Ngatitawhaki, who appear to have been absent from the land for a generation or two. Their right must now rest upon their permanent occupation since they were invited to return, about seventy years ago. It is asserted that they were to some extent in a dependent position, but in the opinion of the Court this has not been proved. None of Ngatitawhaki were included as grantees: this is alleged by the fact that they were Hauhaus in 1867. As to occupation, the chief occupants of the land have been Ngatirangi; as also Ngatitawhaki, since they were invited to return.

We consider that those of Ngatirangi who can show descent from Paretapu and Whakapoi, the two children of Taha, have the best right. Ngatitawhaki, and those of Ngatirangi who are not from Taha, have a less right. The settling of the lists of owners, and the more precise definition of the relative interests, we leave until the Court have information as to who are the present representatives of the persons alive in 1867, who are claimed for by Teni and Te Rawhiti.

Te Rawhiti, in the course of his address to the Court at the conclusion of the case, suggested that no further names be put into the title, but that, instead, the land be made absolutely inalienable as a reserve for the occupation of the two hapus owning it. The Court cannot do this: the Order in Council empowers it to ascertain the owners, and this must be done.

MATAMATA NORTH.

Decision given by the Native Appellate Court on the 9th May, 1907.

This case presents a rather peculiar appearance, inasmuch as there are four appeals and no respondents, and it would seem that none of the parties are satisfied with the decision of the lower Court. The chief points of the appeals are:—

1. The definition of the term "trustee."
2. The claim by Ngatitawhaki that they should be placed on the same footing as Ngatirangi.
3. The claim by the descendants of Mataroa and Kupenga that their relative interests, which are set down at 1s. 8d. per share, should be increased.

As to the first point: It appears from the judgment of the Court below (in 1905) that all the parties admitted that "the grantees were trustees for themselves and others." It does not seem necessary, therefore, to say more than that we see no reason for dissenting from the decision.

The next point is the position of Ngatitawhaki and Ngatirangi. We find that the two hapu are of the same stock, and at one time were regarded as one people. It has been alleged that Ngatitawhaki were expelled from Matamata and lived for a considerable time at Maungatautari, but in the history of these lands as given in the early records of the Native Land Court in this district we find no evidence of this expulsion, and we are of opinion that Ngatitawhaki, though they may have been absent for a time, were never driven away from Matamata, and consequently did not forfeit their right in any degree. As to Remana Nutana's clients—*i.e.*, Ngatiraurangi—we do not consider that they possessed ancestral right; but there is no question of their long indisturbed occupation under a gift of some sort, and this Court is of the opinion that they are entitled to a slightly better position than that given them by the Court below. In fact, we consider that, considering the occupation of all parties in this block, there is not such a wide difference as that some of the owners should be entitled to two shares while others were only awarded one-eighth of a share. We have decided therefore to level up to some extent. The decision of the Native Land Court will be varied, as to the relative interests, by increasing all the one-eighth shares to one-fourth shares, and the one shares to two shares—that is, bringing Ngatitawhaki up to the level of Ngatirangi.

We do not consider that any reason has been shown for adding any names to those already in the list.

Judgment, 14th November, 1911.

Appeal by W. G. Nicholls and others against the decision of the Native Land Court dated the 28th day of May, 1907, defining the relative interests of and repartitioning Whangorau Block.—In this case the principal ground of appeal is that the lower Court ignored an alleged ancestral boundary between Ngatitawhaki and Ngatirangi. The latter were alleged to have owned the land north of this boundary, while Ngatitawhaki owned that to the south. We have gone very carefully into all the references quoted by Mr. Moresby, counsel for the appellants. They refer to proceedings that took place before the Native Land Court, the Native Appellate Court, and a Royal Commission. The evidence as to the existence of this alleged boundary is not sufficiently satisfactory to justify us holding that the decision of the Native Land Court was wrong. The Natives themselves appeared to have ignored this boundary (if it ever existed), for both tribes have received lands on each side of it, and the past decision of the lower Court in awarding the lands in this way was at the instance of the Natives themselves. It is the duty of the appellants to show that the decision arrived at by the Native Land Court is wrong. Therefore the onus of proof is upon them of showing that this boundary was laid down and recognized by each tribe. We have not had clear proof that this boundary was laid down, but if it was, then it is clear from the papatupu decisions in respect of the different blocks of land through which the boundary runs, that the Court did not act upon it nor were they asked to do so by the Natives, who obtained their orders upon an original investigation. The other grounds of appeal were not insisted upon, and the appellants have failed to prove to us that the decision appealed from was wrong.

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