

of claim which upholds the right of all the permanent occupiers is the correct one. Of course, both these assumptions are capable of being rebutted by evidence to the contrary. The Appellate Court does not appear to have acted on either of them, for it took it for granted, without calling for any proper proof as to how he came into possession of it, that Keteiwi was the ancestral owner of Waiparapara, and further, as a consequence, that the Wh'a Kaipakihi not descendants of Rerekohu who it was admitted had permanently occupied were there without right.

Taking all the facts into consideration, therefore, it seems to this Court that there is some doubt as to the correctness of the Appellate Court's decision, and that a further inquiry should be held by a competent tribunal to ascertain whether or not a mistake had been made, and, if one had been made, to rectify it.

(2.) *Petition No. 265 of 1922, by Horomona Teo Paipa and Others.*

This petition relates to a claim for a small piece of land under an alleged gift from Maroro, one of the Wh'a Kaipakihi ancestors, to Mahutahiterangi, the ancestor of the petitioners. The boundaries of the gift were not specified in the evidence in support of the claim given in the Native Land Court, but it was stated to be at Waiparapara, and was asserted to comprise an area of about 20 acres. The Native Land Court dismissed the claim, on the ground, it would seem, of want of occupation, and the Native Appellate Court, in supporting the decision of the lower Court, reviewed the evidence fully and gave a very exhaustive judgment in the matter. It decided that the gift was not an absolute one, and that any occupation the descendants of Mahutahiterangi might have had on the land was through intermarriages. Nothing was brought before the Court at this inquiry to lead to the conclusion that this decision was in any way wrong. It agrees with the conclusions of the Appellate Court that the occupation of the descendants of Mahutahiterangi on the land was attributable to other sources than the gift by Maroro.

One peculiar feature about the decision is that the Appellate Court remarked, with regard to this alleged gift by Maroro to Mahutahiterangi, "The Court is of opinion that an allotment appears to have been made to Mahutahiterangi, but it was not intended to be an absolute one, nor was it looked upon as such during the early generations."

It subsequently held in the same decision that Waiparapara belonged to Keteiwi. One naturally asks how, therefore, Maroro came to have authority to make the alleged allotment, seeing he was not a descendant of Keteiwi, but descended from a common ancestor, Tamateakuhakauri, through a collateral line and lived some two generations after him.

The Court has referred to Maungatio in this report for the purpose of illustrating the apparent inconsistency in the treatment of the two pieces by the Appellate Court. In the case of Maungatio, the evidence as to the occupation by the descendants of Rerekohu was much fuller and contained much more detail, and was probably just as circumstantial and reliable, as that affecting Waiparapara. Yet the Appellate Court in the case of Maungatio admitted the rights of the pure Wh'a Kaipakihi, while in the case of Waiparapara it rejected them.

JAS. W. BROWNE, Judge.

The Chief Judge, Native Department, Wellington.

*Approximate Cost of Paper.*—Preparation, not given; printing (475 copies), £4 7s. 6d.

By Authority: W. A. G. SKINNER, Government Printer, Wellington.—1924.

Price 3d.]