REPORT ON CASE No. XXIII.

COMPLAINTS NOS. 72, 83, 178, 217.—*Ex parte* HENARE TOMOANA, TE MEIHANA, HONE WHAREMAKO *(Hikutoto Block)*.

The Hikutoto block, now the site of the township of Clive, was in 1866 purchased by the Provincial Government of the three grantees, Karaitiana Takamoana, Karauria Pupu, and Manaena Tini Kirunga. Henare Tomoana (No. 72), the first named complainant, is half-brother to Karaitiana, and Te Meihana (No. 178) his brother of the whole blood. They complained that they had been omitted from the grant, and had received none of the purchase money of the block. It was fully proved that they both consented to the grant, and acquiesced in the sale. Neither appeared to have any personal ground of complaint whatever. The complaint of Hone Wharemako (No. 217) was to the same effect as that of the other complainants. Manaena Tini was called by Hone as a witness. Hone had asserted that the number of grantees had been limited to three *by the Court*. Manaena denied this, and stated that the limitation of the names to three had been the unanimous act of the natives themselves. This it seems to us should be a sufficient answer in cases of this kind to all native claims in respect of the land granted except claims against the grantees.

Complaint No. 83 had been made in the name of Karaitiana. Upon being called, he repudiated it, saying that his name had been used without his authority, and that the complaints in regard to Hikutoto were made against his advice.

C. W. RICHMOND.

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

REPORT ON CASE No. XXIV.

COMPLAINT NO. 111.—*Ex parte* TIAKI KAINGA, TIOPIRA TAPAHI *(Huramua, Nos. 2 and 3)*.

In this case the person affected by the complaint is a European named Carroll, who has been for many years settled at the Wairoa, where he married a sister of the old chief Rangimatai, and has brought up a family of half-caste children. He claims under two deeds of conveyance, one of each block. The consideration expressed in the deeds is £250; Carroll however declares that he has actually, in goods and money, paid much more than £400. The area of Huramua No. 2, is 187 acres, and of No. 3, 765 acres. It appeared that Carroll had been originally permitted to occupy the land by the old chief, now dead; and the present chief Maraki expressed himself desirous that he should be allowed to remain undisturbed. We did not particularly investigate the merits of the purchase, finding that no objection was made to it except upon a single ground of an exceptional nature. The two young men who were complainants were amongst the grantees of the block. They admitted that they had signed the conveyance, and had received goods and money in return. The objection they raised was, that the fee simple of both blocks is made inalienable by the grantees except with the previous consent of the Governor in writing, which had not been obtained.

On referring to the copy grants recorded at Napier, and bearing date 31st July, 1871, both blocks appeared to be, as stated, inalienable. But we found that the Judge of the Native Lands Court (Mr. Munroe) had intimated, when the blocks were passing the Court in 1868, that he should not recommend any restraint upon alienation. Carroll's dealings with the blocks took place upon the strength of this intimation (whether before or after the issue of the certificates did not appear) long before the issue of the crown grants. The conveyances bear date the 28th and 31st December, 1869.

On applying to the Chief Judge of the Native Lands Courts, we were informed that the restrictions were imposed by his recommendation upon the application of one of the complainants, Tiopira Tapahi, and of other natives; and that the Chief Judge was unaware that there had been any intermediate dealing with the block. [*See* Correspondence in Appendix]. Whether the Chief Judge (not being the judge who heard the original application) had any jurisdiction to make such a recommendation, and whether the grants issued in conformity therewith are valid, are legal questions on which we offer no opinion. But clearly Tiopira and the applicants were guilty of a fraud, and the grants ought not, in equity and good conscience, to be allowed to defeat Carroll's title.

Should it be thought proper to take any step to give Carroll a title, some inquiry should first be made into the equity of a claim to a piece of one of the blocks preferred by a European married to a native woman, one of the grantees. We had notice of such a claim, but too late to allow us to investigate it.

C. W. RICHMOND.

NOTE.—This Report is concurred in by Mr. Commissioner Maning. *See* his separate report on the case.
