfer, as the land has since passed to a third person for value. This Court had the original purchaser from the Native before it, and is satisfied that he was unaware of any irregularity in relation to the signature to the transfer, nor is it likely that Te Aomarama te Rehutai would have been found guilty of fraud or impersonation. She was actually entitled to one-half of the interest she sold. At any rate she is now dead, and there is no chance of recovering anything from her estate.

10. The consequence is that the petitioner has lost her land through no fault of her own. The whole trouble apparently arose—

- (1) Through the Judge of the Court entering the name of Pirihiira Enoka instead of Pirihiira Hiria in the Court minutes:
- (2) Through the Clerk of the Court perpetuating the error of the Court.
- (3) Through the Maori Land Board not using sufficient care to see that the transferor of the land was properly identified as being the person mentioned in the Court order, especially in view of the alternative names used by her. Inquiry would probably have disclosed the mistake before it was too late.

For the Court,

R. N. JONES, Chief Judge.

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