DUPLICATE Wai 378 #A1

Wai 201 # J9 DUPLICATE

COVER SHEET

OWHAOKO C3B (Wai 378)

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BRIAN HERLIHY & ASSOCIATES
MAORI LAND CONSULTS & AGENTS
PO BOX 528
W A N G A N U I

Claim
WAI 378

IN THE MATTER OF THE TREATY OF WAITANGI ACT 1975

Acknowledgement letter sent 20-7-93

AND

Reply follows ☐
Thanks for information ☑

THE CLAIM OF

HENRY TIOPIRA MATHEWS

AND

IN THE MATTER OF OWHAOKO C3B CANCELLATION OF AN ORDER OF THE MAORI LAND COURT 1986 CHIEF JUDGE'S MINUTE BOOK FOLIO 90.

STATEMENT OF CLAIM

I, HENRY TIOPIRA MATHEWS IN ACCORDANCE WITH THE PROVISIONS OF SECTION 6 (1) TREATY OF WAITANGI ACT 1975, MAKE THIS CLAIM FOR AND ON BEHALF OF THOSE MAORI OWNERS WHO WERE OWNERS OF OWHAOKO C3B MAORI LAND PRIOR TO THE SALE OF 1967.

AND

ON BEHALF OF THOSE OWNERS AFFECTED BY THIS CLAIM, THAT WE HAVE BEEN PREJUDICIALLY DISCRIMINATED BY ACTIONS, ORDINANCES, REGULATIONS, POLICIES, PRACTICES AND BY ANY OTHER ACT OR OMISSION BY THE CROWN IN BREACH OF THE PRINCIPLES OF THE TREATY OF WAITANGI.

IT IS CLAIMED THAT FROM 1967 HENCE FORTH THE LAND WAS PURCHASED IRREGULAR AND UNAUTHORISED PURCHASE OF MAORI LAND CONTRARY TO AND IN BREACH OF THE TREATY OF WAITANGI.

THE CLAIMANTS GIVE NOTICE THAT MATTERS NOT COVERED BY THIS DOCUMENT ARISING LATER, THEY WILL SEEK LEAVE TO FURTHER AMEND THEIR CLAIMS.

THE CLAIMANTS REFER TO THAT LAND IN WHICH MATTER THE CHIEF JUDGE OF THE MAORI LAND COURT AND IN ACCORDANCE WITH THE PROVISIONS OF SECTION 452 OF THE MAORI AFFAIRS

ACT 1953 SOUGHT THE POWERS OF THE CHIEF JUDGE TO CANCEL AN ORDER AS PERTAINING TO THE SALE OF THE SAID LAND.

ON THE 21 MAY 1986 THE CHIEF JUDGE CANCELLED THE ORDER OF CONFIRMATION DATED 6 FEBRUARY 1969.

THE APPLICANT SEEKS COMPENSATION PLUS INTERESTS FOR THE LOSS OF THE TIMBER TAKEN FROM THE LAND.

THE APPLICANT SEEKS FOR THE RETURN OF THE LAND AND CHALLENGES THE INDEFEASIBLE TITLE ON THE BASIS OF FRAUD.

NOTICE OF THIS CLAIM WOULD AFFECT THE CROWN, THE VALUATION DEPARTMENT, THE MAORI LAND COURT, AND THE ROBERTS FAMILY TRUST PRIVATE BAG TAIHAPE.

IT IS MY DESIRE THAT THIS CLAIM BE HEARD ON OUR MARAE AT OMAHU, HASTINGS AND ALSO SEEKS LEAVE TO APPOINT COUNSEL WITH FINANCIAL ASSISTANCE FROM THE LEGAL FUND IN ACCORDANCE WITH THE PROVISIONS UNDER THE TREATY OF WAITANGI (STATE ENTERPRISES) ACT 1988.

DATED THIS 15 DAY OF JULY 1993 AT HASTINGS.

SIGNED.....

HENRY TIOPIRA MATHEWS

NOTICE OF SERVICE

MOTEO ROAD
R D 3
NAPIER

PHONE 06-879 7947

WAI 378

WAITANGI TRIBUNAL

CONCERNING	the Treaty of Waitangi Act 1975
AND CONCERNING	a claim by Henry Tiopira Mathews relating to Owhaoko C3B Block

DIRECTION COMMISSIONING RESEARCH

1 Pursuant to clause 5A(1) of the second schedule of the Treaty of Waitangi Act 1975, the Tribunal commissions Mr Brian Herlihy of Whanganui to complete on behalf of the claimants a research report for this claim covering the following matters:

(a) to identify on a map the land awarded by the Maori Land Court known as Owhaoko C3B Block.

(b) to provide Minute Book references for the determination of ownership of this Block.

(c) to produce extracts from the Court judgments describing the basis on which the Court determined ownership in each case, or from the transcripts of evidence if this is not apparent from the judgments.

(d) to provide details as to the means whereby the transfer of ownership out of Maori hands took place, and any such breaches of the principles of the Treaty of Waitangi.

cont. page 2: 2. This commission commences etc.

2 This commission commences on receipt of written confirmation of the commissionee's acceptance of the terms and conditions of the commission.

3 The commission ends on 31 October 1995 at which time one copy of the report will be filed in unbound form together with an indexed document bank and copy of the report on disk.

4 The report may be received as evidence and the commissionee may be cross examined on it.

5 The Registrar is to send copies of this direction to:

Mr Brian Herlihy
Claimants
Counsel for Claimants
Solicitor General, Crown Law Office
Director, Office of Treaty Settlements
Department of Survey and Land Information
Mr M H Restieaux, Counsel for Roberts Family Trust
Ms D Edmonds, Counsel for WAI 201
Hawkes Bay Regional Council
Hasting District Council
Te Runanganui O Ngati Kahungunu
Tuwharetoa Maori Trust Board
Secretary, Crown Forestry Rental Trust

Dated at Wellington this 30th day of June 1995.

Chief Judge E T J Durie
Chairperson
WAITANGI TRIBUNAL

14 Jul 110 96/25

SUMMARY

Owhaoko C3B is a block containing 3600.5893 ha. or 8897 acres 1 rood 00 perches. It is situated near the Taihape/Napier Road and is described in the 1967 valuation report as 'a most unattractive property by contour and location'.

A Meeting of Owners was held in December 1967 when a resolution to sell was passed unanimously. Counsel for the applicants said the block was covered in scrub and there was no millable timber on the block.

The resolution to sell was confirmed by the Maori Land Court on 6 February 1968. No 'Declaration re Other Lands" was filed as required by the Maori Land Court Rules although counsel stated "applicant does not have other land". Allegations were made that these assertions were not correct, but the Judge ruled out further action.

A year or two after the sale rumours began to circulate about substantial amounts of timber being taken off the block.

Eventually, in May 1980, an application to the Chief Judge under section 452 of the Maori Affairs Act 1953 seeking to have the sale quashed, was lodged. Funding was arranged through the Special Aid Fund and Mr. Russell Feist, a solicitor widely experienced in Maori Land Law was retained. He produced a very comprehensive report on his investigations.

Following this, an in chambers conference of the parties was held on 8 February 1986 to consider the question of jurisdiction. This was followed by a Court hearing on 7 March 1986.

At the hearing a Consent Order was signed by the parties acknowledging :

1. The Chief Judge's jurisdiction.

2. That millable timber was taken from the land.

3. That the value of the timber was not taken into account when assessing the consideration.

4. That failure to take such value into account was an error or omission within the meaning of Section 452(I).

Summary (continued)

It was agreed that there would be no opposition if the Chief Judge exercised his discretion to cancel the Order of Confirmation. This the Chief Judge did on 21 May 1986.

It would appear that any further action would need to be taken in the High Court.

CONCLUSIONS

Owhaoko C3B was sold following a Meeting of Owners under the provisions of Part XXIII of the Maori Affairs Act 1953.

Timber was removed from the land after the sale and although the purchasers deny they were aware of its existence, this has not been accepted by some of the parties.

The Chief Judge cancelled the Order confirming the sale and any further action will have to be taken in the High Court.

There are reports of possible negligence or deficiencies on the part of the various Government agencies.

INTRODUCTION

My name is Brian Herlihy. The first twenty years of my working life were in the teaching profession, the initial period of which was in Maori Schools.

After a period of overseas travel I spent nearly twenty years in the Maori Land Court, with several as Deputy Registrar.

Since retiring from the Maori Land Court in 1986 I have conducted my own Maori Land Consultancy covering inter alia work for Maori owners, lessees of Maori land, solicitors, local bodies, Government Departments and have undertaken a number of commissions for the Waitangi Tribunal.

The main purpose of this report is to examine events leading up to the sale of Owhaoko C3B, the subsequent investigations into allegations that the purchasers sold a substantial amount of timber off the block shortly after the sale was completed, and that the purchasers knew of the existence of the timber prior to the sale.

REPORT

OWHAOKO C3B

BRIAN HERLIHY & ASSOCIATES

This report was commissioned by the Waitangi Triubnal
following claim by Henry Tiopira Mathews
relating to the sale of OWHAOKO C3B
and events subsequent thereto **(WAI 378)**

October 1995

GENERAL

Owhaoko was originally a very large block containing approximtely 134,650 acres situated, in the main, north of the Taihape/Napier road, and between the Rangitikei and Ngaruroro Rivers. (Exhibit A).

Two points of historical note are worth mentioning :

1. Several areas were gifted to the Crown in about 1916 for Maori soldier settlement following the First World War. However, the land was never used for this purpose due, in part at least, to its altitude. These lands were revested in Maori owners pursuant to Section 23 of the Maori Purposes Act (No. 2) 1973 and Section 436 of the Maori Affairs Act 1953. The re-vesting Order was made on 30 October 1974.

2. Several areas were acquired by the Crown in lieu of survey charges. Representations have been made over the years seeking to have these areas returned and may already be the subject of a claim to the Waitangi Tribunal.

   Owhaoko C was one of the blocks affected by these survey charges. On 2 April 1898 the Court awarded 1366 acres 0 roods 15 perches (540.6979 ha.) being Part Owhaoko C to the Crown in satisfaction of the cost of survey.

OWHAOKO C3B

The partitioning of Owhaoko C into C1-7 was carried out at the Hastings Court on 26 October 1894.

The area of C3 was 10,380 acres 3 roods 00 perches. Total shares : 40.

List No. 6 : Waata RAKAIWEROHIA - 2 shares.
Succeeded by Hipera RAKAIWEROHIA

List No. 15: Hoani PAKAPAKA - 2 shares
Succeeded by Ngamotu KOWHAI

List No. 16: Inia Te NGIRA - 2 SHARES
Succeeded by Ngamutu KOWHAI

(There is a pencil note that Ngamotu and Ngamutu are the same person).

These 6 shares were partitioned out on 26 April 1935, reference Whanganui Minute Book 96/372 (Exhibit B) and given the appellation C3A. The balance of the land, in favour of the remaining owners, was called C3B (Exhibits C1-4).

The partition was on a strictly area basis with no cognisance being given to values or topography. (This was common practice at the time).

Number 8 on the original ownership list for C3B was Hapeta TIOPIRA ma. with 2 shares. On 26 April 1956 he was succeeded by Henry TIOPIRA or MATTHEWS ma and Maketino TIOPIRA or MANAWAITI fa. equally, reference Napier Minute Book 92/80. Both these persons were still owners at the time the block was sold, with one share each, out of a total of 34 shares.

The Memorial Schedule shows a caveat by the Chief Surveyor being produced on 21 December 1939. The amount owing for survey charges was two hundred and twenty-one pounds fifteen shillings and four pence ($443.53) plus interest. There were also a number of Rating Liens in favour of the Rangitikei District Council. Secured and unsecured rate charges totalled $1225.36 but, on sale, the Maori Trustee negotiated a compromise for the rate charges to be released on payment of $418.00 (Title Notice 4023).

SALE OF BLOCK

On 30 August 1967 Messrs. T.M. & P.P. Paton lodged an application for a Meeting of Owners seeking to purchase the block for $2000. This was accompanied by a report from the Valuation Department dated 27.9.1967 (Exhibits D1 & 2).

On 26 October 1967 a similar application was received from W.T. and M.C. Apatu seeking to purchse the block for $3000. (Exhibit E).

On 1.11.1967 Judge Davis put a note on the file addressed to the alienations clerk to the effect that Mr. Restieaux (solicitor) had told him that the Patons were not proceeding with

their application and that the Meeting of Owners would proceed with the one resolution i.e. for the Apatus.

On 2.11.1967 the file was referred to the District Officer with a note ..."Application referred for your general information in case the East Taupo Scheme gets down that far". The District Officer noted this as "Seen" on 6.11.1967.

Notices regarding the Meeting of Owners were sent out on 20.11.1967. At that time there were 73 owners, and addresses were held for approximately 28. The meeting was held in Wanganui on 8 December 1967. Refer Exhibits F1 & F2 for copy of minute and resolution passed.

At that stage on the file there is a folio in which theDistrict Officer, the Judge, and the Administration Officer refer to the possibility of a development scheme covering the Owhaoko C and D blocks in Maori ownership (Exhibit G). Please refer also to the District Officer's Memorandum to the Court dated 29.1.1968 (Exhibit H). A letter dated 5.2.1968 (one day before the Court hearing) was also sent to a number of owners informing them of the Department's investigations. (Exhibit I1).

The Application for Confirmation of the resolution was heard on 6 February 1968 Reference Whanganui (Alienation) Minute Book 6/241-2 when the Court confirmed the resolution to sell. (Exhibits J1 & K).

Note

The Order of Confirmation was later cancelled by the Chief Judge under the provisions of Section 452 of the Maori Affairs Act 1953, on 21 May 1986. Details of events leading up to the lodging of the application under Section 452 are covered a little later in this report.

This, to all intents and purposes, completed the Maori Land Court's involvement in the sale transaction. The Maori Trustee had a statutory duty to collect and distribute the purchase money, sign the Transfer etc.

The writer of this report was, at the time of the sale, employed by the Maori Trustee but was in no way involved with the transaction. However, in the early 1970's he returned to the Maori Land Court. He was aware, mainly through discussions with Mrs. Haeata, a Maori agent, of growing disquiet among some of the Maori owners regarding the sale of the land and reports of timber being extracted immediately after the sale. Problems facing the Maori owners were :-

(a) To find a solicitor willing and able to bring a case in the Maori Land Court.

(b) The non-availability of funds to meet the legal costs, and

(c) To ensure there were proper grounds to support an application pursuant to Section 452 of the Maori Affairs Act 1953.

Mr. H. Tiopira Matthews attempted to file such an application under cover of a letter dated 23 April 1980 (Exhibit L). The application was returned with an accompanying letter of explanation dated 5 May 1980 (Exhibit M).

A further application was lodged under cover of a letter dated 20 May 1980 and received into the Registry on 28.5.1980 (Exhibits N & O). The file was referred to the Chief Judge on 25.9.1980. His preliminary directions were issued on 11 August 1981 Reference Chief Judge's Minute Book 1981 Folios 55 -56 (See Exhibits P1 & P2).

Note

In paragraph (3) the Chief Judge refers to the need for the applicant to have the benefit of counsel. Mrs. Haeata (Maori agent) approached a Wanganui solicitor, Mr. A.R. Wallis, who has had considerable experience in Maori land matters, to ascertain if he would be prepared to take the case but he declined.

The Deputy Registrar then approached Mr. R.T. Feist of Messrs. Tripe Matthews & Feist, Barristers & Solicitors, of Wellington who was very experienced in Maori Land law and who has acted for the Tuwharetoa Tribe for many years. After looking into the background of the case Mr. Feist agreed to act subject to a reasonable sum being made available for legal aid.

On 16.6.1983 the Deputy Registrar wrote to the Chief Registrar of the Maori Land Court making a very strong plea for legal aid, and eventually $5000 was set aside. (Section 57A of the Maori Affairs Act 1953). (Exhibits Q1 & 2).

Under cover of a letter dated 28 August 1985, Mr.Feist forwarded a "Summary of His Investigation to Date". (Exhibits R 1 - 5).

This is important as it contains information Mr. Feist was able to unearth and which is not available anywhere else in the Court records.

Mr. Feist then indicated that the next step should be a conference between the parties. This was arranged by the Deputy Registrar and on 13 December 1985 he personally transported the applicant and Mrs. Haeata to Wellington for a conference with Mr.Feist, the Chief Registrar and the Head Office solicitor.

A Chambers conference was held in Wellington on 8 February 1986 and Judge A.G. McHugh issued his Directions on 13 February. (Reference 149 Whanganui Minute Book 296-298) (Exhibits S1 & S2).

Note

A notice dated 28 January 1986 was filed by Mr. M. Restieaux, solicitor for the purchasers, stating they intended to appear and oppose the application and that none of the parties including the purchasers, was aware of the existence of millable timber on the block. (Exhibit T).

The application was further dealt with at the Wellington Court dated 7 March 1986 (Exhibits U1-3).

A copy of a "Consent Form" signed by Counsel representing the parties is on file. (Exhibit V).

Judge McHugh then wrote a "Report and Recommendation to the Chief Judge" which is dated 18 April 1986. This is reproduced in full in the Chief Judge's Minute dated 21 May 1986. (Reference 1986 Chief Judge's Minute Book Folios 90-92) (Exhibits W1-3). The Chief Judge's minute cancelled the Order of Confirmation dated 6 February 1968.

As will be seen from the minute, any further action would need to be in the High Court.

MATTERS OF CONCERN

My investigations show a number of instances where the actions of various parties have been questioned. On the second page of the minute dated 7 March 1986 (Exhibit U2) the Presiding Judge mentions the Valuation Department, the Department of Maori Affairs and possibly the Maori Land Court Judge, while Mr.Feist's "Summary of Investigation" paragraph 17 (Exhibit R5) suggests a possible petition to Parliament for relief on the basis of possible failures by the Valuation Department, by the Maori Land Court in not facilitating an appeal, and the Land Transfer system.

VALUATION DEPARTMENT : THE QUESTION OF TIMBER

It was common practice for Valuation Reports to show on the Report,where there was the possibility of millable timber "Timber Not Assessed". The report in this case (Exhibits D1

& D2) is blank as far as the value of timber is concerned. I would point out however, that the final sentence of Page 1 of the report states ..."Balance is steep birch and scrub-covered hills except for some high tussock country at the back". This could be regarded as a warning of possible millable timber requiring a report from a suitably qualified Forestry Consultant or logging contractor.

The Judge may not have noticed this, or if he did, he presumably thought further investigation was unnecessary.

DECLARATION RE OTHER LANDS

Although Mr. Restieaux stated at the Court hearing of 6 February 1968 : "Applicant does not have any other land", Judge McHugh in his report to the Chief Judge (Exhibit W3) records ..."No declaration had been filed under the Land Settlement Promotion Act as is required by Rule 94(4)(d) of the Maori Land Court Rules 1958". Further, the application for the Meeting of Owners shows the applicants' occupation as farmers.

These discrepancies were also brought to the attention of Wanganui Office in a memorandum dated 25.3.1968 (Exhibit J2). These were referred to Mr. Restieaux and he replied on 23 April 1968 (Exhibit J3). Judge Davis however, ruled that the decision should stand.

CONSIDERATION

The owners were being offered $3600 and were made aware there was $443.53 in survey charges and $1225.36 in rates a total of $1668.89 owing. It was highly probable that some at least thought that if matters were allowed to drift the value of outstanding charges would equal the value of the land and the Maori owners would get nothing.

The Judge was incorrect in stating that owners would get $3600; this sum would have been less $1668.89 (outstanding rates and survey charges, although this figure was later negotiated downwards by the Maori Trustee).

MILLABLE TIMBER

At the Meeting of Owners on 8 December (Exhibit F1) Mr. Restieaux, solicitor for the

applicants stated "covered in scrub" and "no millable timber on block". Furthermore, the applicants' notice to appear on the application under Section 452, dated 28 January 1986 (Exhibit T) states in paragraph (2) ....."At the date of purchase, none of the parties was aware of the existence or possible existence of any millable timber on the block". Mr. Feist's "Summary of Investigation" paragraphs 7 and 8 (Exhibits R2 and 3) does not support these assertions and suggests that one of the sites from which timber was removed in 1970 is visible from the homestead where Mrs. Apatu (nee Roberts) was brought up.

FAILURE OF THE MAORI LAND COURT IN 'NOT FACILITATING AN APPEAL'

The general instruction to Maori Land Court staff was that they should not assist applicants in lodging appeals, or applications to the Chief Judge under Section 452/53 i.e. it was not the function of the Court staff to assist in upsetting Court decisions.

In practice, however, a certain amount of guidance has been provided, particularly where there were strong indications of an injustice.

In the present instance, I would suggest that an 'appeal' would not have been appropriate as this must be lodged within 2 months of the Court making the Order and this period had well and truly expired by the time rumours started to circulate regarding the removal of timber. The only avenue left therefore, as far as the Maori Land Court was concerned, appeared to be an application to the Chief Judge under Section 452.

Because of the complex nature of the case it seemed vital that any applicant(s) should have competent legal representation and there was considerable difficulty finding counsel willing and able to act. There was also the problem of funding such a case. Fortunately, legislation providing for a Maori Land Court Special Aid Fund came into effect in the mid 1970's. Largely through the efforts of Maori Land Court staff, counsel was found and funds set aside from the Special Aid Fund. Court staff also arranged conferences in Wellington between various parties and provided transport there and from.

In retrospect it could perhaps be said that Court staff should have acted more expeditiously but it could also be said that if Court staff had not intermeddled the application would never have got off the ground.

POSSIBLE 'OWHAOKO DEVELOPMENT SCHEME'

The Department was following up a Ministerial directive to investigate a possible development scheme in unalienated Maori land. See District Officer's Memorandum to the Court on or about 29 January 1968 (Exhibit H) and circular letter to major owners dated 5 February (Exhibit I1). Mr. Matthews replied on 10 May (Exhibit I2) by which time the sale had been completed and Mr. Matthews was told this in a letter dated 27 May 1968 (Exhibit I3).

Representations by the Development Section at the Court hearing could have been much more decisive and the Judge could have been asked to adjourn the application for confirmation until the next sitting to allow the Department time to make a full assessment of the possibilities of a Development Scheme.

The 6/ series of files formerly kept by the Development Section of the Department of Maori Affairs in Wanganui have all been sent to the Ministry of Maori Development in Wellington. However, my investigations revealed that one of the files had earlier been closed and the papers dealing mainly with the possibility of an Owhaoko Development Scheme had been removed to the Maori Land Court file 23/656 and sattelite files. I was able to locate these and obtain a copy of a report by Andrew Warren, a Field Supervisor based at the Taumarunui Office of the Department of Maori Affairs. This is undated but other papers refer to the Valuation Report (dated 29.9.1967) and the forthcoming Court sitting (6.2.1968), so the report must have been written in the period December 1967/January 1968.

On page 4 the report refers to a number of factors such as high cost, severe climatic conditions, lack of access etc. which would make development difficult, and goes on to say ...."These factors, as well as the present economics of wool farming, make such a development enterprise a very doubtful one". (Exhibits X1-4).

I think it would be fair to say that in the light of this report it is extremely unlikely that a Development Scheme would have been viable.

There are discrepancies therefore :-

(a) On the question of the "Declaration regarding other Lands" and "undue aggregation".

(b) On the failure to identify millable timber on the land and whether or not the applicants were aware of this.

BIBLIOGRAPHY

Maori Land Court, Wanganui :

- **Block Order File Wh 605 Volume 2**
- **Alienation File Owhaoko C3B 3/7724**

Chief Judge ApplicationFile 2/79/298

Whanganui Minute Book 96

RECORD OF DOCUMENTS INDEX (Wai 378)

EXHIBITS OWHAOKO C3B

A	Owhaoko C Blocks taken from Cadastral No. U20
B	Minutes of Partition, Wanganui Minute Book 96/372
C1-4	Partition Order, ownership list and accompanying Survey Diagram for C3B
D1-2	Valuation Report dated 21 September 1967
E	Application for Meeting of Owners
F1-2	Minutes of Meeting of Owners and Copy of Resolution passed
G	Copy of Memorandum - J.E. Cater, District Officer - D.G. Davis, Judge - R.C.J. Mainwaring, Administration Officer
H	Memorandum to Court from District Officer
I1	Copy of Letter sent to Interested Paties dated 5 February 1968
I2	Reply from H. Mathews Tiopira
I3	District Officer's answer to Mr. Mathews
J1	Copy of minutes of Court hearing 6 February 1968
J2	Memo from District Officer, Palmerston North on question of 'no undue aggregation'.
J3	Letter of explanation from solicitor for applicants.
K	Copy of Court Order confirming Resolution to Sell
L	Letter from H. Tiopira Mathews dated 23 April 1980
M	Reply from Deputy Registrar dated 5 May 1980

Index of Documents (continued)

N	Further letter from H. Tiopira Mathews
O	Copy of Application to Chief Judge
P	Chief Judge Directions dated 11 August 1981
Q1-2	Memorandum from Deputy Registrar to Chief Registrar of Maori Land Court seeking Legal Aid, 16 June 1983
R1-5	Summary of Investigation to date from R.T.Feist dated 23 August 1985
S1-2	Directions of Court (Judge A.G. McHugh) dated 13 February 1986
T	Notice of Opposition to Application dated 28 January 1986
U1-3	Minutes of Court Hearing dated 7 March 1986
V	Deed of Agreement filed by Counsel
W1-3	Chief Judge's Minute Reviewing Report from Judge McHugh and Cancelling Order of Confirmation - date 21 May 1986
X1-4	Report by Field Supervisor Andrew Warren on Owhaoko Blocks

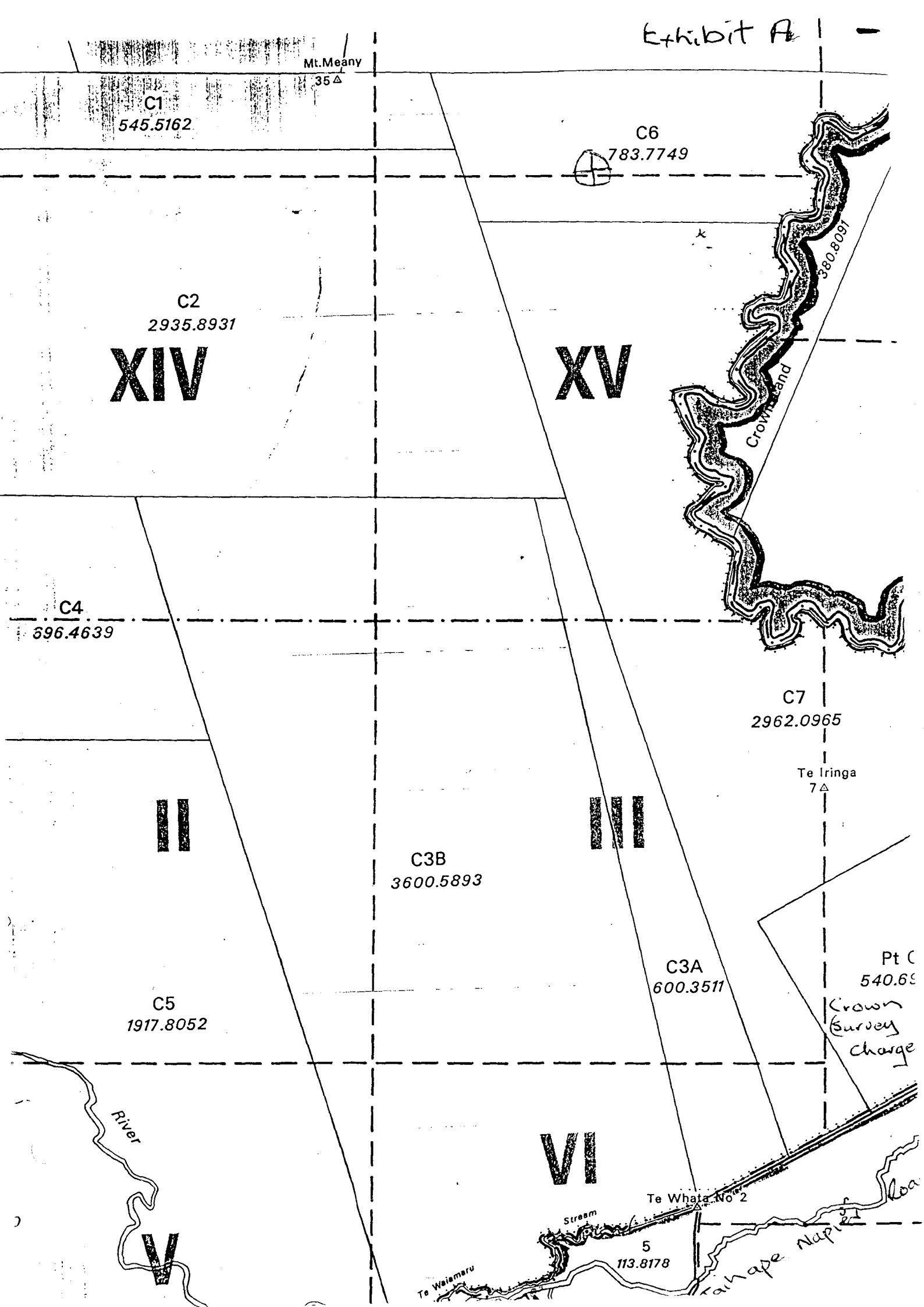


Exhibit A
Mt.Meany
35 △
C1
545.5162
C6
783.7749
380.8091
Crown Land
C2
2935.8931
XIV
XV
C4
596.4639
C7
2962.0965
Te Iringa
7 △
II
III
C3B
3600.5893
C3A
600.3511
Pt C
540.6
Crown
Survey
Charge
C5
1917.8052
River
V
VI
Te Whata No 2
Stream
5
113.8178
Te Waiemaru
Kahape Nap

Whanganui Minute Book 76 Exhibit B

26 APR 1935

Friday 26th April 1935

Rusiti and Jones the same.

Court opened at 10 a m

X 57. Otukaoko C No 3
6 copies taken
B. L. Road
2.10.61
D.J.S.
(D.C. Plan)
Partition

Ngamoki Kowhai sworn.

We have arranged a partition of this land as follows -

X O All the eastern side of the block bounded on the West by a line parallel to the Eastern boundary and in such position as will include to the East 1558.05 acres (6 shares)

The called

Otukaoko C No 3 F

and We the Owners of

Ngamoki Kowhai	2 shares
Ngamuta Kowhai	2 "
Ngaora Rapihana Ohaki	2 "
	6 "

X O The balance of the land Containing 882 3, 6375 8.822.7 acres

The called

Otukaoko C No 3 G

and Owned by the Remaining owners

Rusiti

Partition Order ready

Exhibit C1

[N.L.C.—7.

PARTITION ORDER.

(Rule 37.)

The Native Land Act, ~~1909~~ 1931

Wg. M.B. 96/372

In the Native Land Court,
New Zealand. } Owhaoko C No. 3B

Aotea District

In the matter of the partition of the land known as

Owhaoko C No. 3 heretofore held

under Partition Order, dated the 26th day

of October, 1894. ~~19~~

At a sitting of the Court held at Wanganui

on the 26th day of April, 193 5

before James Wakelin Browne Esquire, Judge,

and ~~Assessors~~,

It is, as part of the said partition, hereby ordered and declared that the several persons whose names appear in the first column of the schedule ~~endorsed hereon or~~ annexed hereto, and therein numbered from one to both inclusive, are the owners, in the relative shares or proportions set out in the second column of the said schedule, of that part of the said land, containing 8897 acres 1 rood 00 perches named by the Court

Owhaoko C No. 3B

and which part is particularly delineated in the plan attached hereto.

Fees charged: As witness the hand of the Judge and the seal of the Court.

Order 30/- pd.

THE MAORI LAND COURT

ORIGINAL TO D.S.C. 2 Sol 3/10/68

OWHAOKO C No. 3B BLOCK. Exhibit C2

SCHEDULE HEREINBEFORE REFERRED TO.

First Column.			Second Column.
No.	Name.	Sex and, if Minor, Age.	Relative Interest.
1	Arona Raurimu Potaka	m.a.	3/8
2	Atareta Kaingakore	f.a.	2
3	Conrad Bryan Heatley	m.a.	3
4	Erueti Whakahewa	m.a.	1/30
5	Esther Potaka (In terms of Will of Arapata Potaka	f.a.	1 1/2 1/3 1/8
6	Hakaraia Potaka	m.a.	1/8
7	Hanara Ihaka	m.a.	2
8	Hapeta Tiopira	m.a.	2
9	Hera Tipene	f.a.	1
10	Hohipera Tiopira	f.a.	2/5 1/8 1/2 1/3 1/4
11	John Holden Jnr.	m.a.	1
12	John Wi te Ota Wellwood	m.a.	1/3 1/4
13	Maata Kotahi	f.a.	2
14	Maata Kotahi Tawhara	f.a.	2
15	Matetahuna Tiopira	m.a.	2/5 1/8 1/2 1/3 1/4
16	Mere Hanita	f.a.	1/5
17	Mihana Whakahewa	m.a.	1/30
18	Mohi Hoko	m.a.	2/5 1/8 1/2 1/3 1/4
19	Neta Hanita	f.a.	1/5
20	Ngareta Whakahewa	f.a.	1/30
21	Noti Hanita	f.a.	1/5
22	Oriwia Hiroa Ropata	f.3	1/8 1/2 1/3 1/4
23	Pape Epiha Potaka	m.a.	1 1/2 1/8
24	Peata Oriwia Ropata	f.6	1/8 1/2 1/3 1/4
25	Pineaha Mokihi	m.a.	1/4 1/8 1/2 1/3 1/4
26	Punahaurangi Toma Ropata	f.8	1/8 1/2 1/3 1/4
27	Ralph Holden Wellwood	m.a.	1/4

[N.L.C.—Schedule.

Exhibit C

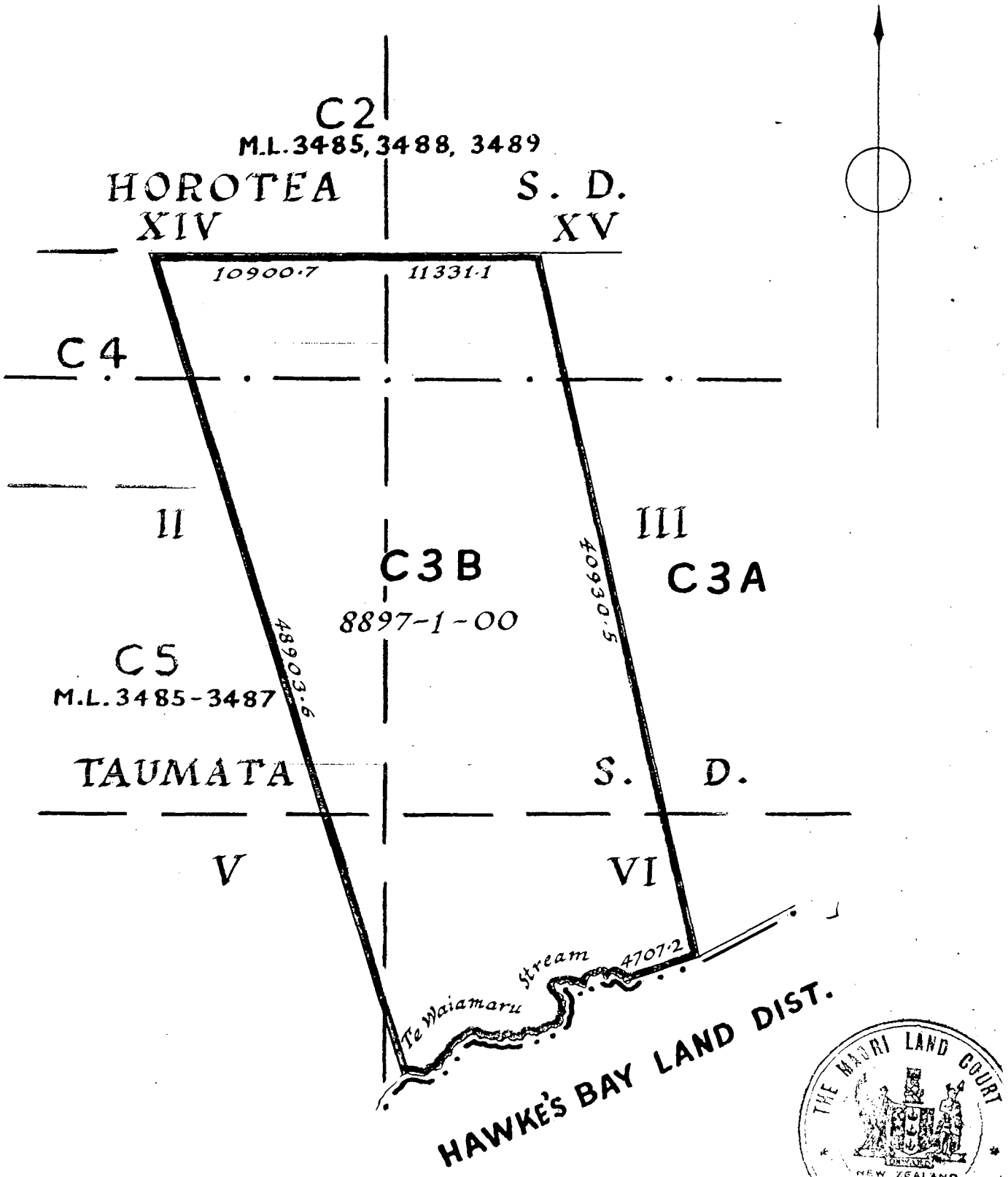
OWHAOKO C NO. 3B BLOCK.

SCHEDULE HEREINBEFORE REFERRED TO.

First Column.			Second Column.
No.	Name.	Sex and, if Minor, Age.	Relative Interest.
28	Rawiri Paturoa	m.a.	1/34
29	Robert Toma Ropata	m.4	1/34
30	Roka Huke	f.a.	2/34
31	Roma Ropata	f.11	1/34
32	Taekara Whakahewa	m.a.	1/34
33	Tame Hoeroa Ropata	m.10	1/34
34	Tauaiti Potaka	m.a.	1/34
35	Tungore Potaka	m.a.	1/34
36	Tutere te Takou	m.a.	1/34
37	Te Uruotu Potaka	m.a.	1/34
38	Waengarangi Hanita	m.a.	1/34
39	Watarawi Hohaia	m.a.	2/34
40	Wi Karena	m.a.	1/34
41	Wirihana Tipene	m.a.	1/34
		Total	34 shares

RSD

Exhibit C4



THE MAORI LAND COURT
OF NEW ZEALAND

Plan of Owhaoko C3B

Blks. II, III, V, VI Taumata & XIV, XV Horotea S.D

Scale: 80 Chains to an inch.

VALUATION DEPARTMENT

RURAL VALUATION AND SHORT REPORT

Valuation Requisitioned by MAORI AFFAIRS Dept. Valn. No. 1329 / 67

Name of Owner: MAORIS

Name of Occupier: ------- Exhibit D1

In terms of the request dated 28.8.67 19..., Ref.

I inspected the under-mentioned property on 21st September 1967.

My valuation, requested as at 21st Setember 1967 is given below, with some general comments on the property.

Legal description of property valued: OWHAOKO C3B

BLKS II, III, V, VI, TAUMATA S.D. BLKS XIV, XV, HOROTWA S.D.

Area: 3307 acres 1 r. 00 p.

SUMMARY OF VALUATION		
	Improvements	$ 500
	Unimproved Value	2500
	Planting	
	Timber	
	Capital Value	$3000

Location: KURIPAOANGA

Altitude: 2/5000 ft. Access: Nil Rainfall 50 in. Power: Yes/No.

School: 30 miles. School Bus: Yes/No. P.O. 30 miles. Dairy Factory: --- miles.

Freezing Works: miles. Saleyards: miles. Railhead: miles.

Contour/Aspect: Approximately 1000 acres easy hills - discable. Balance very steep running up to tussock tops at 4000 feet.

Soils: Light volcanic loam on rock and pumice.

General Remarks: A most unattractive property by contour and location. Situated off TAIHAPE NAPIER ROAD, approximately 4½ miles from TAIHAPE by steep narrow road.

A small area across the stream is easy hill covered with scrub that could be brought in for holding paddocks for TIMAHANGA STATION. Balance is steep birch and scrub covered hills except for some high tussock country at the back.

Exhibit D2

DETAILS OF VALUATION

Valn. No. 1329 / 27

Legal Description OWHAOKO C3B

BLKS II, III, V, VI. TAUMATA S.D. BLKS XIV, XV, HOROTEA S.D.

Area 8897 a. 1 r. 00 p.

Buildings:		
Dwelling		
O16 Dwelling		$ 50
	Total	$ 50
Fencing: 300	chains	200
Clearing:	acres	
Cultivation/Consolidation:	acres	
Grassing: 130	acres	100
Draining:		
Water Supply		
Other Impts. Track		150
	Total Improvements	$ 500
	Unimproved Value	2500
	Total	$3000
	Planting	
	Timber	
	Capital Value:	$3000

L.F. Fletcher

Endorsed by: (L.F. Fletcher)

Valuer / /

District Valuer 27 / 9 /67.

Exhibit E

THE MAORI LAND COURT
OF NEW ZEALAND,
Aotea DISTRICT.

Owhaoko C3B Block

APPLICATION IS HEREBY MADE to the COURT for a meeting of the assembled owners of the land known as Owhaoko C3B to be summoned by the Registrar to consider the following proposed resolution:

That the land be sold to ~~X~~ WIRIHANIA TERENCE APATU and MARGARIET CATHERINE APATU both of Waipukurau Farmer and wife for the sum of $3000-00

Dated the 26th day of October 1967.

Applicant: W.T. & M.C. Apatu by their agent W I Apatu

Address: c/- Farm Road P.O. Box 25 Waipukurau

*Fee: £6 ($12)

MAORI LAND COURT
26 OCT 1967
AOTEA DISTRICT
WANGANUI

298617
$12 o/c

or For and on behalf of the Board of Maori Affairs

Secretary for Maori Affairs *or* being authorised by the Secretary for Maori Affairs to sign on his behalf.

NOTE—*Where the proposed resolution is for an alienation to any person other than the Crown, the application must be made by the proposed alienee.*

*If the Court dismisses the application to summon the meeting, the applicant shall be entitled to a refund of £5 ($10) of the fee on application in writing to the Registrar.

M.L.C. 216

5,000/4/66—18873 W

30 Exhibit F1

STATEMENT OF PROCEEDINGS OF MEETING OF ASSEMBLED OWNERS

OWHAOKO C 3 B BLOCK

Minutes of a meeting of assembled owners held under Part XXIII of the Maori Affairs Act 1953 at Wanganui on the 8th day of December 1967

Present, Ten (including three proxies) owners, who appointed E. A. Hodson to act as Chairman.

The business before the meeting was the consideration of a proposal to

Sell to Wirihana Terence Apatu and Margaret Catherine Apatu

particulars of which are set out in the attached notice to owners which was read over and explained to the meeting.

Owners present or represented by proxy and shares held by same:

In person.			
Hohipera Pineaha		.0682	
Ataereta Pineaha		.0682	
Wirihana Tipene Apatu (father of applicant.)		1 .6666	
Rora Katherine Kereopa		.3750	
Public Trustee (Est.Conrad Brian Heatley)		3. 0000	
Daisy Potaka		.2500	
Mina Potaka		.2500	
By proxy.			
Watarawi Pineaha	By Hohipera Pineaha	.0682	
John Wite Ota Wellwood	By WirihanaTipene Apatu	.7500	
Paremata Pineaha	" " " "	.8182	7.2944
Also present.		out of	34.0000

Mr. Restieaux. Solicitor.
Mr. R.D. Symms, for Public Trustee.
Mr. Wirihana Terence Apatu, Applicant.

Mr. Restieaux. Gave history of block - occupied in early part of century by a Mr.Boyd - reason why block now commonly known as Boyd Block - approx. 60 miles from Hastings - no access - unoccupied - adjoining owners not interested in buying or leasing - covered in scrub - applicant prepared to increase his offer 20% above Government valuation = $3,600 - no millable timber on block.

General discussion continued - Chairman drew attention to amounts outstanding to clear title - Survey Liens $524 - Rates $1225. Mr. Restieaux considered the owners should pay these amounts out of purchase money, particularly as his client was now offering $3,600. Owners agreed that they should pay these charges. Payment of Maori Trustee's commission was also discussed, and it was agreed that this should be decided by the Court. All owners agreed that the land was not worth keeping - that the ownership was large and would increase - moved by Rora Kereopa, seconded by Hohipera Pineaha that the land be sold for $3,600 - carried unaminously.

Meeting concluded 11.55am.

E A Hodson

Chairman.

Exhibit F2

29

RESOLUTION OF ASSEMBLED OWNERS

IN THE MAORI LAND COURT
OF NEW ZEALAND,

AOTEA DISTRICT.

IN THE MATTER OF the OWHAOKO C3B Block, and of a meeting of assembled owners held under Part XXIII of the Maori Affairs Act 1953, at Wanganui on the 8th day of December 19 67

IT IS HEREBY CERTIFIED that the following resolution was carried by the assembled owners of the above-named block:

THAT the land be sold to Wirihana Terence Apatu and Margaret Catherine Apatu, both of Waipukarau, farmer and wife, for the sum of $3,600. Owners to pay all outstanding title charges to ~~xxxxxxx~~ give clear title to purchaser.

E R Anderson
Recording Officer.

Countersigned:

Present at the meeting.

R. K. Kereopa.

To—

This land is at present under consideration for incorporation as a development scheme. The present idea covers most of the Awhaoko C & D blocks remaining in Maori ownership, plus some Crown land.

J Bates

Mr Bates

I suggest that even at this late stage you, for Dept, might consider appearing on appln for Confirmation of resolution, although it would have been better to be represented at hrgs. I could not at hearing act on your note above. If you do intend to appear, you should I suggest, tell Solicitor for applicant & perhaps Counsel principal owners

Jones
15.1.68.

Re Application [illegible] 11/7734. 16.1.68

Mr Mainwaring.

Please ensure that we are represented both in person and by means. at the hearing

J Bates
17.1.68.

11/7734
16/1/68

Exhibit H

34

MEMORANDUM FOR THE COURT

Application for Confirmation of Resolution of Assembled Owners relating to sale of Owhaoko C3 B to W.T. Apatu and M.C. Apatu
Application No. 138 in Wanganui Panui for sitting commencing 5 February 1968

1. An investigation is now being made at the request of the respective Ministers in charge of the Departments of Lands and Maori Affairs into that portion of the Owhaoko Block which is unalienated Maori land.

2. It has been ascertained that there has been free grazing of this large tract of Maori land, which might be utilised as a development scheme.

3. Preliminary reports are being sought to obtain an estimate of the costs of development. If it is found that development of the unalienated Maori land is economically feasible, an approach will then be made to the Maori owners.

4. To date, the reports have not yet been completed.

J.E. Cater
(J.E. Cater)
DISTRICT OFFICER

Department of Maori Affairs,
WANGANUI.

Judge Davis
To Mem. file — ref. also folio 32.
Ltr 29/1/68

Re Mr Apatu hearing. Have solicitors & owners been told - my memo 15.1.68 at folio 32. If so, I suppose that this file have

HMS*RCJM

Exhibit I

4/7724 & 3/7724

5 February 1968

The District Public Trustee,
Public Trust Office,
P.O. Box 234,
WANGANUI.

Messrs Christie, Craigmyle & Co.,
Barristers and Solicitors,
P.O. Box 99,
WANGANUI.

Mr Arona Raurimu Potaka,
P.O. Box 6,
UTIKU.

Mr Hakararia Potaka,
91 Summer Street,
Ponsonby, AUCKLAND.

Mr Henry Tiopira
or Matthews,
Fernhill, HASTINGS.

** SEE BELOW

APPLICATION FOR CONFIRMATION OF RESOLUTION OF ASSEMBLED OWNERS RELATING TO SALE OF OWHAOKO C3 B TO W.T. APATU AND L.C. APATU APPLICATION NO. 138 IN WANGANUI MINUTE BOOK FOR SITTING COMMENCING 5 FEBRUARY 1968

This is to inform you that an investigation is now being made at the request of the respective Ministers in charge of the Departments of Lands and Maori Affairs into that portion of the Owhaoko Block which is unalienated Maori land.

It has been ascertained that there has been free grazing of this large tract of Maori land, which might be utilised as a development scheme.

Preliminary reports are being sought to obtain an estimate of the costs of development. If it is found that development of the unalienated Maori land is economically feasible, an approach will then be made to the Maori owners.

To date, the reports have not yet been completed.

Yours faithfully,

(J.E. Cater)
DISTRICT OFFICER

** SEE BELOW

Matekino Tiopira or
Manawaiti,
R.D. 3, TE KUITI.

Mr Matetahuna Tiopira,
R.D. 3,
TAIHAPE.

Paremata Pineaha,
Fernhill,
HASTINGS.

Mr Wirihana Tipene Apatu,
R.D. 2, HASTINGS.

Nukuteaio Selina Gillespie,
482 College Street,
PALMERSTON NORTH.

Rora Katherine Kereopa,
1 Tregenna Street,
Castlecliff,
WANGANUI.

Wera Rawinia O'Connor,
62 Polson Street,
Castlecliff,
WANGANUI.

(18)

Exhibit I2

Oahu,
R.D. 3. Napier,
10th. May 1968.

17 MAY 1968

The District Officer,
Department of Maori Affairs,
Gisborne.

[illegible] Trust

Dear Sir,

Folio 8

Ref. your letter M.A. 3/772 & 3/772 of 5th. Feb. of this year.

You state that your department is making further investigations as to the possibility of developing these lands, if proved an economic scheme. I further deduce from that letter, that pending this investigation, Owhaoko C3. B. passed by the majority of owners to be sold to [illegible] tu, has been withheld.

Sir, as one of the major shareholders in this block, I was definitely against the sale. My contentions being, that rather than a sale; these unalienated tracts of land, could have been further investigated, as to there possible utilisation in some other way. The nature of the terrain, from talks with Forest department officers, did not lend itself, to successful farming. However, they were of the opinion, that the planting of trees, would be a definite asset. Not as they pointed out for the present, but for the near future. Could your department, if the farming idea was not possible, make an approach to the Forest Service, as to possibilities in that direction.

I also understood from the same source; the timber potential. Rather for post and battens at the present moment, as there is no roading into the area.

You also mentioned, that free grazing has been carried on for some considerable time. This unfortunate fact of affairs has been known to shareholders in this area for the same length of time. I believe representation had been made by our forebears, to your then officers. It would appear, that nothing had been done about it. What may be the attitude of your department? And what is the possible solution to crush this flagrant abuse of other peoples rights.

In closing Sir, these are only the views of the writer; the final solution I am well aware, rest in the capable hands of yourself and your field officers.

Yours faithfully,

S. McCashendale Tapiria

Reply for D.O.'s signature

17/5/68

B

See freshly typed copy immediately hereunder

B. Herring
5/10/95

EXHIBIT I2

COPY ONLY

Omahu,
RD 3, Napier
10th May 1968

The District Officer,
Department of Maori Affairs,
Wanganui

Dear Sir,

Ref. Your letter M.A. 4/7724 & 3/7724 of 5th Feb. of this year.

You state that your department is making further investigations as to the possbility of developing these lands, if proved an economic scheme. I further deduce from that letter, that pending this investigation, Owhaoko C3B passed by the amjority of owners to be sold to T. Apatu, has been witheld.

Sir, as one of the larger shareholders in this block, I was definitely against the sale. My contentions being, that rather than a sale these unalienated tracts of land, could have been further investigated, as to there possible utilisation in some other way. The nature of the terrain, from talks with Forest department officers, did not lend itself to successful farming. However, they were of the opinion that the planting of trees, would be a definite asset. Not as they pointed out for the recent, but for the near future. Could your department, if the farming idea was not possible, make an approach to the Forest Service, as to possibilities in that direction.

I also understood from the same source; the timber potential. Rather for post and battens at the present moment, as there is no roading into the area.

You also mentioned that free grazing has been carried on for some considerable time. This unfortunate state of affairs has been known to shareholders in this area for the same length of time. I believe representations had been made by our forebears, to your then officers. It would appear, that nothing has been done about it. What now is the attitude of your department? And what is the possible solution to curb this flagrant misuse of other peoples rights

In closing Sir, these are only the views of the writer; the final solution I am well aware, rest in the capable hands of yourself and your field officers.

Yours faithfully,

H. MATTHEW TIOPIRA (signed)

4/7724 Exhibit I 3

HMS*JHD

& ISLANDS (19)

27 May 1968

Mr H. Matthew Tiopira,
Omahu,
R.D. 3,
NAPIER.

Dear Mr Tiopira,

OWHAOKO C3 B

Thank you for your letter dated 10 May 1968.

I regret that you were not informed earlier that on 6 February 1968, the day following the sending of our letter to you and other owners, the Maori Land Court considered an application for confirmation of the owners resolution to sell to W.T. and M.C. Apatu. The Court, having regard to all the circumstances placed before it, did, in fact, confirm this resolution and a copy of the relevant minutes is enclosed.

You will see from these minutes that the Court considered a suggestion that the matter be deferred but decided not to withhold confirmation. The Maori Trustee is therefore, in accordance with the statutory provisions, required to implement the wishes of the owners as expressed in their resolution. A transfer of the land is accordingly being arranged and should be completed shortly.

Yours faithfully,

(J.E. Cater)
DISTRICT OFFICER

Exhibit J1

EXTRACT FROM WHANGANUI (ALIENATION) MINUTE BOOK 6/241-2

Date: 6 February 1968
Place: Wanganui
Judge: D.G. Davis

Application 138 : File Reference 3/7724 : Owhaoko C3B : Confirmation of Resolution.

Mr Restieaux

I ask for confirmation of resolution. I did as Court suggested looked at file and found letter of Department of Maori Affairs dated 5th February, although your memorandum to District Officer dated 15.1.68. Applicant does not have any other land. Special Government Valuation 21.9.67 $3,000 Price $3600.

Mr Hyslop

Concede that Maori Trustee probably not entitled to appear. Appear merely to inform Court of position. Can't add really to Memorandum on file. Are proposals for Development but can't say will come to anything. Only recently matter raised at Ministerial level and involved some research. Only now Maori Affairs knows what land involved.

Court

Involves land about which nothing done for years and just when an owner has become interested, other action is taken, with suggestion that something indefinite is being investigated and therefore, should be an adjournment. Maybe that proposal for development will not come to anything, whereas owners have agreed to sell at Meeting of owners. Not large attendance but all that could be expected in circumstances. Court would doubt whether owners would receive anything for years even if decided to develop. Now they will get something immediately - $3600. Court not justified in deferring.

Resolution is confirmed. No undue aggregation.

Action by Department seems to call for comment. Delay from 15.1.68 to 5.2.68. Would be known that Court sitting to
age 242 commence on 5.2.68. Meeting of owners was held on 8 December 1967. Known to Department on 6 November that meeting of owners to be held.

Copy of minutes referred to in Maniwaniwa on 4/7724.

Exhibit J2

(42) (16)

Dept. of Maori Affairs
26 MAR 1968
M.A.

7

AH

m PALMERSTON NORTH To WANGANUI

ile: D.O. file: 5/3637 S.O. file: 3/7724
Your 5/0

oject: M.T. LOAN APPLICATION : W.T. APATU

Enclosures checked

te: 25.3.68 Previous ref.: Ours Yours

80307 XE4

LANDS.

1. I am afraid we require further information from your office about the block Owhaoko C3B. Will you please let us have a plan of the block showing whether or not there is legal formed access. Our lithos show the block to be very close to the Napier-Taihape Road, but it is not perfectly clear whether the section actually meets the road. The Particulars of Title which you forwarded quote C/T reference as 80/98. Does this refer to Owhaoko C3B only or is it the title reference of the parent block.

2. Can you let us have a copy of the Land Transfer Search which, no doubt, was furnished by the solicitors when the application for confirmation was lodged.

3. I feel the Court's attention should be drawn to the fact that Mrs Apatu, a joint alienee, has an equitable interest in a half share of 90,000 acres. I note from the minutes that the resolution was confirmed "no undue aggregation." Mrs Apatu is a daughter of the late owner of Ngamatea Station whose lands surround this block. The Estate is in the process of being wound up and Mrs Apatu will then become entitled to a half share in her own right.

Judge Davis
To Sec Pal 27/3/68

D

Kmorrill
(K. Morrill)
District Officer

Mr Boyes See para 3 re Statement by Mr Rasheim's statement in first para. of minute at folio 36 Its a bit thin on which to make him justify. He may be able to.
Davis
1.4.68

See folio 46
13.5.68

See next folio J2a.1
for typed copy of handwritten comments above

Exhibit J 2 a

JUDGE DAVIS

To see please. E.A. Hodson, Alienations Clerk.
29.3.1968

MR. BYRES

See paragraph 3 and statement by Mr. Restieaux's statement in first paragraph of minutes at folio 36.

Please write drawing his attention and ask him to justify.

He may like to.

D.G. DAVIS Judge

1.4.68

See Folio 46

M.S. BYRES Deputy Registrar

13.5.68

CHRISTIE, CRAIGMYLE, TIZARD & DICKSON

BARRISTERS AND SOLICITORS

JOHN CRAIGMYLE
JOHN DIXON TIZARD
PETER LOCKHART DICKSON
MAX HAROLD RESTIEAUX
JOHN WEBSTER TIZARD

P.O. BOX 99

TELEPHONES: 4086 AND 8226 (3 LINES)

25 WICKSTEED PLACE.
WANGANUI, N.Z.

(17)

IN REPLYING PLEASE QUOTE: MHR.

Exhibit J3

23rd April 1968

26 APR 1968

3/7724

The Deputy Registrar,
Maori Land Court,
Private Bag,
WANGANUI.

Dear Sir,

re: Owhaoko C3B - Sale to W.T. & M.C. Apatu

We have your letter of 2nd April.

Mrs. W.T. Apatu is a residuary beneficiary in the Estate of her late father Laurence Harper Roberts whose Estate we are administering.

Probate of the Will contains a trust for conversion of the Estate assets into cash (with power of postponement) from which the widow of the deceased receives a life interest.

We would submit that under the Will Mrs. Apatu is entitled not to a residuary interest in land, but to a residuary interest in an Estate after conversion into money and accordingly what was said the paragraph of the minutes referred to is correctly stated.

Yours faithfully,
p.p. Christie, Craigmyle, Tizard & Dickson

See typed copy of handwritten notes above. Exhibit J3a

Exhibit J3a

Please let me see Former Papers.

M.S. Byres
Deputy Registrar 26.4.68

MRS. ANDERSON (Clerk)

Refer this to the Deputy Registrar
with Probate File.
J. Te Paa.
Senior Court Clerk. 29.4.68

DEPUTY REGISTRAR (1) Probate referred to, may have been through Supreme Court. None recorded in our index.

(2) Perhaps Trust Administration would come into this in distribution of Part XXIII proceeds. Also perhaps Titles Improvement Officer in preparation of MA210.

J. Te Paa.
Senior Court Clerk. 29/4

JUDGE DAVIS Referred for your information with reference to folio 42.

M.S. Byres
Deputy Registrar. 29.4.68

MR. BYRES Decision stands.

D.G. Davis
Judge. 9.5.68

No further action necessary.

M.S. Byres.
Deputy Registrar. 12.5.68.

ORDER CONFIRMING RESOLUTION OF ASSEMBLED OWNERS

Exhibit K

The Maori Affairs Act 1953

Section 319

WH.MB.(ALN.)6/241-242
IN THE MAORI LAND COURT
OF NEW ZEALAND,

AOTEA DISTRICT.

OWHAOKO C3B - Block.

At a sitting of the Court held at Wanganui

on the 6th day of February 1968

before David Grant Davis , Esquire, Judge.

WHEREAS the Recording Officer has reported to the Court that at a meeting of the assembled owners of the above block duly summoned under the provisions of Part XXIII of the Maori Affairs Act 1953 and held on the 8th day of December 19 67 the resolution set out below was duly passed.

~~*AND WHEREAS it appears to the Court that the conditions set out in the Schedule hereto should be imposed upon the confirmation of the said resolution (or that the said resolution should be modified in the manner set out in the Schedule hereto) AND WHEREAS the alienee under the alienation to be effected under the said resolution has consented to such conditions (or modifications)~~

AND WHEREAS the Court, having taken the said resolution into consideration, is satisfied as to all matters upon which it is by law required to be satisfied:

NOW THEREFORE IT IS HEREBY ORDERED that the said resolution be and the same is hereby confirmed. ~~(as modified as aforesaid or subject to the above-mentioned conditions)~~.

RESOLUTION

THAT the land be sold to Wirihana Terence Apatu and Margaret Catherine Apatu, both of Waipukurau, farmer and wife, for the sum of $3,600.

Owners to pay all outstanding title charges to give clear title to purchaser.

Cancelled by order of the Chief Judge under Section 452 of the Maori Affairs Act 1953 made on 21 May 1986.

Deputy Registrar

As witness the hand of the Judge and the seal of the Court.

MAORI LAND COURT

53

Exhibit L

Moteo Road,
R.D. 3,
NAPIER.

23rd April, 1980.

Mr B. Herlihy,
Maori Land Court,
Private Bag,
WANGANUI.

Dep Reg

Dept. of Maori Affairs
28 APR 1980
RECEIVED
WANGANUI

Dear Sir,

Owhaoko C3B. Your Ref. 3/7724.

Thank you for your letter dated 17th April, 1980.

May I point out to you that the quorum for the meeting dated 8th December, 1967, consisted of 7 persons present and 3 by proxy which constitute the first part of Section 309 (6) (B) of the Maori Affairs Act 1953.

However, if you look further to Section 309 (6) (B), you would note a quorum shall not be deemed to be present unless the owners constituting the quorum own not less than ¼ of the beneficial freehold interest in the land in respect of which the meeting is called.

Therefore Owhaoko C3B had 34.0000 shares and in order to comply fully with Section 309 (6) (B) the quorum present should have had ¼ or more of 34.0000, which is 8.5000. You would note therefore that only 7.2944 of the beneficial freehold interest were present.

May I quote from 309 (6) (B) - "A quorum shall not be deemed to be present."

I further refer to Section 452 (8) and the words "acquired for value and in good faith." I have evidence that the land was not acquired in good faith and in any event the meeting was not fully constituted as required under Section 309 (6) (B).

Would you please file my application so that this matter may come to the notice of the Court.

Please find enclosed $40. $20 application fee to Chief Judge and $20 Supplementary Panui Fee for the Hearing at Tokaanu, 26th May, 1980.

Private legal opinion has been sought. My first application to you requested that you write to the various Government Departments, namely N.Z.F.S., and Lands & Survey, to establish from them whether they were aware of the Native trees upon this land. As mentioned this information would prove valuable when this matter is bought to the notice of the Court.

The Commissioner of Crown Lands, Mr Campin, of the Napier Office, was aware of this land and the Native timber upon it way before the sale. It may very well pay to start writing to him. It is the knowledge of the timber upon the land before the sale I am seeking.

Thanking you for efforts.

M/O $40.00

Yours faithfully,

H. Tiopira Mathews

H. TIOPIRA MATHEWS.

Enclosure:

Exhibit M

5 May 1980

Mr H Tiopira Mathews
Moteo Road
R D 3
NAPIER

Dear Mr Mathews

OWHAOKO C3B

Thank you for your letter of 23 April.

We have had a further and more detailed look at this question and it would now appear that Section 309 of the Maori Affairs Act 1953 as originally enacted would apply to the meeting which was held on 8 December 1967. The Act was reprinted in 1964 with no amendment to Section 309. In fact, the first amendment to this section we can find is the Maori Purposes Act 1967 Section 4, and Subsection 5 of this amendment states that the section shall come into force on the first day of April 1968 (ie some months after the meeting of owners was held).

Section 309 in its original form simply provides for three persons entitled to vote to be present for the whole of the time of the meeting.

At this stage I must say, however, that I am not at all happy with the overall position. The Statement of Proceedings shows that the Solicitor acting stated "Covered in scrub" and "No millable timber on block".

I have since had verbal reports of large quantities of timber coming off the block so owners may well have been mislead or given incorrect information at the meeting.

We have absolutely no wish to be obstructive but must ensure that you have proper grounds before we accept your application under Section 452.

May I suggest therefore that you now discuss the above with your legal adviser.

If an application under Section 452 is accepted it must first of all be referred to the Chief Judge who gives directions thereon and it cannot be advertised in the panui until the Chief Judge's directions are received.

... I am in the meantime returning your application and money order.

Yours faithfully

M/O returned 7.5.80

Registrar Please attach M/O

(B Herlihy)
Deputy Registrar
Encl

DISTRICT SOLICITOR: ~~Please~~ refer to paragraphs 2 & 3 above. Do you agree that Section 309 as originally enacted in the Maori Affairs Act 1953 would be applicable to a meeting of owners held on 8 December 1967?

B Herlihy Mr Herlihy I agree.

(B Herlihy)
Deputy Registrar

6/5

(28)

3/7724
Exhibit N

P.O. Box 2377
Hastings.
20th May 1980.

Mr B.HERLIHY,
Maori Land Court,
Private Bag,
WANGANUI.

Dear Sir,
Owhaoko C3B. Your ref. 3/7724.
Thank you for your letter dated 5th May.

f.1.

Please find enclosed another application to the Chief Judge under section 452 to cancel an Order.

This letter would confirm that there are proper grounds to make this application. It is based on "Land Fraudulently Acquired".

The solicitor's comments (Mr RESTIEAUX) :-
Adjoining owners not interested in buying or leasing.
Covered in scrub.
No millable timber on block.
The land was not worth keeping.

Evidence can be produced to show that prior knowledge of the native bush upon this land existed and that APATU and his inlaws ROBERTS were fully aware that they were buying this land for its timber potential and what their personnal gains can be.

I would very much like this matter bought to the notice of the Chief Judge for his directions.

Yours faithfully,
H.Tiopira Mathews
H.Tiopira MATHEWS.

m/o $40.00 R's 58746 x 123626
28 MAY 1980

(1)

044535 M.L.C. 273

Exhibit O

APPLICATION TO THE CHIEF JUDGE UNDER SECTION 452 OF THE MAORI AFFAIRS ACT 1953

*To the Chief Judge, Maori Land Court of New Zealand.

I, Henry Tiopira MATHEWS ,

hereby apply under section 452 of the Maori Affairs Act 1953 for ~~xxxxxxxx~~/cancellation of an order made on the sixth day of February 19 68 ~~determining the persons legally entitled to succeed to the interest of~~ ~~xin the lands known as~~ ~~and vesting orders in pursuance thereof made on the~~ day of 19

(or, if other order, state nature and date)

Confirming resolution of sale of OWHAOKO C3B to W.T & M.C. APATU. WHANGANUI M.B. 6/241-2.

Upon the following grounds:

(1) That I have been adversely affected by the said order(s).

(2) That the said order(s) is/~~are~~ erroneous by reason of—

(a) ~~A mistake, error, or omission on the part of the Court; or~~

(b) A mistake, error, or omission in the presentation of the facts of the case to the Court.

(3) The nature of the mistake, error, or omission, and the person by whom it was made were Presentation of the true facts to the owners at meeting held on 8th December 1967.

The Statement of Proceedings shows that the solicitor Mr RESTIEAUX stated "Covered in scrub & No millable timber on block."

(4) The nature of the amendment sought to the said order(s) is as follows (where persons have been wrongly admitted to or omitted from a title or have been given incorrect shares, set out the names to be omitted or added or the shares to be corrected and attach a whakapapa showing their correct relationship to the deceased):

The land be returned to original owners and compensation for the timber removed from the land since purchased by APATU's. Evidence will support the fact that the APATU's knew there was Native Timber upon the land at the time of purchase. A case to show that the land was fraudulently accuired. Mr & Mrs APATU paid $3600 for the land and a year later the contractor was paid $52,000-oo (approximately) for timber taken off the land. Statement of Proceedings. All owners agreed the land was not worth keeping.

Dated the 19th day of May 19 80.

H Tiopira Mathews.

Applicant: H. Tiopira MATHEWS

Address: P.O. Box 2377 Hastings.

R 58746
29/5/80.

(30)

Exhibit R
2/79/298

EXTRACT FROM

CHIEF JUDGE'S MINUTE BOOK 1981 FOLIO 55

AT WELLINGTON - TUESDAY 11 AUGUST 1981

Before: Edward T J Durie - Chief Judge
ANF Harris - Chief Registrar

APPLICATION C.J.1980/38 by H T Mathews for cancellation of an order of 6 February 1968 confirming a resolution for the sale of Owhaoko C3B to W T and M C Apatu.

Aotea file reference 44535

Associated files 3/7724 and 4/7724

Chief Judge:

This application has been referred to me without the associated files referred to above. At this stage, a search of the Land Transfer title has not been provided.

The record is that following confirmation of a resolution of owners, settlement of the sale of the land for $3,600 was effected. The applicant alleges that the owners were advised at the meeting that there was no millable timber on the land. He alleges that in fact timber from the land was sold a year later for $52,000.

It appears that the applicant should have the benefit of counsel. Apart from the standard of evidence that may be required and the prospect that some evidence may need to be sought by subpeona, I would expect some argument as to whether relief can be provided under Section 452. It appears that the applicant's interests may not be greater than that of several other interested persons. Accordingly, in referring this application to the Court for enquiry and report, I would hope that consideration would be given by the Court to the appointment of counsel for the applicant, if that is necessary and if it is appropriate, with recourse to the Special Aid Fund.

Whether or not relief may be available under Section 452, I would expect a full enquiry to be made into the allegations, and if considered to be proven, that consideration be given to any alternative relief that might be available to the applicant or action that might be taken, and to any procedures that might be settled upon for the future to guard against the prospect of a repetition. Accordingly, the application is referred for enquiry and report pursuant to the provisions of both Section 452 and Section 453.

The applicant has sought a hearing at Tokaanu. I find that Tokaanu is the nearest place of regular sitting to the location of the land and accordingly the Registrar should refer the application to the Judge normally dealing with that district; I leave it to that Judge to determine whether the application might be more conveniently heard at some other place.

EXTRACT FROM

(29)

Exhibit B
2/79/298

CHIEF JUDGE'S MINUTE BOOK 1981 FOLIO 56

The Registrar will please not advertise the application in the panui until such time as the Judge is ready to proceed and directions as to notice, fixture, hearing and any prior consultation with the applicant, have been given. The application may be heard at other than usual sitting dates if that is convenient to the Judge.

ETJ Durie
Chief Judge

Exhibit Q1

(42)

HEAD OFFICE

BH*CAE

WANGANUI

2/524 3/3/73

16.6.83 2.5.83

MAORI LAND COURT SPECIAL AID FUND

Attention: Chief Registrar

1. Your memorandum of 2.5.83 is relevant.

2. We have a problem regarding an application under Section 452 and the following is a brief outline of the position.

3. The block is Owhaoko C3B and the title is a Partition Order dated 26 April 1935. The area is 8897 acres 1 rood. At the time the land was sold there were 74 owners and the total shareholding was 34.0000. There was no recorded alienation prior to the sale of the land.

4. On 26 October 1967 an application to summon a meeting of owners was lodged to consider a resolution that Owhaoko C3B be sold to Wirihana Terrence Apatu and Margaret Catherine Apatu, both of Waipukurau, for the sum of $3000. On the same day the Court authorised the calling of the meeting.

5. The meeting was held on 8 December 1967. Seven owners were present and three owners were represented by proxy making a total of 7.2944 shares out of a total of 34.0000.

6. The statement of proceedings shows that the solicitor gave the history of the block saying there was no access and that the adjoining owners were not interested in buying or leasing and that the land was covered in scrub. The applicant increased his offer to 20% above the Government Valuation - $3600. No millable timber. The owners agreed to pay survey liens amounting to $524 and rates of $1225 and agreed that the land was not worth keeping. The resolution was passed unanimously that the land be sold for $3600 and this resolution was confirmed on 6 February 1968.

7. We have now received an application by Henry Tiopira Matthews under Section 452 for cancellation of the resolution dated 6 February 1968 to sell Owhaoko C3B block. This application was lodged on 28 May 1980. The nature of the mistake, error or ommission is alleged to be in the presentation of the true facts to the owners at the meeting held on 8 December 1967. In the statement of proceedings the solicitor stated - "covered in scrub and no millable timber on the block".

8. The amendment sought is for the land to be returned to the original owners and compensation for the timber removed since the sale. The land was sold for $3600 and it is claimed that one year later approximately $52000 worth of timber was extracted.

..2..

Exhibit Q2

9. The application and supporting papers were forwarded for referral to the Chief Judge who was of the opinion that the applicant should have the benefit of Counsel and the application was to be referred to the Judge who normally dealt with matters at Tokaanu Court for his directions as to notice, fixtures, hearing and any prior consultation with the applicant.

10. Towards the end of last year Mr Matthews advised in writing that he was agreeable to Mrs Haeata handling the application under Section 452 and to her obtaining the assistance of a solicitor in Wanganui.

11. Mrs Haeata approached Mr A R Wallis and we made the relevant files available to him. Mr Wallis, however, preferred not to handle the matter and it was then suggested that an approach be made to Mr R T Feist of Wellington.

12. Mr Feist has now written me a personal letter and he points out that the matter could be very time consuming and that he is reluctant to indicate a willingness to handle the matter without some indication of how legal costs are to be paid.

13. Mr Feist also points out that he is currently engaged in a good deal of work on a voluntary basis and does not feel that he can commit himself further.

14. I think there is an extremely important principle involved here. That is, it is alleged that the Maori owners have been deliberately misled at the meeting of owners by the comments made by the solicitor for the applicant and, as a result, agreed to sell their land at a price far below its true worth.

15. It is very difficult to assess legal costs but I would have no hesitation in recommending that something between $3000 and $5000 be made available for legal aid in this particular case.

(B Herlihy)
Deputy Registrar

Exhibit K

b1

COPY

OWHAOKO C3B

SUMMARY OF INVESTIGATION TO DATE

1. Meeting of assembled owners was held at Wanganui on 8 December 1967 to consider sale of land to Wirihana Terence Apatu and Margaret Catherine Apatu. Seven owners were present in person; three owners were present by proxy. Of the seven people present one was W T Apatu, father of the applicant holding 1.6666 shares and one was the Public Trustee on behalf of the estate Conrad Brian Heatley holding 3 shares. The other five owners present held between them 1.0114 shares. Proxies held 1.6364 shares. Total shares represented at meeting was 7.2944 out of a total of 34 shares. Other persons noted as present were the applicant Wirihana Terence Apatu, his solicitor Mr Restieaux, and Mr R D Symns for the Public Trustee. Mr E A Hodson from the Maori Affairs Department acted as chairman. The statement of proceedings of the meeting indicated that Mr Restieaux gave the history of the block, indicated it was covered in scrub, stated that no adjoining owner was interested in buying or leasing the land and that there was no millable timber on the block. The applicant was prepared to pay 20% above Government valuation. GV $3,000 plus 20% $600 equals $3,600. Outstanding survey liens against the land totalled $5,024 and outstanding rates $12,025. All owners present agreed that the land was not worth keeping and that they should sell the land for $3,600 and meet the outstanding charges out of the proceeds of sale.

2. The Government Valuation Department had made a special valuation of the property on 21 September 1967 and this was received in the Department of Maori Affairs on 2 October 1967. It showed the capital value of the land $3,000 being unimproved value $2,500 and improvements $500. It showed no value for timber. It described the property as an unattractive property by contour and location situated off Taihape-Napier Road approximately 40 miles from Taihape. A small area is easy hill covered with scrub that could be bought in for holding paddocks for Timahanga Station. (I understand Timahanga Station is owned by the Roberts family and adjoins the land in question. Mrs Apatu, one of the applicants, is the sister of Mr Roberts the owner of Timahanga Station.) The balance of the land was described as steep birch and scrub covered hills except for some high tussock country at the back. Improvements to the land were shown as old dwelling $50, fencing $200, grassing $100, track $150, total improvements $500.

3. Application for confirmation of the resolution of owners was heard by Judge D G Davis at Wanganui on 6 February 1968. Mr Restieaux appeared for the applicant and sought confirmation. He stated in his statement to the Court "applicant does not have any other land". The Court noted "involves land about which nothing done for years and just when an owner has become interested other action is taken with suggestion that something indefinite is being investigated and therefore should be an adjournment. Maybe that proposal for development will not come to anything whereas owners have agreed to sell at meeting of owners. Not large attendance but all that could be expected in

Exhibit R2

circumstances. Court would doubt whether owners would receive anything for years even if decided to develop. Court not justified in deferring".

4. Subsequently the Maori Trustee executed a transfer under section 323 and that transfer was registered in the Land Transfer Office on 31 January 1969. On 27 April 1970 a status declaration was registered. On 11 November 1982 the title was transferred by W T & M C Apatu to John Ramoth Roberts of Taihape farmer – Mrs Apatu's brother. The registered transfer shows no consideration and is declared to be pursuant to an agreement dated 28 February 1979. On 13 January 1983 a further transfer was registered. This transfer was from J R Roberts to Peter Leslie Looker of Rangiwahia farmer, Janet Margaret Roberts of Timahanga married woman, and Max Harold Restieaux of Wanganui solicitor. Consideration is shown as $175,000.

5. The reference in the Court minute book of some plan for development is not amplified and does not indicate who had initiated any request for the development of the land. Other information suggests to me that the person wanting to retain the land for development was Henry Matthews Tiopira on whose behalf I have been instructed. It would appear that he has had some discussion with the department preceding the date of confirmation. A letter from Henry Matthews to the District Officer Wanganui dated 10 May 1968 refers to departmental letter of 5 February 1968 which I have not seen. Henry Matthew's letter of 10 May claims that he is one of the largest shareholders in the block and that he was against the sale. He assumed that the application for confirming the sale to Apatu had been deferred. The District Officer, J E Cater, by letter dated 27 May 1968 and addressed to Henry Matthews states "I regret that you were not informed earlier that on 6 February 1968, the day following the sending of our letter to you and other owners, the Maori Land Court considered an application for confirmation etc". Mr Cater's letter makes no reference to the possibility of appeal but of course the time limit for appeal had already expired. There was no suggestion that the disgruntled owners ~~should~~ do anything such as seek legal advice or take any other course of action.

6. The papers that I have show a gap between 1968 and 1976. In 1976 complaints are addressed to the Court about the sale and appear to raise for the first time the suggestion that the purchaser of the land had undertaken milling operations on the land. Then there is a gap until 1980 when Mr Matthews initiated an application to the Chief Judge under Section 452. Correspondence from Mr Herlihy, Deputy Registrar of the Court, to Mr Matthews suggests that Mr Matthews should obtain legal advice. He did not do so. He retained the services of Mrs M R Haeata and agreed to her obtaining the assistance of a solicitor in Wanganui. Subsequently in 1984 I was asked to handle the case with finance to be provided by the Court from the Special Aid Fund.

7. Since my appointment I have been seeking to obtain direct evidence of the existence of millable timber on the block. I have now obtained that evidence and I would expect to be able to

Exhibit R3

establish in Court that at the time of the sale to Apatu there was millable timber on the land. If this is accepted then the report from the Government Valuation Department is incorrect and also the statement made by Mr Restieaux at the meeting of owners is incorrect.

8. The evidence I have obtained suggests that access to the block was only possible ~~through~~ Timahanga Station belonging to Mr Roberts. Timahanga Station is where Mr Roberts and his sister Mrs Apatu were brought up as children. At least one of the sites from which timber was removed by Apatu in 1970 is visible from the Robert's homestead. The block adjoins Timahanga Station and is right next to various sheds belonging to Timahanga Station. The evidence suggests that Roberts wanted to acquire the land but did not expect the Maori owners to be prepared to sell to him and may have arranged for the land to be bought by Apatu and his wife. Apatu owns land elsewhere and has never occupied Owhaoko C3B except for the purpose of removing the millable timber. I am told that at the time Apatu transferred the block to Roberts, Roberts transferred some other block to Opatu. I have not yet established that.

9. It would appear that Apatu extracted approximately 60,000 cubic yards of timber from the block in 1970; that he received a royalty of $1 per cube; that the contractor who removed the timber received payment of approximately $1.80 per cube. (Cost of extraction was quite expensive, and was borne by the contractor.)

10. The main source of the above information is Mr Bill Lumsden who actually felled the timber. He was employed by Max Lissette the contractor. Most of Lumsden's knowledge comes from discussions he had with Lissette and also with Roberts. Lissette has refused to see me but of course could be subpoenaed to Court. I think he would have to admit the existence of the timber but he is unlikely to admit any facts that would be prejudicial to either Apatu or Roberts. Roberts could also be subpoenaed. I have no idea how much he would admit.

11. In proceeding with an application under Section 452 I will first need to establish that the Court has jurisdication. In my opinion Mr Matthews is adversely affected as an owner who has received an inadequate price for his land. I will have to establish that the judge's action in confirming the resolution of owners is "an order made by the Court". The wording of Section 319 of the Maori Affairs Act is sufficiently clear in this regard. I would have to prove that the order was erroneous in fact or in law by reason of a mistake. Section 318 provides that no resolution for the alienation of any land shall be confirmed unless the Court is satisfied that the value of any millable timber has been taken into account in assessing the consideration payable. This has obviously not been done. I am confident that we can establish the prequisite to the exercise of the Chief Judge's discretion under Section 452 and I would hope therefore that the Chief Judge would make the order sought.

12. This order by itself, would not be sufficient to return the block to the owners. The land has already been transferred by

Exhibit K4

the Maori Trustee under Section 323. We face questions as to the application of Section 323(4) "no instrument of alienation executed by the Maori Trustee shall be invalidated etc", and Section 452(8) "no order made by the Chief Judge shall take away or affect any right or interest acquired for value and in good faith under any instrument of alienation executed before the making of any such order". There are also the indefeasibility of title provisions in the Land Transfer Act. I have reached no opinion at the present time as to whether answering questions relating to these provisions is within the jurisdiction of the Maori Land Court or is a matter for the High Court. It may be necessary to seek a ruling from the High Court on the matter.

13. If it is not possible for the land to revert to the owners, they may be entitled to damages under the common law. There may be causes of action based on fraud or mistake, in which case it will be necessary to determine the limitation period begins to run. This in turn would depend on when the fraud or mistake was discovered or discoverable in terms of the Limitation Act.

14. Questions also arise as to whether the Valuation Department was negligent in its report in saying there was no millable timber on the land: whether there is any remedy under the Land Transfer Act: whether there was negligence on the part of the Maori Affairs Department or Maori Land Court in 1968. This last query arises by virtue of the fact that there were clearly disgruntled owners who should have been told of the making of the Court order and who would then have had the opportunity to appeal. (However at that time none of the owners appear to have been aware that there was millable timber on the land.)

15. It is necessary to clarify my instructions. At the present time I am instructed to handle the application to the Chief Judge. I consider such application should proceed as a favourable order from the Chief Judge would be the starting point for any further action. However it is unlikely that the applicant could afford the cost of any further action and a successful order from the Chief Judge may be no more than a pyrrhic victory. I need to give further consideration to the other questions to decide whether it is worth taking the matter further. Further proceedings may well have merit, but may fail because of limitation questions. Although Mr Matthews may be a major shareholder in the block, the extent of his interest as a percentage of the whole is still small and there is no way that his share of any successful proceedings would go any way towards meeting the cost of such proceedings. If the proceedings move out of the Maori Land Court into the High Court it would be necessary to have him appointed as a representative owner in a class action. Query the necessity for a meeting of owners before this takes place. Are funds available to enable these other questions to be properly considered.

16. The reported decision of Waimanu Sawmilling Company V Pritchard 1963 NZLR 295 has been considered. It has some relevance but does not in my opinion preclude the making of an order by the Chief Judge revoking the confirmation of the resolution of owners.

17. Summary: The Common Law questions need further consideration but this cannot be given unless legal aid is available to cover

Exhibit R

such investigation. There appears to be real merit in the case but because of the time delay any action may be statute barred - with the exception of the Section 452 application. It is possible that the owners have a case to petition parliament for relief based on the failure of the Valuation Department to provide an accurate report in the first instance, failure of the Maori Land Court to facilitate an appeal and the failure of the Land Transfer System to provide an adequate remedy in this sort of situation.

18. The above is not a legal opinion. It is purely a summary of the position as I see it at the present time. It can be used as a basis for eventually advising the applicant on what he should do. In the meantime it can be used as a basis of discussion with the administrator of the Special Aid Fund with a view to determining the extent of my instructions that can be covered by Legal Aid.

DATED 23 August 1985

R T Feist

EXTRACT FROM 149 WHANGANUI MINUTE BOOK 296-298

Exhibit 51

Place : Wanganui
Date : 13 February 1986,
Present : A G McHugh, Judge
J P Gardiner, Clerk

Owhaoko C3B Block - C.J. 1980/98
452/1953

COPY

DIRECTIONS OF COURT

The Court refers to the Chambers conference of parties held in Wellington on Friday, 8 February last. It was decided at this conference that a preliminary hearing would take place to consider question of jurisdiction and a firm fixture was set down for 10 a.m. on Friday, 7th March 1986, in the Board Room, Top Floor, Manchester Unity Building, Lambton Quay, Wellington.

The purpose of this memorandum is to confirm that fixture and to examine the following questions going to jurisdiction or lack of it, namely;

1. That the Chief Judge has no jurisdiction to deal with the matter as the order made on 6 February 1968 was not an order within the meaning of that word as used in Section 452 of the Maori Affairs Act 1953.

2. Is the jurisdiction of the Chief Judge to make an order under Section 452 denied or affected by the provisions of Section 452(8) of that Act?

In this connection the Court refers to Toki v Maori Land Court & Ors High Court Auckland 29 July 1981, reported at page 240 of Taiwhati (Judicial decision affecting Maoris and Maori land).

The attention of counsel is drawn to this case and the Court will arrange for copies to be made available to counsel shortly. The Court has so far been unable to locate the second High Court decision which may have ~~also~~ been ~~an~~ earlier proceeding in the Toki v Maori Land Court case supra.

3. What is the effect of Section 323(4)/1953, if any, on the present application made under Section 452?

4. Is the question of "good faith" or lack of it, as referred to in 452(8) and/or 452(a) a matter to be canvassed by the Chief Judge or this Court in the present proceedings?

The Court will not proceed to any further inquiry under the application until the questions of jurisdiction have been decided but the Court notes that a tentative fixture date has been reserved for hearing some time between 19th - 23rd May next.

It is appropriate the Court here records the other matters agreed upon at the recent conference of parties.

1. Other parties affected or interested. Notice of the future hearing dates are to be given to all parties presently before the Court and to the District Land Registrar, Wellington. In this connection the Registrar

Exhibit S2

Wanganui, is directed to send under cover of an explanatory registered letter to the District Land Registrar, Wellington, a copy of the Court's directions of 13 January 1986 including the enclosures referred to in that notice so that the District Land Registrar may be apprised of the proceedings. Similar information is to be also sent by registered letter to the Valuer-General although an observer from Valuation Department attended the conference.

The Registrar is also directed to give all owners whose addresses are known, notification of the second proposed hearing date in May, when so fixed by the Court.

2. Counsel are directed by the Court to make submissions to the Court in due course (NOT on 7 March next) on an apparent omission of the applicant in the 1968 confirmation proceedings to file a declaration as required under Rule 94(4)(d) of the Maori Land Court Rules 1958.

3. Counsel for the parties before the Court are to endeavour to reach agreement on undisputed facts and file such statement in Court prior to the second hearing in May.

4. The Court does not propose to fix any security for costs meantime.

5. The Court by separate order under Section 57A of the Maori Affairs Act 1953 and Rule 73/1958 will provide from the Maori Land Court Special Aid fund, some limited provision for the costs of the applicant in these proceedings.

The Court expresses its thanks to Counsel for their co-operation at the recent conference in settling procedural matters.

Copies of this memorandum are to be sent to:

1. Mr R T Feist - Tripe, Matthews & Feist, Barristers & Solicitors P O Box 5003, Wellington;

2. Mr L C Tizard - C/- Rudd, Watts & Stone, Barristers & Solicitors, PO Box 2793, Wellington;

3. Mr W K Dewes - Maori Affairs Department, Private Bag, Wellington;

4. Chief Registrar - Maori Land Court, Wellington;

5. Valuer-General - Valuation Department, Wellington;

6. District Land Registrar - Land Registry Office, Wellington.

83

Exhibit 1

IN THE MAORI LAND COURT OF NEW ZEALAND
AOTEA DISTRICT

IN THE MATTER of an application by HENRY TIOPIRA MATHEWS under Section 452 of the Maori Affairs Act 1953 for cancellation of an Order made on the 6th day of February, 1968

WE, WIRIHANA TERENCE APATU of Waipukurau, Farmer and MARGARET CATHERINE APATU his Wife claiming to be interested in or affected by the abovementioned application HEREBY GIVE NOTICE that we intend to appear at the hearing in opposition to the same.

The grounds upon which we oppose the application are as follows:

1. THIS ~~Hon~~ourable Court has no jurisdiction to determine the application as the order made on 6 February, 1968 was an order confirming an alienation and not an order of the Court within the meaning of Section 452.

2. AT the date of purchase none of the parties (including us as purchasers) was aware of the existence or possible existence of any millable timber on the block.

3. WE have been unfairly prejudiced by the delay in bringing the application.

DATED at Wellington this 28 day of January, 1986.

Solicitor for W.T. & M.C. Apatu

Address: C/- Messrs Christie, Craigmyle, Tizard & Dickson, Solicitors, P.O. Box 99, WANGANUI.

67. 88

Exhibit U.

Date : 7 March 1986
Place : Wellington
Present : A G McHugh, Judge
J P Gardiner, Clerk

Application (Unadvertised) — Application under Section 452 for cancellation of resolution dated 6.2.68

Owhaoko 3CB

COPY

Present:

Mr Feist appearing for the applicant
Mr Parker appearing for Mr and Mrs Apatu
Mr Young from Crown Law Office representing Valuation Department
Mr Dewes, Office Solicitor

Court: For those members of Counsel who may not have it, I have found the reference I was seeking and wanted to circulate. It is actually a decision of the Chief Judge referred to in the case Parapara A10 reported in 1984 Chief Judge's Minute Book 20 at Wellington on Tuesday 3 April 1984. In it the Chief Judge canvasses the position of the Chief Judge relative to enquiry into a confirmation which involved a question of fraud and during which I think the essence of the decision was that the Chief Judge adjourn the application under Section 452 sought. In any event this matter is going to have to be canvassed in the High Court on the question of fraud. Is there any object in looking at that aspect here for a 452 application because effectively it will be re-examined again when the certificate is questioned in the High Court and invited Counsel to avoid argument on it. I think they took up that suggestion.

Mr Feist: I have a consent order signed by Counsel for the other parties to put before you in which I acknowledge for the applicant that the jurisdiction under Section 452 is limited to cancelling the Order of Confirmation, and subsequently saying that the question of good faith within the context of Section 452(8) lies within the jurisdiction of the High Court and not this Court so that there is no way I would be in a position to argue with the question of good faith for the purposes of the various sections which talk about fraud or good faith in the Maori Affairs Act. I could tender no argument to support a suggestion that that was a matter for this Court or for the Chief Judge. I think that if that is the effect of his decision I would support that and go further and accept that in all probability the Court does not have jurisdiction on that question. If I could tender

Exhibit U.

this particular form which Mr Tizard and myself settled and which Mr Parker and I have both signed. Mr Parker is here in place of Mr Tizard who has been unavoidably called away.

Mr Feist files a consent signed by Counsel for Mr and Mrs W T Apatu and others and Counsel for the applicant under which they agree the Chief Judge has jurisdiction under Section 452 to cancel the original Order of Confirmation and other matters, and consenting to cancel the Order of Confirmation if the Chief Judge exercises his discretion so to do.

Court: That is going to shorten things considerably. I thank you Mr Feist.

Mr Feist: Yes Sir. I think after discussion it appeared that it was proper ~~not~~ to put the parties to the expense of a full hearing when it was possible to reach agreement on other crucial aspects of the case and we decided that seeing the question of the jurisdiction is a discretionary matter for the Chief Judge, it wasn't appropriate for us to formally ask him to make an order so my learned friend offers no opposition to making the order and ask him to exercise the discretion. If you wish me to elaborate on the reasons for the discretion in light of the minute you have referred to I will do so.

Court: I don't require any argument on that. I take it in view of the brevity of this agreed memorandum that the Crown Law Office will not be offering any objection to its admission as an acceptance of the matters in issue. It doesn't raise any questions that go to the other matters that were dealt with previously before the Court and which involved the Valuation Department and Maori Affairs Department and possibly the Maori Land Court Judge in question.

Mr Young: True, it doesn't Sir and should the Chief Judge exercise his discretion as requested we will abide the decision. We will have no submissions to make.

Court: That being the case then, I would express the Court's appreciation to Counsel over the consideration given to the issues. They are to be commended on reaching agreement on substantial questions of law and thereby avoiding possibly some heavy costs being incurred. This Court agrees with the views that they express in the memorandum. It is the duty of this Court to make a report and recommendation to the Chief Judge and I cannot say what he will do, but I can say that I shall certainly make a recommendation to the Chief Judge in terms of the memorandum and will suggest to the Chief Judge

Exhibit U3

that he may decide to either cancel the order or he may, in fact, decide not to exercise jurisdiction, but you seek cancellation I assume?

Mr Feist: Yes Sir.

Court: I will recommend that the order be cancelled in view of the circumstances. Are there any further submissions the Counsel wish to make?

No response.

Court: I am indebted to you all. It certainly shortened the time we had to apply to this matter and in due course you will receive the Chief Judge's decision. Thank you for attending.

Court adjourned.

87 Exhibit V

IN RE OWHAOKO C3B

Counsel for W.T. & M.C. Apatu, M.H. Restiaux, J.R. Roberts, P.L. Looker and J.M. Roberts ACKNOWLEDGES:

1. THAT the Chief Judge has jurisdiction under s 452 to cancel the original order of confirmation dated 6 February 1968.

2. MILLABLE timber was taken from the land subsequent to the date of purchase.

3. THE value of such millable timber was not taken into account in assessing the consideration (s 318(1)(b)).

4. THE failure to take such value into account was a mistake, error or omission within the meaning of s 452(1).

AND Counsel OFFERS NO OPPOSITION if the Chief Judge exercises his discretion to cancel such order of confirmation.

Counsel for the Applicant ACCEPTS that the Chief Judge's jurisdiction is limited to cancelling the order of confirmation (and specifically (i) that the Maori Land Court can make no order recalling the transfer that has already been registered, and (ii) the question of good faith within the context of s 452(8) lies within the jurisdiction of the High Court and not this Court)

and REQUESTS the Court to exercise its discretion accordingly.

.....
Counsel for Applicant

.....
Counsel for W.T. & M.C. Apatu,
M.H. Restiaux, J.R. Roberts,
P.L. Looker, J.M. Roberts

EXTRACT FROM

1986 CHIEF JUDGE'S MINUTE BOOK FOLIO 90

Exhibit W1

At Wellington - Wednesday 21 May 1986

Present - Edward T.J. Durie, Chief Judge
P.M. Park, Court Clerk

COPY

APPLICATION CJ 1980/38 - by H.T. Matthews for cancellation of the order of confirmation of 6 February 1968 affecting Owhaoko C3B Block - section 452/53

Chief Judge: I have received the following report from the inquiring Court (Judge McHugh) in which references to page numbers refer to pages of the application file.

On 19 May 1980 Henry Tiopira Mathews lodged an application under Section 452 to cancel an order made on 6 February 1968 which confirmed a resolution for the sale of a block of land known as Owhaoko C3B to Wirihana Terence Apatu and Margaret Catherine Apatu. The grounds for the application were that a mistake, error or omission had occurred in the presentation of the facts of the case to the Court and to the owners, at a meeting held on 8 December 1967.

The applicant claimed that the purchasers knew there was native timber on the land at the time of purchase and that a case could be made to show that the land was fraudulently acquired. The application sought the return of the land to the original owners and compensation for the timber removed from the land after purchase by the Apatus. The purchase price of the 8897-acre block was $3000 which was the Government Valuation of the land as at 21 September 1967.

The applicant claimed that a year after the purchase, timber to the value of $52,000 was sold off the land by the purchasers and that at the meeting of owners the Solicitor for the purchasers informed the owners that the land was covered in scrub and there was no millable timber on the block.

On 11 August 1981 (page 30) the Chief Judge referred the application to the Judge sitting at Tokaanu being the Court nearest to the location of the land. The matter came before Judge Cull who reported briefly on the matter but recommended that counsel should be engaged because of the complex nature of the case and its legal implications.

From 1981 until early 1986, very little progress seemed to have been made with the matter through largely to difficulties in applicant obtaining legal aid, but apparently at a meeting held in Wellington between counsel representing the applicant and the Chief Registrar on 13 December 1985, it was decided that the application should be set down for a hearing. On 13 January 1986 (see page 82) Judge McHugh from Wanganui issued directions to all the parties involved and fixed a date for a conference of the parties to consider a number of matters relative to the procedure and definition of matters in issue. This conference of parties took place in Wellington on 5 February 1986 (page 84) and on 13 February 1986 (page 86) the Court set out the decisions reached at the Chambers conference whereat it was decided that a preliminary hearing would take place to consider four matters going to the question of jurisdiction.

Exhibit W2

During the course of the negotiations between Mr Feist of the firm of Tripe Matthews & Feist, Solicitors acting for the applicant, and the Departmental and Court representatives, over the question of legal aid, a summary of Mr Feist's investigations was sent under cover of his letter of 28 August 1985 (page 61) to the Deputy Registrar at Wanganui and placed on the file. This memorandum was intended to be confidential although it was not so marked and, in fact, a copy of Mr Feist's summary was photocopied and supplied to the respondents in the matter. Mr Feist was rightly concerned that this document had been released as it referred to the fabric of his case and to matters of evidence that would be later adduced. The Court expressed its regret that this had occurred and brought the matter to the notice of the Court officers concerned.

The fact of the matter, however, was that the summary disclosed a number of matters which were raised by the applicant as material to his claim. The allegations in broad terms were there had been insufficient evidence as to land aggregation and compliance with statutory requirement; secondly that the existence of millable timber must have been known to the purchaser and that he received a substantial payment for the timber after purchase; thirdly that there was possible negligence on the part of the Valuation Department in failing to disclose in its report to the Court that there was millable timber on the land; fourthly that there may have been negligence on the part of the Maori Affairs Department or Maori Land Court in 1968 in failing to advise the owners of their rights of appeal, etc.

The question of the problem created by the indefeasibility of the Land Transfer title was also referred to in the report.

On 13 February 1986 (see 149 Whanganui Minute Book 294 - page 85 of this record), the Court gave certain directions relative to the provision of legal aid under Section 57A of the Maori Affairs Act 1953. In its directions of 13 February 1986 the Court set out four specific matters for consideration and fixed a hearing to take place at Wellington on Friday, 7 March 1986 to deal with those matters. The Court referred counsel to certain decisions of the Maori Appellate Court. The hearing proceeded to 7 March at Wellington and the parties present at that hearing were the applicant represented by Mr Feist, the respondent purchasers of the land Mr and Mrs W T Apatu represented by Mr Park, the Crown Law office representing the Valuation Department and represented by counsel Mr Young. Mr Whai Dewes of the Department of Maori Affairs was present as an observer (see folio 88 for minutes of that hearing).

There was produced to the Court an agreed settlement of the issues and this was signed by counsel acting for the original and subsequent purchasers of the land and also by counsel acting for the applicant. This brief settlement document is attached hereto and is self-explanatory. In brief, the parties agreed that the Chief Judge has jurisdiction to cancel the original Order of Confirmation on the grounds set out in clauses 2-4 of the memorandum and all parties through their counsel agreed that no opposition will be offered if the Chief Judge exercises his discretion to cancel such Order of Confirmation. There is, however, an acceptance and a request given by counsel for the applicant which is referred to in the settlement document namely, that the Chief Judge exercise jurisdiction to cancel the Order of Confirmation (and specifically (i) that the Maori Land Court can make no order recalling the transfer that has already been registered, and (ii) the question of good faith within the context of Section 452(8) lies within the jurisdiction of the High Court and not this Court). The parties therefore simply request that the Court exercise its discretion to cancel the original Order of Confirmation dated 6 February 1968 and take no further action.

The Crown Law officers who were present indicated that should the Chief Judge exercise his discretion as requested, the Crown Law Office would abide the decision and have no submissions to make. The effect of all this is that if the applicant wishes to seek a remedy he will have to contemplate going to the High Court and attack the indefeasible Land Transfer title. It will be necessary in such a proceeding in the High Court to allege and prove fraud and obviously the parties before the Maori Land Court considered that it would be an unnecessary and expensive exercise to have to argue the question of fraud in both jurisdictions when ultimately the question will have to be decided by the High Court. If the applicant considers that there is insufficient evidence to justify moving to set aside the title on the grounds of fraud, then the cancellation of the order in this Court may provide a platform from which the applicant could argue compensation from the Crown and this would involve negotiations at high level with representatives of the Government Departments concerned. It may well be there is some other ground at law on which the applicant may be able to rely but this will also be a question probably for the High Court to settle.

In view of the long lapse of time there are other difficulties under the Limitation Act and also difficulties in proof of the facts.

During the first conference of the parties this Court brought to notice for the first time that no declaration had been filed under the Land Settlement Promotion Act and as required under Rule 94(4)(d) of the Maori Land Court Rules 1958. This is a mandatory provision and it was not observed so it is therefore clear to the Court that there has been an error made by the Court in failing to consider undue aggregation. It will be noted, however, that the parties agreed that the value of millable timber was not taken into account in assessing the situation and therefore it is the question of adequacy of consideration or lack of it that would provide the ground for cancelling the order, although this is not specifically spelt out in the terms of settlement. Clearly, however, there is agreement that there was error in placing the true facts before the Court and the parties are agreed the order be cancelled subject to the Chief Judge taking no further action from that point.

In view of the substantial legal costs that have been saved in arguing this matter in the Maori Land Court and the even greater cost that will arise if the matter is pursued in the High Court, the action of counsel in reaching this agreement is to be commended, as they have in my view, considered the interests of their respective clients. It is therefore my recommendation that the settlement terms be given effect to and that the Chief Judge cancel the Order of Confirmation dated 6 February 1968 on the grounds that a mistake, error or omission was made in that the value of millable timber on Owhaoko C3B was not taken into account when the consideration was being assessed and that therefore the consideration for the sale was inadequate.

The file with all relevant material is enclosed herewith.

Chief Judge: For the reasons given in the report the order of confirmation referred to is hereby cancelled.

E.T.J. Durie

Copy to; Mr Feist, Mr Park, Mr Young, Mr Dewes, Judge McHugh

COPY

Exhibit X 1

OWHAOKO GIFT BLOCKS : NGAMATEA STATION

As suggested I have carried out a brief investigation into the possibilities of the development of this area for farming. I first visited the property on the 30th November and rode a portion of D6 No. 1 and from various vantage points I was able to obtain a general picture as to the nature of this country. I also discussed the area with Mr Ray Berdsall, the present Manager of Ngamatea Station.

The nature of this country varies from good tussock (silver and snow), to poor tussock, scab weed, mosses and lichens. There is an area of swamp and poor pumice flats to steep badly eroded mountainous country, much of which is still covered in small mountain beech. Soils are pumice with the gullies and flats having up to 20 feet of pure pumice over rock. The steeper hills have had all the pumice washed from them exposing greywacky rock and sandy soils on the gentler slopes. These sandy soils are being in the main Kaemanawa and Urewera sandy silt of a low fertility and subject to erosion with only fair phosphate response.

In its natural state this country is capable of carrying one dry sheep to 4 or 5 acres.

For development of this country a base area of good improved pasture is required of the Maori land available; the best for this is Blocks 4 and 3 Owhaoko (6,875 acres approximately 5,000 workable). These at present are being leased by Ngamatea Station on two 42 year leases renewed in 1952 and 1953 and would expire in 1994 and hence would be of no use to any present considerations. There is also a small area of approximately 1,500 to 2,000 acres in the area where the Taurewa and Ngawaiawhetu Streams join on the eastern area. Mr J. Roberts, son of the late Mr L.N. Roberts, told me that this area was capable of development but is not in one piece and unaccessible. It is five miles in a direct line from Ngamatea Station over the swamp.

Of the rest of the area there are portions which could be improved by oversowing and topdressing. There is another area of 1,000 acres approximately of C No. 3 Owhaoko that was once cleared and farmed but has reverted to scrub.

All this country suggested for development is over 3,000 feet above sea level and in the winter is completely frozen over for days at a time and snow can lie for up to 3 weeks or more. Spring growth comes away towards the end of September and ceases again at the end of May; for the remainder of the year stock have to be fed a crop or hay or allowed out on the tussock country to forage among the tussocks. The rainfall in the area is only about 30 inches per annum.

At present the area of Owhaoko Blocks being considered to being extensively grazed by Ngamatea Station carrying over the winter months about 700 sheep on approximately 16,500 acres. The station have no legal tenure over the land and have its use for the payment of the Rabbit Board Rates.

I again visited the area on the 13th December and discussed with various owners and Managers their carrying capacities, management techniques and development practices.

Exhibit X 2

Tahukunui station - Jack Roberts:

11,000 acres total area, 7,000 acres improved

Carrying 8,500 ½ bd ewes
1,600 hoggets wintered
630 Br cows Aberdeen Angus
550 M.5 yearlings

= approx. 14,500 su = 2.07 su per acre on improved area
= 1.28 su per acre total area

Lambing first week September 85%, calving 60%.
Sell approximately 600 CFA ewes per annum and wethers at 4 and 5 year olds.

Wool - Ewes 6½ lb and wether 7-8 lb per head.

Losses up to 20% per annum.

This station is run in conjunction with Ngamatea Station interchanging stock throughout the year with breeding stock mainly being run on Tahukunui.

The station rises to about 3,200 feet above sea level and is greatly flatter country than Ngamatea and any of the Owhaoko Blocks. Due to the lower altitude the growth comes away much earlier and frost and snow risks are not as severe.

Ngamatea Station - Ray Berdsall:

Area 90,000 acres (mustered) in 2,800 in grass.

Carrying 5,800 wethers and w. hoggets
4,500 dry ewes and E. hoggets
1,000 stud Merion and English Leicester stud ewes
1,000 stud hoggets etc.
105 M.A. br Cows A.A.
182 3 yr old heifers
280 2 yr old heifers to bull

Between the two stations 7,600 ewe hoggets are wintered. Performances on Ngamatea are similar to those on Tahukunui. This station is more similar to the Owhaoko Blocks in the area. It is carrying approximately 13,560 s.u. and so can be seen has a very low carrying capacity. During the winter month the stock is run out on the undeveloped country and this year a crop is being sown for the hoggets.

Development on both these stations was originally done with the swamp plough, now Giant Discs are used, working in the autumn - winter fallow - crop (Swedes) or (Soft Turnips) - New Grass in the spring. These pastures on the first time around were only short lived and had to be renewed after three or four years. Initial super is 2 cwt D.D.T. with the new grass, 2 cwt autumn and 2 cwt spring. Maintenance dressing 2 cwt p.a. D.D.T. only with the new grass rest aerial super. Super cost approx. $37 per ton applied.

Pasture mixture; Perenial Rye, White Clover, Crested Dogstail Chewings Fescue and Alsike total 20 - 25 lb per acre.

In recent years some oversowing has been carried out with some success. The same topdressing programme is used as with cultivation and 3 lb White Clover and 7 lb Ryegrass are oversown by air in the spring.

allows stock to forage.

Oversowing and topdressing costs approximately $13.35 per acre and cultivation up to $70 per acre.

Otupa Station - Angus Lylle:

Area - 24,000 acres, 10,000 acres improved

Carrying 12,000 ewes - Five Romney
6,000 ewe hoggets
3,000 wethers
1,000 Br cows - Aberdeen Angus
1,200 other cattle

= 25,200 e.e. = 2.52 e.e. per acre - improved grass
1.05 e.e. per acre - total area

Lambing September 95%, Calving 85%, Deaths 4%.

Wonter feed 100 acres swedes, 100 acres chou swedes, 9,000 bales hay.

Development - Burn off tussock, Giant Disc - fallow 12 months - disc (tandem) new grass (Spring) Super 4 cwt at Sowing, 4 cwt Autumn and 2 cwt Spring. Annual maintenance 2 cwt.

Seed mixture -	Perenial Ryegrass	10 lbs
	Italian Ryegrass	4 lbs
	Cocksfoot	4 lbs
	Crested Dogstail	2 lbs
	White Clover	4 lbs
	Mt Barker	1 lb
	Tallorok	1 lb
	Cowgrass	1 lb
		27 lbs

This year 200 acres of Barley have been sown at approximately 3,100 feet above sea level.

Otupa Station at present is developing country similar to that being leased by the Maoris to Ngamatea Station and this is costing between $50 and $60 per acre into grass and including the initial super after a crop. Super here, costs about $36 per ton.

The station is between 2,000 and 4,000 feet above sea level and is generally of an easier contour than most of the Owhaoko Blocks. The higher country is similar to the easier country and this has no growth from early June until mid September when all stock has to be run at lower levels.

Mangohane Station - Peter Green, Manager:

Area 30,000 acres - 12,000 improved - the rest is capable of being developed but is not grazed as there are ot the stock to properly utilize the 12,000 acres of improved grass.

Carrying 15,000 ewes - Five Romneys
7,000 Ewe hoggets
400 wether hoggets

450 3yr heifers
450 2yr heifers
= 30,000ee = 2.52 ee per graze

Exhibit X4

Development super 8 cwt initial in 18 months and oversowing clover and cocksfoot higher up. Maintenance super 2 cwt per annum.

Winter feed 200 acres crop and 12 - 14 bales hay.

All wether lambs sent away fat.

Altitude from 1,500 feet above sea level at Rangitikei River up to 3,500 feet above sea level.

This station was mentioned by the Minister of Lands as being one of the properties in the area which has been and is being successfully developed. However, it will be seen from the brief notes above that this land is not very comparable to the Owhaoko Blocks being lower and of an easier contour.

From the brief particulars of these stations it can be seen that the development of parts of the Owhaoko Block could be carried out but at a high cost. All of these blocks have lower and easier areas which they have initially improved and have used as a base farm for further development. On the Owhaoko Blocks without the leased portion there is only a limited amount of such ground and this is scattered. Also these other stations do not experience the same severe climatic conditions except Ngamatea which can, however, run stock on Tahukunui. Access to these other stations is good. At present, there is not access to the Owhaoko Blocks except on horse-back.

These factors, as well as the present economics of wool farming make such a development enterprise a very doubtful one. I feel that even in the future it will be, due to harsh nature of the country, its inaccessibility and singular reliance on wool if farmed on similar lines as being practiced in the district. It may, however, be possible to run as a cattle station on an extensive line similar to Molesworth Station in Marlborough. However, there are large areas of land that would be best set aside for reasons of soil conservation and water shed protection. A report from the land use Committee recommended that 22,750 acres of Maori land in the area be closed. Also much of this land would be very suited to forestry and this may be more profitable than farming the area to the owners.

If any development work for farming was to be carried out in the area it would have to be done so in conjunction with Soil Conservation and Forestry people to obtain a suitable land use plan for the area.

All information on the various stations was given with some reluctance and so must be held with the fullest confidence.

(Sgd) Andrew C. Warren
Field Supervisor