

**I TE KOOTI WHENUA MĀORI O AOTEAROA
I TE ROHE O AOTEA**

*In the Māori Land Court of New Zealand
Aotea District*

AP-20240000011036

WĀHANGA <i>Under</i>	Section 58, Te Ture Whenua Māori Act 1993
MŌ TE TAKE <i>In the matter of</i>	Succession to Sharon Marino
I WAENGA I A <i>Between</i>	Lorraine Perawiti Te Kaitono <i>Applicant</i>
ME <i>And</i>	Ricky Marino Te Kaiurupare <i>Respondent</i>

Nohoanga: 28 January 2025, 500 Aotea MB 192-198
Hearing 8 July 2025, 511 Aotea MB 102-113
(Heard at Levin)

Kanohi kitea: L Watson for Applicant
Appearances H Aoyagi for Respondent

Whakataunga: 8 September 2025
Judgment date

TE WHAKATAUNGA A KAIWHAKAWĀ A M THOMAS
Decision of Judge A M Thomas

He kupu whakataki

[1] I te 6 o Hune 1955, i whānau mai ai a Sharon Marino, nā kua mate ia i te rā 17 o Ākuhata 2018. Kihai i whakaritea e ia he wira. He kotahi anahe tāna ake tamaiti, ko John Marino, kua mate ia i mua i te hingana o Sharon. Ko Shayleigh Puhia te tamaiti anahe a John. I te tono nei, kua tohua a Ricky Marino hei tamaiti whāngai nā Sharon.

[2] E hiahia ana a Ricky kia tukua e te Kooti ngā ōta e whakaingoa nei i a ia hei whāngai me te whiwhi tahi me Ms Puhia i ngā pānga whenua Māori o Sharon, he ōrite ō rāua pānga.

[3] Ko Lorraine Perawiti te teina o Sharon. E whakahē ana a Lorraine i tā Ricky e kimi nei me tana hiahia kia tukua e te Kooti ngā whakataunga e kī ana ko Ms Puhia anahe, te mokopuna a Sharon, te tangata e tika ana kia whiwhi i ōna pānga whenua Māori.

[4] Me whakatau ahau i ēnei:

- a) Āe rānei he tamaiti whāngai a Ricky ki a Sharon; ka mutu
- b) Pena he tamaiti whāngai a Ricky, āe rānei me whiwhi ia i

Introduction

[1] Sharon Marino was born on 6 June 1955, and passed away on 17 August 2018. She did not leave a will. Sharon had one natural child, John Marino, who predeceased Sharon. John also had only one child, Shayleigh Puhia. Ricky Marino has been listed in the application as Sharon's whāngai child.

[2] Ricky wants the Court to grant orders recognising him as whāngai as well as succeeding to Sharon's Māori land interests alongside Ms Puhia in equal shares.

[3] Lorraine Perawiti is Sharon's sister. Lorraine opposes the orders sought by Ricky seeking to succeed and wants the Court to determine that only Ms Puhia, Sharon's granddaughter, should receive her Māori land interests.

[4] I must determine:

- a) whether Ricky is a whāngai child of Sharon; and
- b) If Ricky is a whāngai child, should he succeed to Sharon's Māori land interests?

ngā pānga whenua Māori o
Sharon?

Te ture

The law

[5] E ai ki te whakamāramatanga o wehenga 4 o Te Ture Whenua Māori Act 1993 (“te Ture”), ko te whāngai he tangata kua whāngaitia nā runga anō i te tikanga Māori.

[5] Section 4 of Te Ture Whenua Māori Act 1993 (“the Act”) defines whāngai as a person adopted in accordance with tikanga Māori.

[6] E āhei ana te Kooti ki te whakaingoa i te tangata hei whāngai e ai ki ww 114A me 115 o te Ture, e mea ana:

[6] The Court can recognise whāngai as per ss 114A and 115 of the Act which state:

114A Descent relationships for whangai determined by tikanga Maori

- (1) This section applies to a provision of this Act or the Family Protection Act 1955 that depends on there being a relationship of descent between people for the purposes of—
 - (a) succession under this Part; or
 - (b) a claim under the Family Protection Act 1955 that relates to Maori freehold land (as defined by section 3A(6) of that Act).
- (2) This section applies, for example, to a provision of that type that refers to—
 - (a) a child, whangai, grandchild, issue, brother, sister, or parent; or
 - (b) being descended or related by blood; or
 - (c) members of the hapu associated with land.
- (3) For any child who is a whangai, the tikanga of the relevant iwi or hapu determines whether there is a relationship of descent between the child and one or both of the following types of parent for the purposes of that provision:
 - (a) the child’s birth parents (as defined by section 2 of the Adult Adoption Information Act 1985);
 - (b) the child’s new parents after the child became a whangai.
- (4) This section prevails over section 19 of the Adoption Act 1955.

115 Court may determine whangai and descent relationships of whangai

- (1) The court may determine whether, for the purposes of succession under this Part or a claim under the Family Protection Act 1955 that relates to Maori freehold land (as defined by section 3A(6) of that Act),—
 - (a) a child is a whangai of certain parents:
 - (b) a child who is a whangai has a relationship of descent with certain parents (see section 114A(3)).

- (2) The court's jurisdiction under this section may be exercised on the application of any person with an interest in the matter.
- (3) An order made by the court on a matter under this section is proof of the matter for the purposes of section 114A.
- (4) This section prevails over section 19 of the Adoption Act 1955.

[7] E ai ki a *Hohua – Estate of Tangi Biddle*, i te nuinga o te wā, e mea ana te tikanga me whakatupu mai te tangata hei whāngai, waihoki, me tata te whakapapa o te tamaiti whāngai ki tērā o tōna mātua, ki te whenua e kōrerotia nei.¹

[7] As set out in *Hohua – Estate of Tangi Biddle*, generally, tikanga requires the person to have been raised as a whāngai, and have a close whakapapa between the whāngai child, the whāngai parent and the land in question.¹

[8] Ki te whakatauhia e te Kooti, he whāngai tētahi tangata, engari kāhore he hononga ā-whakapapa, e kī pēnei ana a w
116:

[8] If the Court determines a person to be whāngai but there is no relationship of descent, s 116 provides the following:

116 Court may provide for person to have rights to occupy and receive income despite no descent relationship of whangai

- (1) The court may make an order giving a person 1 or both of the following rights in relation to a beneficial interest in Maori freehold land:
 - (a) the right to occupy the principal family home if it is on the land;
 - (b) the right to receive the whole or any part of any income or discretionary grants from the interest.
- (2) The court may make the order only in respect of a person who is not entitled to succeed to the beneficial interest under this Part solely because, under section 114A, the tikanga of the relevant iwi or hapu determines that there is no relationship of descent between a child who is a whangai and certain parents.
- (3) The court may make the order only if it considers that—
 - (a) the order is required to prevent an injustice to the person; and
 - (b) the person's claim is not within the jurisdiction of the High Court or the Family Court under the Law Reform (Testamentary Promises) Act 1949 or the Family Protection Act 1955.
- (4) A right may be given for—
 - (a) a specified period; or
 - (b) the life of the recipient.
- (5) A right ends if—
 - (a) the specified period (if any) ends; or
 - (b) the recipient dies; or

¹ *Hohua – Estate of Tangi Biddle or Hohua* (2001) 10 Waiariki Appellate MB 43 (10 APRO 43).

- (c) the recipient gives it up in writing.
- (6) A right—
 - (a) cannot be transferred or disposed of by the recipient; and
 - (b) does not give the recipient an ownership interest in the land.
- (7) The person or persons who receive the beneficial interest in Maori freehold land—
 - (a) are the owners of the interest (who may be assembled owners under Part 9); and
 - (b) if the right to receive the whole or any part of any income or discretionary grants was given, are entitled to receive the whole, or that part, of the income or discretionary grants when the right ends.

He whāngai a Ricky?

Is Ricky a whāngai?

Ngā meka kua whakaaetia

Undisputed facts

[9] I rongō te Kooti i ngā taunakitanga mai i te teina me ngā tūngane o Sharon; ko Lorraine rātou ko Michael John Perawiti ko Frederick Graeme Perawiti. Kua tuku hoki a Ricky i āna ake taunakitanga. E mea ana ngā meka kua whakaaetia katoatia:

[9] The Court heard evidence from three of Sharon's siblings; Lorraine Perawiti, Michael John Perawiti and Frederick Graeme Perawiti. Evidence was also provided by Ricky himself. The following facts are undisputed:

- a) Nā tana pakeke 6 marama, nā Sharon a Ricky i whakatupu mai
- b) I tupu tahi mai a Ricky me te whānau o Sharon ki te whare kotahi, ka mutu, ko te whānau katoa i whakaae he teina ia kia John, he tamaiti ia ki a Sharon
- c) Kei te kōhatu whakamahara a John, e whakaingoatia ana a Ricky hei teina ki a ia.

- a) Ricky was raised by Sharon since he was 6 months old
- b) Ricky grew up in the same household as Sharon's sibling and was treated as a brother to John, and a son to Sharon by the whole whānau
- c) It is noted on John's headstone, that Ricky is his brother.

[10] Hei whakakapi, kāhore tētahi i whakahē i tā te Kooti tuku i ngā ōta e mea ana he whāngai a Ricky.

[11] Ahakoa kāhore ō Ricky hononga ā-whakapapa ki a Sharon, ki te whenua rānei, i whakatupuria ia e Sharon mai i tana pēpitanga, i noho tahi ia me te whānau ki tō rātou kāinga, ka mutu, e mārakerake ana te kite ko te whānau whānui e whakaae ana he whāngai a Ricky nā Sharon.

[12] E mea ana au i konei, he whāngai a Ricky, nā, ka tahuri ahau ki te pātai, āe rānei e āhei ana ia ki te whiwhi i ngā pānga o Sharon.

Āe rānei, me whiwhi a Ricky i ngā pānga o Sharon?

[13] Hei toai noa i ngā kōrero ki runga, e mea ana a wehenga 114A(3) o te Ture mā te tikanga a te iwi, a te hapū rānei e whakatau pena he hononga ā-whakapapa.

[14] Kātahi, mā te hononga ā-whakapapa e whakatau ngā kōwhiringa e wātea ana (kāhore i te wātea rānei) kia whiwhi ai te whāngai i ngā pānga.

[15] E whai take ana ēnei meka e whai ake nei, ki tēnei kēhi:

[10] Finally, there were no objections to the Court recognising Ricky as a whāngai child.

[11] Despite the fact that Ricky has no whakapapa relationship to Sharon, or the land blocks listed, he was raised by Sharon from a very young age, lived with family in the whānau homestead and it is clear the wider whānau consider Ricky as a whāngai child of Sharon.

[12] I find that Ricky is whāngai. Now, I turn to consider whether he should be entitled to succeed to Sharon's interests.

Should Ricky succeed to Sharon's interests?

[13] As set out above, s 114A(3) of the Act provides that the tikanga of the relevant iwi or hapū determines whether there is a relationship of descent.

[14] The relationship of descent will then determine the options available (or not) for whāngai entitlement.

[15] The following undisputed facts are relevant in this case:

a) Kāhore ō Ricky hononga ā-whakapapa ki a Sharon. Ko Ricky te irāmutu ake a Timothy Marino, te pāpā o John, arā te tamaiti tuatahi a Sharon

b) Nō Taranaki – Ngāti Ruanui ngā mātua ake o Ricky. Kāhore ōna whakapapa ki ngā whenua e noho nei ki ngā rohe.

a) Ricky has no blood relationship with Sharon. Ricky is the biological nephew of Timothy Marino, who is the father of John, Sharon's first child

b) Ricky's biological parents are from Taranaki – Ngāti Ruanui. He does not whakapapa to the lands in any of the districts.

[16] Kei ngā rohe o Waiariki, Waikato-Maniapoto me Aotea ngā pānga whenua Māori o Sharon e noho rā. I mea mai a Ricky, i kōrero ia ki tētahi mema nō Ngāti Wehiwehi, he hapū nō roto i te rohe o Ngāti Raukawa, arā te iwi nō rātou ngā poraka whenua e whā ki roto i te rohe o Aotea. I mea atu rātou ki a Ricky, e ai ki tā rātou tikanga, e āhei ana te whāngai ki te whiwhi ahakoa kāhore ōna whakapapa, engari me mātua whakaae te whānau katoa.

[17] Wairuatoa, kāhore i mua i ahau ērā taunakitanga ā-tikanga, kāhore hoki i whakamatauhia ki te Kooti.

[18] Kāhore tētahi i tuku mai i ngā taunakitanga mō te tikanga a ngā hapū nō rātou te whenua ki ngā rohe o te Waiariki me Waikato-Maniapoto. Ka kī ake au i konei, kei a te tangata e kimi nei kia

[16] Sharon's Māori land interests sit in three separate districts: Waiariki, Waikato-Maniapoto and Aotea. Ricky advised the Court that he spoke with a member of Ngāti Wehiwehi who are located within the Ngāti Raukawa rohe and to which the four land blocks within the Aotea district relate to. They advised Ricky that the tikanga of Ngāti Wehiwehi is that whāngai can succeed if there is no blood relationship, however the whānau must all agree.

[17] Unfortunately, I do not have that tikanga evidence before me and neither was it tested in Court.

[18] Nothing was provided to me regarding the tikanga of the hapū in respect of the Waiariki and the Waikato-Maniapoto land interests. I note at this point that the

whiwhi pānga te haepapa ki te whakaatu atu i ngā take e tika ana kia whiwhi ai ia.

onus is on the person seeking to succeed to demonstrate that they are entitled to do so.

[19] I mea mai a Michael, ko te tikanga a tō rātou whānau, pena kāhore ō te whāngai hononga ā-whakapapa ki te whenua, kāhore rātou e āhei ana ki te whiwhi i ngā pānga. E whakaae ana a Michael, he whāngai a Ricky engari nā runga i te mōhio kāhore ōna whakapapa ki a Sharon, ki te whenua anō hoki, me whiwhi noa iho ia i tētahi mōtika mō ngā whiwhinga pūtea mai i te whenua, kaua ko ngā pānga ake i ngā poraka.

[19] I heard from Michael that the tikanga of their whānau is that whāngai that do not have a whakapapa connection to the land cannot succeed to the interests. Michael agrees that Ricky is whāngai but given he does not whakapapa to Sharon or the land, he should receive a right to income from the land only, not shares in the blocks.

[20] E tautoko ana a Frederick i a Ricky kia whiwhi ia i ngā pānga o Sharon anō nei he tamaiti ake ia nāna.

[20] Frederick supports Ricky succeeding to Sharon's interests as if he were her natural child.

[21] Kāhore a Lorraine e hiahia ana kia whiwhi a Ricky i ētahi pānga, i tētahi mōtika mō ngā whiwhinga pūtea rānei. E whakaū ana ia ki tana mōhiotanga ki te hiahia o Sharon kia tukuna te katoa o ana pānga ki tana mokopuna, ki a Ms Puhia. Kāhore i mua i ahau tētahi anō taunakitanga e whakaū ana i tērā, ka mutu, kāhore tētahi anō mema o te whanau i tautoko i tērā mōhiotanga.

[21] Lorraine does not wish for Ricky to receive interests or a right to income. She maintains that it was Sharon's wish that all her interests be vested solely in her mokopuna, Ms Puhia. I had no other evidence before me to confirm this and no other member of the family had this understanding.

[22] Ki te whai whakaaro ahau ki ngā taunakitanga whakamātautau kore kua tukuna e Ricky mō te tikanga o Ngāti Wehiwehi, kāhore tonu te whānau i te

[22] Even if I were to take into account the untested evidence provided by Ricky with respect to Ngāti Wehiwhi tikanga, the whānau do not support Ricky succeeding

tautoko i tā Ricky whiwhi pānga, nō reira, e ai ki ngā tikanga a Ngāti Wehiwehi, kāhore ia e āhei ana te piki tūranga.

[23] Ka kī ake au i konei, kāhore he hononga ā-whakapapa, nā konā, kāhore e āhei ana a Ricky ki te whiwhi i ngā pānga whenua Māori o Sharon.

[24] Hei whakakapi ake, hei toai hoki i ngā kōrero o runga, ka tahuri a w 116 o te Ture ki te tūranga o tētahi whāngai kāhore e āhei ana ki te whiwhi i ngā pānga whenua. Kei a te Kooti te mana ki te whakamana i ngā ōta e tuku nei e āhei ana te whāngai ki te noho ki te whare ā-whānau ki runga i te whenua, ki te whiwhi pūtea mai i te whenua rānei.

[25] E mea ana a Ricky, ki te kore ia e āhei ki te piki tūranga anō nei he tamaiti ake nā Sharon, e tika ana kia whiwhi ia i tētahi mōtika mō ngā whiwhinga pūtea mai i te whenua kia kore ai ia e rongō i te tūkinotanga. E tautoko ana a Michael i tērā whakaaro. Kāhore a Lorraine i te tautoko.

[26] I te mutunga iho, mā taku aromātai e whakatau te huarahi e tika ana kia kore ai te whāngai e rongō i te tūkinotanga.

[27] Kia kore ai a Ricky e rongō i tētahi tūkinotanga, e whakatau ana i konei e tika

to the interests and therefore, based on Ngāti Wehiwehi tikanga, he could not succeed.

[23] I find that there is no relationship of descent and Ricky is not entitled to succeed to the Māori land interests of Sharon.

[24] Finally, and as set out above, s 116 of the Act considers the position of whāngai that are not entitled to succeed to the land interests. The Court can grant an order that the whāngai is entitled to occupy the principal family home on the land, or to receive income or grants from the land.

[25] It is Ricky's position that if he cannot succeed as if he were a natural child of Sharon, he should receive a right to the income from the land to prevent an injustice to him. Michael supports that position. Lorraine does not.

[26] The decision ultimately falls to my assessment of what is necessary to avoid an injustice to the whāngai.

[27] To avoid an injustice to Ricky, I am satisfied that he should receive income from the land interests of Sharon.

ana kia whiwhi ia i ngā whiwhinga pūtea mai i ngā pānga whenua o Sharon.

Whakataunga

[28] Ka whakamanatia ngā ōta e ai ki Ture Whenua Māori Act 1993:

- a) wehenga 113, e whakatauhia ana ko te tangata e āhei ana ki te whiwhi i ngā pānga whenua Māori o Sharon Marino, ko Shayleigh Puhia, me tōna kotahi;
- b) wehenga 115 me 116, e whakatauhia ana ko Ricky Marino te whāngai a Sharon Marino, engari kāhore ia e āhei ana ki te whiwhi i ōna pānga, e āhei kē ana ia ki te whiwhi i ngā whiwhinga pūtea me ngā tahua moni i puta ake i ōna pānga;
- c) wehenga 118, e tukuna ana ngā pānga whenua Māori o Sharon Marino ki te tangata e āhei ana ki te whiwhi. Kei reira tētahi herenga, arā ko te mōtika o Ricky Marino kia whiwhi i ngā whiwhinga pūtea me ngā tahua moni kia tae atu ai ki tana matenga.

Decision

[28] Orders are made pursuant to Te Ture Whenua Māori Act 1993:

- a) section 113 determining that the person entitled to succeed to the Māori land interests of Sharon Marino is Shayleigh Puhia, solely;
- b) sections 115 and 116 determining that Ricky Marino be recognised as a whāngai child of Sharon Marino, but not entitled to succeed to her interests, but entitled to receive income and discretionary grants arising from her interests;
- c) section 118 vesting the Māori land interests of Sharon Marino in the person entitled to succeed. This is subject to the right to receive income and discretionary grants for life in favour of Ricky Marino.

I whakapuakihia i te 3.00 pm, i Tūrangi, i te rā 8 o te marama o Hepetema i te tau 2025.

Pronounced at 3.00 pm in Tūrangi on this 8th day of September 2025.

A M Thomas
KAIWHAKAWĀ
JUDGE