

1947

## NEW ZEALAND

**REPORT AND RECOMMENDATION ON PETITION No. 75 OF 1946, OF  
RIRI PIKO, OF OTEWA, PRAYING THAT STATUTORY PROVISION  
MAY BE MADE AUTHORIZING AND DIRECTING THE NATIVE LAND  
COURT TO MAKE SUCCESSION ORDERS IN TERMS OF THE WILL  
OF KURA RAUMOA, DECEASED**

*Presented to Parliament in pursuance of the Provisions of Section 18 of the Native Purposes Act, 1946*

Native Land Court (Chief Judge's Office),  
P.O. Box 3006, Wellington C. 1, 29th July, 1947.

Memorandum for the Right Hon. the MINISTER OF MAORI AFFAIRS, Wellington.

PURSUANT to section 18 of the Native Purposes Act, 1946, I transmit to you the report of the Court on the claims and allegations contained in petition No. 75 of 1946, of Riri Piko, concerning the estate of Kura Raumoa, deceased.

The effect of the prayer of the petition is that an exception be made in the petitioner's case to the provision of the Native Land Act under which she is debarred, by reason of the fact that she is a European, from taking an interest in Native land under the will of the deceased.

The facts are fully set out in the Court's report, and in view of the terms of this report I have no recommendation to make.

D. G. B. MORISON, Chief Judge.

Memorandum for the Chief Judge, Wellington.

PETITION No. 75 OF 1946, OF RIRI PIKO, OF OTEWA, AND THE ESTATE OF KURA RAUMOA,  
DECEASED: SECTION 18, NATIVE PURPOSES ACT, 1946

THIS application for inquiry and report was heard at the sitting of the Native Land Court at New Plymouth on 29th January, 1947 (Tar. M.B. 56, p. 159/162).

The petitioner, who was present, was represented by Mr. P. H. Jones, Licensed Interpreter, First Grade, of Hawera.

Evidence was given by petitioner in support of the petition and also by Raumati Ngaropa, *alias* Honi Raumati, who was a contemporary of the deceased, Kura Raumoa, the foster-mother of the petitioner.

From the evidence before the Court the fact arises that the petitioner was the daughter of pakeha parents and was brought up as an infant by a relative of Kura Raumoa in Wellington. The mother of petitioner was apparently a European resident of Chatham Islands.

The Court was unable to ascertain the names of either parents of the petitioner.

On the death of the relative of Kura Raumoā, who had the child afterwards known as Riri Piko, the child was taken by Kura Raumoā to Waitara from Wellington, and brought up there together with another child, Rita Rattenbury, and these are the two children whose names are mentioned in the will of Kura Raumoā. Rita Rattenbury apparently had sufficient Maori blood to bring her within the definition of a Native.

Neither of these girls were legally adopted by testatrix.

The will, the subject of the petition, was drawn by the late Mr. John Damon, Licensed Interpreter, First Grade, Waitara, and he was also one of the witnesses to the execution of the will. The other witness was a Justice of the Peace, W. H. Nosworthy by name, residing at Waitara. Whether Damon was aware of the fact that Riri Piko, the petitioner, was a pakeha when the will was drawn by him was not disclosed, but he drew the Court's attention to the fact when probate of the will was applied for on the 5th November, 1928 (Tar. M.B. 41/85). The executrix named in the will was the petitioner, Riri Piko, but the Court granted letters of administration with will annexed to the Native Trustee. It is worthy of comment that the petition was not presented until after the demise of Damon, who died on 20th December, 1943, and he was the only person who could have given an explanation of the reasons for the will being drawn as it was.

The fact that the executrix and principal beneficiary under the will of Kura Raumoā, deceased, was a pakeha was known to the people at the tangi when Kura died. This is disclosed in the evidence of Raumati; and it was further stated by him that an arrangement was made by the relatives in New Zealand that the deceased's interests in lands in New Zealand should go to Riri Piko's children, the lands in the Chatham Islands to go to Reta Raumoā, the surviving brother of deceased.

This arrangement, however, was not given effect to, as when the application was made for succession to the lands of deceased, Mimi 23B and Subsection 19, Block I, Upper Waitara Survey District, the mother of deceased, Raiha te Awakapa, who was present at the tangi, and must have been aware of the arrangement mentioned by Raumati, claimed succession to Mimi 23B on the grounds that this interest had been a gift from her, and she asked the Court to grant a life interest to Rita Rattenbury, with remainder to herself (Tar. M.B. 42/356). This order was so made by the Court, and the Native Trustee appointed trustee for the life tenant, who was a minor.

The interest in Subsection 19, Block I, Upper Waitara Survey District, came from the father, Raumoā Pamariki, and from the whakapapa given by Raiha the Court made the succession order in favour of Reta Raumoā, Te Harawini Tamihana, Piki Taupai, Te Haina te Tupa, Ngarara Paraone, and Huriana Karipi in remainder, with a life interest to Rita Rattenbury, with the Native Trustee as trustee for the minor.

A similar order was made in respect to the Chatham Islands lands (Tar. M.B. 42/111). It was not disclosed at the hearing that Reta Raumoā was a full brother to Kura Raumoā and should have received all the interests coming from the father—see Tar. M.B. 7/177.

From the Native Land Court records it is ascertained that Kura Raumoā died on the 10th August, 1928. Letters of administration with will annexed were granted to the Native Trustee in respect of her estate on the 5th November, 1928. Succession orders to the lands in New Zealand were made on 5th August, 1929, and to the Chatham Island lands on 5th November, 1929.

The petitioner in her evidence states that she was born on the 1st November, 1909, and so would be nineteen years old, and married with three children when her foster-mother died. The Court cannot imagine that the provisions of section 173 of the Native Land Act, 1931 (formerly section 137 of the Native Land Act, 1909) were unknown to both testatrix and Mr. John Damon. The section had been in force since the 1st April,

1910. The will was dated the 6th August, 1928, some eighteen years after. Damon had long experience in Native Land Court practice, and it is most improbable that the section was unknown to him—it was certainly discussed at the tangi. Damon is the only witness who could have given an explanation, but he had passed on some years before petitioner presented her petition.

The Court has no recommendation to make in respect to the prayer of the petition. The law must be taken to be known, and it would not be in the interests of the Maori people to have such restrictions removed.

The Court is advised by the Native Trustee that the petitioner was entitled to a half-share in the personal estate of deceased, as the restrictions in the Native Land Act as to the alienation by will in favour of a European apply only to Native land. This half-share, which amounted to £135 17s. 5d., was duly paid to her by instalments over a period from September, 1929, to January, 1935.

The Court has ascertained that the extent of the lands of the deceased in New Zealand was not large, as she was interested in two blocks only, as enumerated as under:—

Mimi, Section 23B, sold by deceased in her lifetime. Value, approximately £92.

Deceased's interest was  $7\frac{1}{2}$  shares out of 57. Area, 55 acres 0 roods 29 perches. Subsection 1 of Section 19, Block I, Upper Waitara Survey District. Area, 102 acres 3 roods 10 perches. Capital value, £95. Leased for twenty-one years from 1st January, 1944, at £5 per annum. Interest of deceased was one-half, £47 10s. value.

[L.S.]

R. P. DYKES, Judge.

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