

## REPORT ON CASE No. XVIII.

COMPLAINT No. 25.—*Ex parte* AHIPENE TAMAITEMATE (*Orangitirohia*).

This complaint related to a piece of land at Wairoa, sold to Dr. Ormond, Resident Magistrate of the district. It is one of the terms of sale that a woman named Taraipine, one of the grantees, and her children, should have a personal right of occupation over four or five acres of the land conveyed. The transaction was inquired into and approved by Mr. Commissioner Turton, under the Fraudulent Sales Prevention Act. Taraipine is dead, and the question raised by her husband, the complainant, was as to the terms of the reservation. On referring to the registered copy of the deed of conveyance, we found that a memorandum had been appended, signed by Dr. Ormond, containing an agreement by him to allow Taraipine and her children to occupy, during their lives, the piece of land in question. The husband disputed this limitation of the interest, and claimed (we presume on behalf of the children of Taraipine) an absolute estate.

It appeared from Mr. Turton's evidence, that the question of the reserve had been raised and discussed by the natives, and that he had himself drafted the added memorandum, and, as he conceived, fully explained its effect to Taraipine, and also, separately, to her husband. The subject is one on which misunderstanding might easily arise; but under the circumstances, Taraipine herself being dead, we felt bound to suppose that the public officer entrusted with this particular duty had in the present case effectually performed it.

C. W. RICHMOND.

NOTE.—This Report is concurred in by Mr. Commissioner Maning.

## REPORT ON CASE No. XIX.

COMPLAINTS Nos. 27, 45, AND 171.—*Ex parte* PAORA TOROTORO, AND REWI HAUKORE (*Moteo or Omarunui, No. 1*).

The block in question on the Tutae-kuri, about ten miles from Napier, contains 3,573 acres, and was granted on 14th July, 1866, to the two complainants. This is another of the numerous class of cases in which a heavy debit balance on account-current with a storekeeper has been adjusted by the creditor purchasing the land, after having first for a short time held a mortgage over it.

Paora's complaint as originally presented, was as usual exceedingly vague, merely desiring inquiry into the terms of the sale, or, as he called it, the mortgage, by which he parted with the land to Mr. Sutton. Rewi complained that he had been promised £300 as his share of the purchase-money, but had received only goods and spirits. Subsequently, a new complaint was lodged by Paora, no doubt under the advice of Europeans, by which the validity of several transactions with Sutton respecting the land was formally impeached. On the hearing, however, Mr. Sheehan, who appeared as counsel for the complainants, stated that he was not instructed to impeach the title of the purchaser under Mr. Sutton. Our inquiry, therefore, became ultimately limited to an investigation of the state of the account-current of the complainants with Mr. Sutton.

It appears that Paora's account commenced in September, 1867, and at the end of the first year the Dr. balance did not much exceed £150; but in October, 1868, Paora applied to Mr. Sutton for advances to enable him to build and furnish a house. To secure these advances a mortgage was executed, dated 5th October, 1868. By March, 1869, the balance against Paora, in consequence of large cash advances made by Sutton, had increased to nearly £1,300. To adjust this balance, Paora agreed to sell Moteo to Sutton for £2,500. £1,200 was to be placed at once to Paora's credit in account; the remaining £1,300 was made payable by two instalments, viz., £300 on 1st April, 1869, and £1,000 on 16th March, 1870. Before the latter date the whole purchase-money had been absorbed by the account, Paora having spent, through Sutton, in round numbers, about £2,400 between October, 1868, and October, 1869.

We had the accounts examined by Mr. Witty; they seemed to have been fairly kept, with the exception of a charge against Paora of £100 for "interest and deeds." The reduction of this item, together with some other proper adjustments, would make a difference in Paora's favour of about £60, less the cost of the mortgage deed, with which (not with the cost of the conveyance) he is chargeable.

Paora's counsel was allowed to inspect Mr. Sutton's books; he challenged no particular item; he therefore did not require affirmative proof from Sutton of the items of an account now three or four years old.

As to Rewi Haukore, it was shown that he had received goods to the value of £231, which amount was debited to Paora's account, Paora having been credited with the whole purchase money of the block. Mr. Martyn Hamlin deposed, that Rewi asked for £300 as his share of the purchase money, and was told that he should have that sum if he could obtain Paora's consent to his receiving it. According to Mr. Hamlin, no absolute promise of £300 was made to Rewi. Rewi admitted that he had tried to get Paora to accompany him to Sutton's to arrange the amount of his share, but Paora either would not or could not come. It was plain that Rewi was quite subordinate in the grant to Paora, and considered himself bound by what Paora chose to do concerning the block. Small as was the proportion of the purchase money allotted to Rewi, it is larger than the share which he had received from Paul of the rent reserved on the previous lease of the property. The case is the common one of the inferior native submitting to his elder and chief.

Soon after the completion of Sutton's purchase he resold to Mr. Braithwaite, who held a lease of the block, for £3,000.