

Place: Whangarei
Present: D J Ambler, Judge
Date: 25 June 2013

Application No: A20080015064
A20080015066
A20100012122
A20100008382

Subject: Motatau No 50 No 3
Motatau 2 Section 66
Whenuanui No 2B
Kopuakawau

Legislation: Sections 67, 131 and 332, Te Ture Whenua Māori Act 1993

Background

I regret that these four applications have not progressed for some time.

The applications arise out of the Māori Freehold Land Registration Project and concern four unrelated Māori freehold land titles. What the applications have in common is that certain Māori land interests and, in the case of Kopuakawau, a complete Māori land title appear to have been "lost" as a result of administrative actions affecting the LINZ titles or in approving survey plans.

One of the difficulties with the applications is that they were brought by the Registrar for the sole purpose of enabling LINZ titles to issue. It was then discovered that there were in fact significant problems with the titles. Thus, the current applications under ss 67, 131 and 332 of the Act may need to be amended and other parties may need to be substituted for the Registrar. It may also be that this Court does not have jurisdiction to address the underlying title issues.

In order to progress matters I intend appointing counsel to represent the affected Māori owners of each of the four titles. I note that I previously appointed Mr John Neverman as counsel to assist the Court in relation to two of the applications however, as I explain below, I consider that Mr Neverman may have another role to fulfil and I therefore intend appointing another counsel in respect of all four applications.

I summarise the current status of the applications as follows.

Motatau No 50 No 3

This is an application under s 131 of the Act to determine the status of the land.

The information provided to date indicates that although the Court records disclose that 1/7th of the ownership of the land is with Māori owners and 6/7^{ths} is in the name of a transferee, William James Wilson, as a result of transfers of the LINZ title the land is now solely owned by the Department of Conservation.

Representatives of the Māori owners and the Department of Conservation have for some time been left to negotiate a solution. Leon Penney had been assisting the owners but it is unclear whether he is still performing that role. In November 2011 Amokura Kawharu, an owner or descendant of one of the Māori owners, wrote to the Court to advise that little progress was being made and sought a hearing. The application has not progressed since then.

Motatau 2 Section 66

This is an application under s 131 of the Act to determine the status of the land.

The information provided to date indicates that although the Court maintains a title for Motatau 2 Section 66 (25.0399 hectares) in the ownership of nine Māori owners or their successors, the relevant 1969 exchange orders appear not to have been registered and the said land is now comprised in a larger Motatau 2 Section 66 title that is solely owned by NZ Forest Products Limited (also known as Taumata Plantations).

On 27 October 2010 I made orders appointing Mr Neverman as counsel to assist the Court in relation to this application and the Whenuanui No 2B application, and directed Mr Neverman to provide preliminary assessments of the issues affecting the two blocks. Mr Neverman provided his preliminary assessments under cover of his letter of 23 December 2010. At that stage he had not received copies of the files from the Registrar. The application has not progressed since then.

Whenuanui No 2B

The information provided to date indicates that although the Court records disclose that 2/5^{ths} of the ownership of the land is with Māori owners and 3/5^{ths} is in the name of a transferee, Robert Claude McCown, as a result of transfers of the LINZ title the land is now owned entirely by Richard and Dianne Kidd.

On 27 October 2010 I directed the Registrar to file an application under s 67 of the Act for a judicial conference. I also made orders in relation to the appointment of Mr Neverman as per Motatau 2 Section 66 outlined above. The Registrar filed an application under s 67 on 4 November 2010. Mr Neverman provided his preliminary assessment on 23 December 2010. The application has not progressed since then.

Kopuakawau

On 17 June 2009 I made orders under ss 128 and 131 of the Act declaring the owners of Kopuakawau and determining the land to be Māori freehold land. The orders were subsequently rejected for registration by LINZ as the title has been superseded by other titles issued by LINZ. The Registrar subsequently applied under s 332 for a survey requisition.

Apart from the Registrar's own memoranda and reports there have been two reports filed with the Court to date. First, a report dated 7 July 2010 from Patterson Pitts, surveyors of Dunedin. Second, a report dated 20 December 2010 from the Registrar-General of Land and the Surveyor-General.

Following my directions on 19 May 2011 for certain documents to be sent to the Registrar-General of Land and the Surveyor-General, a further statement from the Registrar-General of Land and the Surveyor-General dated 16 September 2011 was filed. The application has not progressed since then.