

1928.
NEW ZEALAND.

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

REPORT AND RECOMMENDATION ON PETITION No. 53 OF 1927, OF TE HINA TE TUA AND OTHERS, AND PETITION No. 62 OF 1927, OF TE HUNA PAEWAI AND OTHERS, RELATIVE TO KAUANGAROA No. 3 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, 26th September, 1928.

Petitions Nos. 53 and 62 of 1927.—Kauangaroa No. 3.

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

I recommend that legislation be passed authorizing the Court to rectify the title of Kauangaroa 3E by admitting thereto the rightful owners and reducing the interests of the present holders. As a matter of sentiment it may be wise to allow these to remain in the title.

R. N. JONES, Chief Judge.

The Right Hon. the Native Minister, Wellington.

Office of the Aotea District Maori Land Board,
Wanganui, 9th March, 1928.

Memorandum for the Chief Judge, Native Land Court, Wellington.

Kauangaroa No. 3.

I HAVE the honour to inform you that at a sitting at Wanganui on the 2nd instant and following days the Court held the inquiry directed by you, in pursuance of section 63 of the Native Land Amendment and Native Land Claims Adjustment Act, 1927, into the claims and allegations made by the petitioners in the undermentioned petitions, viz. :—

- (1) Petition No. 53 of 1927, of Te Hina te Tua and eight others, praying for a rehearing in connection with Kauangaroa 3F, 3C, and 3E Blocks.
- (2) Petition No. 62 of 1927, by Te Huna Paewai and others. Petitioners claim to be the lawful descendants of the deceased owners in Kauangaroa No. 3, and pray for inclusion in the title, and that certain persons now residing on the block be excluded therefrom.

The petitioners in both cases are practically the same persons, but as each petition referred to a separate and distinct matter the Court decided to hold a separate inquiry as regards each.

Petition No. 53 was taken first. This petition affects three partitions of the Kauangaroa No. 3 Block—viz., 3F, 3C, and 3E—but the petitioners stated, through their representative, that the evidence on the inquiry would be confined to 3E alone.

Mr. Jack, of the firm of Currie and Jack, appeared for the petitioners, and Mr. Tustin for those opposing the petition.

The title to Kauangaroa No. 3 was investigated by the Native Land Court (Judge Jack presiding) on the 12th June, 1913, and freehold orders made as follows: 3A (*urupa*), 1 rood; 3B (*urupa*), 1 rood; 3C (*urupa*), 1 acre; 3D (*urupa*), 1 acre; 3E, 50 acres; 3F (*marae*), 2 acres; 3G, 233 acres 1 rood 30

perches: total, 287 acres 3 roods 30 perches. 3E, containing 50 acres, was awarded, in pursuance of a gift, to three strangers—viz., two Ringatu ministers (Ruka Poniwahia and Ehau Anaha) and Rina Ruka, the wife of Ruka Poniwahia, in equal shares

It is to this award that the petitioners object. The matter of the gift was first mentioned in Court at the commencement of the investigation on 28th August, 1912, and the minutes relating to it are as follows:—

“ERUERA TE KAHU (Wg. M.B. 63, pp. 221-22): There are three names not under Tamatapu who were to get portion of the land under arrangement with our parents for their life, but we wish them included as absolute owners—Ruka Poniwahia, Rina Ruka, and Ehua Ana are their names. Have arranged the portion for these three is to be part of land I have already fenced. Marked red on sketch handed in. This has been agreed to unanimously.”

“List of names handed in pauied, also three names not under ancestor. Objectors challenged: Nil. List passed.”

The shares at this time were not defined, and the hearing was adjourned to a future sitting. The matter came before the Court again on the 7th June, 1913, when the list of names was handed in for the 50-acre piece the subject of the gift. The following is the minute (Wh. M.B. 64, p. 350):—

“List pauied. Three names.

“TAMEHANA KOHITI: I object to one name, Ehau Ana. He is different to Ruka and Rina. He remained at Kauangaroa because he married a sister of Niira Rangiao. I do not object to the 50 acres, but to Ehau Ana being a freeholder in the land.

“Objection disallowed. List passed. Shares still to be settled.”

As the shares for the main block could not be settled amicably, the Court proceeded to take evidence, and during the hearing some further references were made to the 50 acres and the reason for making the gift.

ERUERA TE KAHU stated (Wh. M.B. 64, p. 361): “Kauangaroa was given to Te Kooti by our ancestors about 1892-3. When he left he suggested that it should be held as an inalienable reserve for all the people and their husbands and wives. The 50-acre reserve is for the descendants (?) of Te Kooti now living on the land.”

TAMEHANA KOHITI stated (Wh. M.B. 64 p. 363): “Te Kooti came to land in 1893. An agreement was signed giving the land to Te Kooti. Sir James Carroll has the agreement now. Te Kooti said he would give the land back to Te Kahu and the people, Te Kahu being mentioned as trustee for the land and the people.”

After the Court had given its decision as to the relative interest in the main block it was stated (Wh. M.B. 64 p. 365): “The 50-acre list is to be equally held and to be severed from the other area. Area marked red on plan.” And on the next day the following order, amongst others, was made: “Kauangaroa 3E (Wh. M.B. 64, p. 368), containing 50 acres, having a frontage to Wanganui-Hunterville Road east of the school-site and extending towards Wangaehu River as shown on plan, to be vested in Ruka Poniwahia (m., a.), Rina Ruka (f., a.), Ehua Anaha (m., a.), equally.”

The facts appear to be that when Te Kooti visited Kauangaroa in 1892-93 the residents became so enthusiastic over him and the Ringatu religion that they offered him, as a gift, whether seriously or not the Court cannot now say, the whole of the Kauangaroa Block, which was at the time uninvestigated Native land. He declined the offer, but he left behind him three of his followers, two Ringatu ministers and the wife of one of them—viz., Ruka Poniwahia and his wife, Rina Ruka (who both came from Whakatane), and Ehau Anaha, (who belonged to Rotorua)—to conduct services and generally carry on the work of the Church. When the block came before the Court for investigation in 1912-13 it was decided by the elders that some provision should be made for these people, and it was agreed to make them a gift of 50 acres, all flat, and comprising some of the best land in the block.

The petitioners allege that in the making of the gift the owners were not unanimous: that they were dominated to a large extent by Eruera te Kahu (otherwise Edward Sutherland), and that he purposely kept those opposed to the gift away from the Court.

All the elders concerned in the making of the gift are dead, and the evidence of the younger people given at this inquiry is not, in the Court's opinion, too reliable.

Those opposed to the petition asserted that the gift was made unanimously, that it was generally known, and that it was an absolute gift to the three persons.

Kanapu Haerehuka, who at the investigation represented two sections of the owners, and at the inquiry assisted in conducting the case of those upholding the gift, gave particulars of a meeting of the owners to consider the question of the gift prior to the matter being brought into Court. He said Eruera te Kahu at that meeting stated that the whole of Kauangaroa had been gifted to Te Kooti, but that Te Kooti refused to take the whole land; that they were there now to consider how much land they were to give Te Kooti to carry out the arrangement made by their elders, and suggested that Ruka, Rina, and Ehau should be included in any gifted land, and that the 50 acres was to be an absolute gift for the three of them. This, Kanapu said, was agreed to by all the persons attending the meeting.

There is no doubt, the Court thinks, but that the matter of the gift was discussed by the owners, and agreed to by the elders at any rate; and, the elders having agreed, the younger members of the tribe would not be allowed to question the matter. This is proved by the fact that although the investigation extended over a considerable period no one made any objection to the gift, nor was any

appeal lodged against the decision awarding it to the three absolutely. Whether the owners thoroughly understood the full effect of it, or anticipated in any way the position that has now arisen, is another matter.

It may be noted that an attempt was made to have the block investigated by the Court (Judge Rawson presiding) on the 10th August, 1910, and to settle the matter by arrangement. On that occasion one Ngapikitanga objected to the inclusion of outsiders in the title, and in consequence the case was adjourned. It was mentioned again on the following day, when it was stated that Ngapikitanga had withdrawn her objection; but the Court was not satisfied, and further adjourned the matter, and on the 9th September, 1910, Ngapikitanga appeared in person and stated that she still objected. The investigation was then adjourned to a future Court. Ngapikitanga did not appear before the Court of 1912-13, and no steps seem to have been taken to ascertain if she was in agreement with the arrangement then given effect to. She was at the time living at Kai-iwi, not Kauangaroa, and may not have heard of the investigation or of the result. She is now dead.

The Court has no doubt, however, but that the owners in making the gift were dominated and led by Eruera te Kahu, who during the later years of his life was the leading man amongst the Kauangaroa people. He had become an enthusiastic adherent of the Ringatu Church, and it would seem that it was on his invitation that the three Ringatus remained behind when Te Kooti left, and on that account he felt in honour bound to provide for them. This is shown by Mr. Champion's evidence on the inquiry.

Mr. Champion is a sheep-farmer, residing at Kauangaroa, who has known the Kauangaroa people for over sixty years. He stated: "I knew Eruera te Kahu, or Eruera Sutherland, very well. He seemed to do what he liked amongst the Natives. He got for me leases which I had otherwise difficulty in getting. He spoke to me of the gift to the Ringatu Church—this was the 50 acres in the centre of Kauangaroa. Sutherland brought the three persons—viz., Ruka Poniwahia, Rina Ruka, and Ehau Anaha—from Whakatane and Rotorua. They were prominent members of the Ringatu Church—two of them were parsons. When I spoke to Sutherland about the unfairness of making this gift he admitted the unfairness of it; but he said the owners were a spendthrift lot, and asked why he should not give it to a religion he believed in. He said he had brought the three to Kauangaroa, and had to provide for them. A few only of the owners were attached to the Ringatu Church at the time; most of them were Catholics."

Under cross-examination he stated, "Eruera Sutherland dominated the other Natives. He was a man of knowledge and experience"; and further, "It was always supposed he had a right to the 50-acre paddock he gave to the Ringatus. When I remember it, it was used as a racecourse. All the Maoris would know of the gift to the Ringatu people. It was after the gift was made that I discussed the matter with Edward Sutherland."

Neither has the Court any doubt but that the gift was made to the three not as private individuals, but as representatives of Te Kooti and the Ringatu religion, and with the object of partially giving effect to the offer of the whole of the Kauangaroa Block to Te Kooti. The position now is that the Ringatu Church has ceased to exist as far as Kauangaroa is concerned. The majority of the people, including Ruka Poniwahia himself, have gone over to Ratana, and no Ringatu service has been held at Kauangaroa since 1919.

Of the three owners of the 50 acres, Ruka Poniwahia is the only one who is now alive, and he is living permanently at Ratana. The children of Rina and Ruka have been appointed successors to Rina's interest, but no successors have yet been appointed to Ehau Anaha.

Having in view the fact that Kauangaroa No. 3 is a comparatively small block, divided almost equally into flat and hill, and that it is practically the *papakāinga* of the owners, the gift of 50 acres of the good flat land seems to indicate an excess of generosity not, in the Court's opinion, in any way warranted by the circumstances. The gift did not affect Edward Sutherland to any extent, because he was a comparatively wealthy man; but it made a material difference to those owners who lived in the *papakāinga* and who had not any large interests elsewhere, and it is a fact that as a result the three strangers each got a larger interest in the block than any single owner who was entitled under Native custom. It seems possible also that through intermarriages the 50 acres may to a large extent fall into the hands of a few of the resident Natives. One of them has married Ruka's daughter, and, with his father, is occupying the area now to the exclusion of the other residents. Seeing, therefore, that the gift was made practically with the object of assisting in carrying on the Ringatu religion at Kauangaroa, and that the object has now failed, it is a matter for consideration as to whether or not steps should be taken to have the 50 acres handed back to the original owners. Many of these were Roman Catholics, and were not concerned with the Ringatus; but no distinction was made, and they had to participate in the gift with the rest.

At the conclusion of the inquiry affecting petition No. 53 Mr. Jack stated they did not at the present time propose to offer any evidence in support of petition No. 62. Any alteration in the shares of the owners of the main block would mean corresponding alterations in the boundaries of the partitions into which that block had been divided, and, as these boundaries had been surveyed and fenced, the alterations would entail very considerable expense. The petitioner, therefore, was content to await the result of petition No. 53. If the 50 acres were returned to them any discrepancies in the shares of the owners of the main block could be adjusted in allotting the shares for the 50 acres.

JAS. W. BROWNE, Judge.

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