

1925.

NEW ZEALAND.

NATIVE LAND AMENDMENT AND NATIVE LAND CLAIMS ADJUSTMENT ACT, 1924.

REPORT AND RECOMMENDATION ON PETITION No. 19 OF 1921, OF MERE HAPE AND OTHERS,
RELATIVE TO RAKAUKAKA BLOCK.

*Presented to Parliament in pursuance of Section 45 of the Native Land Amendment and Native Land
Claims Adjustment Act, 1924.*

Native Department, Wellington, 29th June, 1925.

Petition No. 19 of 1921.—Re Rakaukaka Block.

ENCLOSED herewith is the report of the Native Land Court herein, pursuant to section 45 of the Native Land Amendment and Native Land Claims Adjustment Act, 1924. In view of that report, I recommend that no further action be taken.

R. N. JONES, Chief Judge.

The Hon. the Native Minister, Wellington.

Native Land Court and Tairāwhiti District,
Maori Land Board Office, Gisborne, 28th May, 1925.

The Chief Judge, Native Land Court, Wellington.

Rakaukaka.—Petition 19/1921 (Mere Hape).

YOUR reference, under section 45, Act 1924, No. 45, of the above matter came before the Court sitting at Gisborne on the 18th day of December, 1924, when petitioners and owners in title were represented by Messrs. Pitt and Cooper respectively.

The Court begs to report that the title to this block is a grant under the Poverty Bay Grants Act, 1869, in favour of Pimia Aata and Mere Hari, issued pursuant to an award by a Commission consisting of Judges Rogan and Munro, which sat at Gisborne in the year 1869 to hear claims to various portions of the ceded area in the Poverty Bay district, over the greater part of which the Crown had relinquished its rights in favour of loyal Natives. The claims to Rakaukaka came before the Commission on the 22nd July, 1869, when cases were set up by (1) Pimia Aata (p. 191), (2) Henare Turangi (p. 192), (3) Hoani te Haraki (p. 195). Pimia Aata's claim was based on occupation and descent from Te Raatu through her mother Amiria Tipoki, whose brothers had surrendered their claims in favour of herself and her sister Meri Hari. Te Raatu's right was practically undisputed. The claims of Henare Turangi and Hoani te Haraki occupied the Commission three days, and they were awarded an area of 108 acres, which was cut off and called "Poroporo."

Mr. Graham, for Pimia Aata, then applied for an award in favour of his clients, stating that, besides their rights of descent, they rested a more special claim upon an arrangement made that they should be accounted the sole proprietors of this block, being excluded from any share in Kaimoe (Patutahi) and other tribal lands. It would appear that this arrangement referred to by Mr. Graham was a deed of gift from Tamati Rangituawaru and others in favour of Amiria Tipoki and her daughters. The evidence of a Mr. Goldsmith shows that he had attended a Native meeting at Patutahi, when the gift was discussed and the boundaries arranged; that the gift appeared to him to have been well understood by the meeting; that there was not a dissentient voice, and all seemed pleased with the arrangement; that the gift was an absolute one, and that no trust was expressed. It was remarked at this meeting, when it was seen on going around the boundaries that a large area was being given up, that Pimia ought not to ask for Patutahi also.

Te Teira Whakangaro was the principal objector to the application put forward by Mr. Graham, and claimed descent from Te Ika, the father of Te Raatu. The gift was also objected to and denied by others, and it was alleged that the gift was upon trust only, as certain of those interested were Hauhaus, and it was thought that they might thus evade the confiscatory eye of the Crown agents and so preserve their rights in the land by being represented by their relatives who were loyalists.

The objectors were heard at length, and the reserved judgment of the Commissioners was in favour of Hariata Wahapeka, Amiria Tipoki, and Hoera Kapuaroa, as the only surviving representatives of Te Raatu. A few days later the Commission was informed that Hariata had written to state that she desired to withdraw in favour of Pimia Aata and Mere Hari, and that a similar desire was expressed by Amiria Tipoki and Hoera Kapuaroa. On the Commission being satisfied on these points the award was amended to accord therewith.

When this inquiry was called on, several parties claimed to be allowed to set up cases and desired to be heard, but the Court ruled that the only parties before it were the petitioners and the present owners in title. The proceedings of the Commission were given full publicity, and it can be safely assumed that all the parties then claiming an interest in this block were present or represented. From the *résumé* of the proceedings (as given above) it will be seen that the Commissioners ignored the claims under the deed, and found in favour of certain descendants of Te Raatu.

The allegation of the petitioners is that they were omitted from the title through fraud, and that the persons to whom the land was awarded were trustees only. The Court has carefully read the minutes of the 1869 hearing, and had heard the arguments adduced on behalf of the petitioners, and can find nothing to prove the allegation of fraud.

The claimant set up an ancestral claim under Te Raatu, and a gift by certain others who were possibly interested. The ancestral claim was upheld by the Commission, and the claimant was successful in obtaining a renoucement by those found entitled in favour of herself and her sister. The two grantees went into possession, and an extract from the Deeds Register will show that under a certain lease (No. 14861) affecting Rakaukaka and other blocks the rights of the grantees to receive the Rakaukaka rents were preserved to them by the colessors. Mere Hari predeceased her sister Pimia Aata, who died in 1923. The present owners, by virtue of a deed of settlement, registered No. 6024, are the children and grandchildren of the former, and are Europeans as defined by the Native Land Acts.

No explanation was tendered as to why the petitioners have laid dormant for fifty-two years before taking action. It would appear that they allowed the grantees to collect the rents, mortgage the freehold since 1871, and only awoke from their slumbers in 1921, when Pimia Aata was almost on her death-bed and unable to defend herself from the charges of fraud as now alleged.

The Court is of opinion that the petitioners are not entitled to the relief sought, on the grounds that—(1) The allegations of fraud have not been substantiated; (2) their silence for over fifty-two years is an acquiescence on their part of the rights of the grantees; (3) the land is now European land.

For the Court,
H. CARR, Judge.

RAKAUKAKA (1,563 acres).

Index, Search of Deeds Register at Gisborne.

No.	Receipt of Instrument.	Nature of Instrument.	Parties.	Date of Instrument.	Where recorded.
5894	21/3/71	Crown grant	Pimia Aata and Mere Hari (grantees), Poverty Bay Grants Act, 1869	9/1/71	I.C.G. 9.
6024	1/6/71	Deed of settlement	Pimia Aata and Hirini Takataka (first part), Mere Hari and Adolphus Frederick Hardy (second part), Charles Westrupp and James Benjamin Poynter (third part)	1/4/71	4 D. 182.
14861	19-4-81	Lease	Hoani te Haraka (Honi Karaka), Eharaima te Kura, Noa Whakatere, Hape Kinihia, Mere Karaka, Hinare Turangi, Rapata Whakaputura, Paora Kawenea, Miriama Kohukohu, Matiaha te Aōri, Wiremu Matiaha, Huhoua te Manautia, Karoaaima Paipai, Hemaema Tangirere, Wiremu te Kotenei, Mere Tipuna, Kaharutia Rukopu, Rota Whakaatere, Hamiora Taka, Ahipene Turangi, Ripperata Kahutia, Eruera Moanahia, Te Waaka Perahuka, Ereotara Ranguohaitiri, Hine te Haraka, Hone Ruru, Harete Kineha, Hemi Potopoto, Tamiana Ruotohu, Te Wiremu Kereaha, and Apenika Hokeke of the one part (lessors), and Henry Harris, Pimia Aata, and Mere Hari of the one part also (lessors), and the said Henry Harris of the other part (lessee)	13/8/69	5 D. 821.
16018	25/5/82	Surrender of lease 14861	Charles Westrupp and James Benjamin Poynter (lessors), and John Clark (lessee)	28/4/82	5 D. 151.
16019	25/5/82	Lease	Charles Westrupp and James Benjamin Poynter to Charles (John ?) Clark	28/4/82	5 D. 152.
17032	19/6/83	Mortgage	John Clark (mortgagor) to Dugald Ferguson, Alexander McKenzie, John Ferguson, and John Edward Espie (mortgagees)	7/6/83	5 D. 167.
17033	19/6/83	Assignment of mortgage	Dugald Ferguson to Alexander McKenzie and John Ferguson	12/6/83	8 D. 169.
21312	23/3/87	Mortgage	John Clark to Northern Investment Company of New Zealand (Limited)	4/3/87	5 D. 181.
21427	27/4/87	Assignment of lease	John Clark to Bank of New Zealand	7/4/87	5 D. 185.

RAKAUKAKA (1,563 acres)—*continued.**Index, Search of Deeds Register at Gisborne—continued.*

No.	Receipt of Instrument.	Nature of Instrument.	Parties.	Date of Instrument.	Where recorded.
23618	15/7/89	Mortgage	Andrew Graham (as partner of John Clark) to Assets Company (Limited)	15/6/89	5 D. 188.
24617	2/8/90	Release	Assets Company to Clark, John	24/2/90	1 D. 247.
27028	22/7/93	Order	(<i>Re Westrupp v. Clark, J.</i>)	16/6/93	5 D. 299.
29970	13/2/97	Mortgage freehold ..	Edward Francis Harris and John Coleman (first part) appointed trustees by Court Order 6131; John Henry Glyn (other part)	26/9/93	6 D. 872.
29971	13/2/97	Lease	John Henry Glyn (first part), John Coleman and Edward Francis Harris (second part), Kate Yorke Hardy (third part), John Clark (fourth part)	9/1/97	6 D. 874.
30249	28/10/99	Mortgage freehold ..	Kate Yorke Hardy to John Thomas Evans ..	27/9/99	7 D. 872.
30296	26/4/00	Mortgage freehold ..	Kate Yorke Hardy to John Thomas Evans ..	31/3/00	7 D. 936.
31004	26/11/09	Assignment of 29970 ..	John Henry Glyn (first part), John Coleman (second part), Susanna Martinear Bradley, Esther Bradley, Mary Moorehead Bradley, Alexander Charters Bradley, Jane McRoberts Bradley, Blanche Howard Bradley, and John Alexander Grattan Bradley (third part)	6/10/09	9 D. 315.
31129	3/11/11	Assignment of 30249 and 30296	John Thomas Evans to Thomas James Dickson	20/10/04	10 D. 10.
31130	3/11/11	Probate	Thomas James Dickson (deceased) to John Moore Dickson and Emma Margaret Chrisp	21/12/06	10 D. 13.
31131	3/11/11	Release of 30249 ..	Dickson and another to Kate Yorke Hardy ..	24/11/11	10 D. 17.
31132	3/11/11	Release of 30296 ..	Dickson and another to Kate Yorke Hardy ..	24/10/11	10 D. 18.
31145	22/1/12	Lease (of part) ..	Bradleys and John Coleman to John Clark ..	13/10/11	10 D. 32.
31157	9/2/12	Lease (of part) ..	Bradleys and John Coleman to Mary Jane Hardy	1/12/11	10 D. 45.
31366	18/11/14	Letters of administration	Susanna Martinear Bradley (deceased) to Blanche Howard Bradley	18/9/14	10 D. 360.
31386	20/5/15	Assignment of 29970 ..	Bradleys and John Coleman to H. G. Wellborne	13/5/15	10 D. 392.
31552	20/2/18	Assignment of 31145 ..	John Clark to William Clark and William Clark and E. M. Reynolds	6/2/18	11 D. 63.
31684	22/5/20	Mortgage	Kate Yorke Hardy Gibson to John Moore Dickson and Emma Margaret Chrisp	14/5/20	12 D. 34.
31772	14/12/20	Mortgage	Mary Hardy to John Moore Dickson and Emma Margaret Chrisp	7/12/20	12 D. 158.
31816	29/6/21	Deed of appointment ..	McRae and Coleman to A. G. Beere ..	9/6/21	12 D. 224.
31877	20/7/23	Discharge of mortgage 29970	Glyn and others to Bradleys and Wallom ..	17/7/22	12 D. 326.
31895	4/12/22	Appointment	A. McRae Coleman and W. S. Coleman, A. G. Beere, Mary Hardy, A. G. Beere, K. Y. H. Gibson and Mary Hardy, Pimia Aata, J. M. Dickson, and E. M. Chrisp (appointing A. G. Beere and Mary Hardy trustees under deed of settlement dated 1/4/71)	1/8/22	12 D. 357.
31955	25/7/23	Lease (of part) ..	A. G. Beere and M. Hardy, J. M. Dickson and E. M. Chrisp, K. Y. H. Gibson and M. Hardy, to William Clark	2/8/22	12 D. 467.
31956	25/7/23	Lease (balance) ..	A. G. Beere and M. Hardy, J. M. Dickson and E. M. Chrisp, K. Y. H. Gibson and M. Hardy, to John Machell	2/8/22	12 D. 471.

EXTRACTS FROM RECITALS OF LEASE NO. 14861.

Natives, of the one part (the same being hereinafter called the said lessors), and Henry Harris, of Poverty Bay aforesaid, gentleman, of the other part, and Pimia Aata and Mere Hari, half-castes, of Poverty Bay aforesaid, of the one part (and also hereinafter called the said lessors), and the said Henry Harris, of Poverty Bay, of the other part.

“And the said lessors do and each of them doth hereby authorize and empower Pimia Aata and Meri Hari and the survivors and survivor of them to take and receive all rent payable under this demise for Rakaukaka only.”

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RECORDS OF THE HOUSE OF REPRESENTATIVES

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