

1928.  
NEW ZEALAND.

NATIVE LAND AMENDMENT AND NATIVE LAND CLAIMS  
ADJUSTMENT ACT, 1927.

REPORT AND RECOMMENDATION ON PETITION No. 291 OF 1927 OF EMARE PORAUAMATI AND  
OTHERS RELATIVE TO UTUHINA BLOCK.

*Presented to Parliament in pursuance of the Provisions of Section 63 of the Native Land Amendment  
and Native Land Claims Adjustment Act, 1927.*

Native Department, Wellington, 24th September, 1928.

*Petition No. 291 of 1927.—Utuhina 3d 4 3f Blocks.*

PURSUANT to section 63 of the Native Land Amendment and Native Land Claims Adjustment Act, 1927, I herewith forward report by the Native Land Court.

I recommend that jurisdiction be given to the Court to inquire and determine if any persons other than the present owners should be admitted into the title, with power to include any so found.

R. N. JONES, Chief Judge.

The Right Hon. the Native Minister, Wellington.

In the matter of the Utuhina Block and of the petition No. 291/1927 by Emare Poraumati and others: and in the matter of a reference under section 63 of the Native Land Amendment and Native Land Claims Adjustment Act, 1927, of such petition to the Native Land Court for inquiry and report.

SIR,—

Native Land Court, Rotorua, 20th April, 1928.

Upon the above reference I have to report as follows:—

The inquiry was held in open Court at Rotorua on the 19th March last and following day. The petitioners were represented by Wi Karena Wi Hapi. Ruihi Ratema, one of the owners of one of the portions of the land affected by the petition, also appeared before the Court, but she did not oppose the petition.

At the outset the conductor for the petitioners stated that the petition affected only Utuhina No. 3D and 3F Blocks. Particulars of the titles to these two blocks are as under:—

*Utuhina No. 3d.*

Area: 1 acre 2 roods 30 perches. Title: Partition order dated 19th December, 1914. Owners: Mere Ratema (f.) and Ruihi Ratema (f.), equally. Block is surveyed and partition order signed, but not registered in Land Transfer Office. No alienation.

*Utuhina No. 3f.*

(Divided into Nos. 3F No. 1, 2, and 3.)

*Utuhina No. 3f No. 1.*—Area : 1 acre 1 rood 1 perch. Title : Partition order dated 17th August, 1922. Owners : Akapita te Rangitahi (m.) and Toma te Rangitahi (m.), equally. This block has been sold to one Hampson.

*Utuhina No. 3f No. 2.*—Area : 3 roods 1 perch. Title : Partition order dated 17th August, 1922. Owners : Pirimi te Rangitahi (m.) and Roka te Rangitahi (f.), equally. Block is surveyed and partition order signed, but not registered in Land Transfer Office. No alienation.

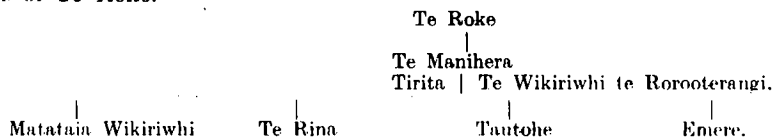
*Utuhina No. 3f No. 3.*—Area : 1 acre 3 roods 3 perches. Title : Partition order dated 17th August, 1922 (P.R. 382/215). Owners : Taiapua te Rangitahi (m.) and Francis Moss Boord (by purchase) (m.). Taiapua te Rangitahi has sold to one Hampson (block now owned by Europeans).

It will thus be seen that, of the area of 5 acres 1 rood 35 perches affected by the petition, 3 acres and 4 perches has been sold to Europeans, leaving an area of 2 acres 1 rood 31 perches, which is now comprised in *Utuhina No. 3D* and *No. 3F No. 2.*

The petitioners claim inclusion in the two blocks already enumerated, and contend that both the decisions of the Native Land Court and Native Appellate Court are wrong, and that in consequence they were unjustly treated.

A brief *résumé* of the case before the Native Land Court is as follows :—

On the investigation of the title to *Utuhina Block*, Ratema te Awekotuku laid claim to a part of the block. Boundaries of the part were given. His statement at the opening of the case was as follows : “The persons for whom I am claiming are Te Rina Ratema Wikiriwhi, Tautohe Wikiriwhi, Emere Wikiriwhi, and their children, and no others.” I am claiming this particular portion for the descendants of Te Roke.



The Native Land Court went fully into the case, which extended over a very long period, and regarding this claim gave the following decision :—

“*Ratema te Awekotuku's Claim : Judge Brown's Decision.*—Ratema te Awekotuku claimed on behalf of his wife and her sisters. It is, the Court thinks, clear that Tirita, the mother of the claimants, cultivated on the land for a time, probably by permission ; and there is also this fact : that the claimants themselves have, without opposition, erected a house there, in which they are now living. In the Court's opinion, therefore, these claimants have established their right to an interest in the block, the extent of which will be hereafter defined.”

The shares awarded to Ratema's claim were four out of a total of ninety-four. The list for the above four shares was handed into Court, and read, and passed without objectors, on the 23rd December, 1913. It comprised two names only—Ruihi Ratema (2 shares), Mere Ratema (2 shares). These were children of Te Rina Wikiriwhi, the wife of Ratema te Awekotuku.

Throughout the whole of the Court's minutes I can find nothing to show why the other descendants of Tirita—viz., Matataia Wikiriwhi, Tautohe Wikiriwhi, and Emere Wikiriwhi—were omitted from the list handed into Court. It is to be noted that Tautohe Wikiriwhi died, without issue, between the conclusion of the hearing of the case and the pronouncement of the Court's decision.

From the decision of the Native Land Court Te Rina R. te Awekotuku (Te Rina Wikiriwhi) and one of the children of Matataia Wikiriwhi, Rewi Wikiriwhi, appealed. The grounds of appeal were substantially that they did not receive a large enough award. This appeal was dismissed by the Native Appellate Court in the following decision :—

“The appeal of Te Rina Awekotuku, while generally supporting the decision of the lower Court, contends that the award to appellants should have been greater, and, in particular, that their rights are at least equal to that of the family of Pirimi Mataiawhea. It appears to us that the occupation is purely modern, and that these appellants have only a very small right. It appears probable from Tautohe's evidence that the house on the land was erected for Ratema te Awekotuku, Te Rina's husband. The Court would need very strong grounds for varying the decision of the lower Court as to its award of shares, and these do not seem to us to be forthcoming. The evidence does not appear to us to prove the right of appellants to be equa' to that of Pirimi. It is possible that the latter's right has been overestimated ; but, even if it be so, it is not the appellants who have suffered. The appeal is dismissed.”

It will be seen that the Appellate Court considered that the descendants of Tirita had “only a very small right.” From the date of the Appellate Court's decision on the 9th November, 1914, the petitioners have remained silent.

The petitioners have sought to prove—as they did before the Appellate Court—that the award to Pirimi Mataiawhea's case was too great, and that they were detrimentally affected by such award. The evidence which was given before me does not carry the matter any further, and cannot possibly be compared to that given at the investigation of title to the block. I cannot see that the petitioners are entitled to any relief in so far as the area of the award to the descendants of Tirita is concerned. Their case was in the competent hands of Ratema te Awekotuku, and he failed to convince the Court that they were entitled to a larger award than four shares. Later, before the Appellate Court, Mr. Hampson again failed to obtain an increased award.

I have endeavoured to find out how it was that of the four children of Tiritā only two children of one of them were included in the list submitted to and passed by the Court. It is clear that the Court was satisfied that the descendants of Tiritā were entitled to an award of four shares, yet we find only two grandchildren included in the list. On this point I can obtain no definite information, but I am informed that it was by way of a family arrangement that Te Rina's children alone were included. This is somewhat borne out by the evidence of Ruihi Ratema—*i.e.*, "Ani (Matataia Wikiriwhi) was a consenting party to my sister's names being put in for Te Rina's piece."

An answer to the clauses in the petition is as follows:—

Clause 1: The delay between the closing of the hearing before the Native Land Court and the pronouncement of the Court's decision can have no effect on the claim by the children of Tiritā.

Clause 2: The house alluded to was undoubtedly erected by Pirimi Mataiawhea, and not by Tautohe Wikiriwhi, but it was willed by Pirimi to her.

Clause 3: The Native Appellate Court held to the contrary.

Clauses 4, 5, and 6: There can be no question but that all the children of Tiritā were entitled to share in the award to her.

For your information a copy of my minutes taken on the inquiry are enclosed, as is also the reference. I should be pleased to receive an acknowledgement of the receipt of this report.

Yours faithfully,

A. G. HOLLAND, Judge.

The Chief Judge, Native Land Court, Wellington.

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