

I TE KOOTI PĪRA MĀORI O AOTEAROA
I TE ROHE O TE WAIARIKI

*In the Māori Appellate Court of New Zealand
Waiariki District*

AP-20250000004937
APPEAL 2025/10

WĀHANGA <i>Under</i>	Section 58, Te Ture Whenua Māori Act
MŌ TE TAKE <i>In the matter of</i>	Oruanui A
I WAENGA I A <i>Between</i>	SARA TEREHIA HONA Kaitono pira <i>Appellant</i>
ME <i>And</i>	COLIN MARINO, RUTH WIPAKI, DEVON GARMONSWAY AND ALICE MARINO AS TRUSTEES OF THE ORUANUI A TRUST Kaiurupare pira <i>Respondent</i>

Nohoanga: Nā runga i ngā pepa
Hearing On the papers

Kooti: Judge S F Reeves (Presiding)
Court Judge A M Thomas
Judge T K T A R Williams

Whakataunga: 23 July 2025
Judgment date

TE WHAKATAUNGA A TE KOOTI
Reserved Judgment of the Court

Hei tīmatanga kōrero

Introduction

[1] Sara Terehia Hona has filed an appeal against orders made by Deputy Chief Judge Coxhead at a hearing held on 10 September 2024 on applications for the removal of trustees.¹

[2] At this hearing, the Court made orders pursuant to s 240 of Te Ture Whenua Māori Act 1993 (the Act), which:²

(a) declined an application for the removal of Colin Marino, Ruth Wipaki, Devon Garmonsway, and Alice Marino as trustees of Oruanui A Trust (the Trust); and

(b) granted an application for the removal of Ms Hona as a trustee of the Trust.

[3] Ms Hona appealed the orders on 15 April 2025. The appeal was filed seven months out of time and was therefore accompanied by an application seeking leave to file the appeal out of time.

[4] This decision considers whether to grant the leave sought.

Ngā kōrero a te kaitono pīra

Submissions for the appellant

[5] In seeking leave to appeal out of the time, Ms Hona stated that that the delay in filing the appeal arose because she did not receive the minutes from the decision of 10 September 2024 until 31 March 2025.

[6] In her substantive appeal, Ms Hona sought to appeal the orders of 10 September 2024 on the grounds that an error of judgment had been made. She submitted that key evidence had been dismissed by the Court in making the orders, such as evidence of the trustees' misconduct, malfeasance, abuse, and evidence establishing her authority as Chairperson to sign a lease over trust land.

¹ 322 Waiariki MB 208–225 (322 WAR 208–225).

² At 224–225.

Ngā kōrero a te kaiurupare pīra

Submissions for the respondents

[7] On 22 May 2024, the Court received notice of opposition to the appeal and the application to file out of time from Devon Garmonsway on behalf of the trustees of the Trust. In essence, the trustees submitted that the orders were made after careful consideration of evidence and concerns raised by the trustees.

The law

[8] Section 58(3) of the Act and rr 8.8 and 8.14 of the Māori Land Court Rules 2011 require a notice of appeal to be filed within two months of the date of the minute of the order appealed from unless the Court grants leave for late filing.

[9] The Māori Appellate Court may exercise its discretion and grant leave to appeal out of time. However, the appellant must bring such proceedings before the Court as soon as possible after becoming aware of the terms of the order for which an appeal is sought.³

[10] The Māori Appellate Court in *Matchitt v Matchitt* consolidated the relevant principles for determining an application for leave to appeal out of time.⁴ The overarching consideration is where the overall interests of justice lie.⁵ Such inquiry involves considering the following relevant factors:⁶

- (a) the length of the delay in filing the appeal and the reasons for it.
- (b) the parties' conduct.
- (c) the extent of prejudice caused by the delay.
- (d) the prospective merits of the appeal.

³ *Greenaway – Paenoa Te Akau* [2017] Māori Appellate Court MB 44 (2017 APPEAL 44) at [7], citing *Ross – Part Rangatira E Block* (1998) 1 Waiariki Appellate MB 111 (1 AP 111) at 114.

⁴ *Matchitt v Matchitt – Te Kaha 65* [2015] Māori Appellate Court MB 433 (2015 APPEAL 433).

⁵ *Matchitt v Matchitt*, above n 4, at [20], citing *Robertson v Gilbert* [2010] NZCA 429 at [24].

⁶ *Greenway*, above n 3, at [8], citing *Matchitt v Matchitt*, above n 4 and *Koroniadis v Bank of New Zealand* [2014] NZCA 197 at [19]. See also *Tana v Gilbert – Pukahakaha East 5B4* [2023] Māori Appellate Court MB 206 (2023 APPEAL 206) at [4]; *Reti v Reti-Steel* [2023] Māori Appellate Court MB 274 (2023 APPEAL 274) at [7]; and *Harihona v Heta – Te Pupuke C1B1* [2025] Māori Appellate Court MB 167 (2025 APPEAL 167) at [20].

- (e) whether the appeal raises any issues of public importance.

Discussion

[11] Having considered the factors above and the current circumstances, in our view there are several issues arising from the present application for late filing of appeal.

[12] One of these concerns arises from the lateness of filing, and the lack of reasonable basis for this delay. The appeal was filed seven months out of time. Even though the appellant did not receive the minutes for the orders shortly after the hearing, she was present in the Court when the orders were made. It is therefore unclear why such a delay has taken place.

[13] The appellant should have brought this matter before the Court within two months of when she was made aware of the orders at the hearing of 10 September 2024, as is required by the Act.

[14] Further, on the prospective merits of the appeal, it is our view that Ms Hona's grounds of appeal contain plain errors or misunderstandings, and do not raise any arguable points of law or fact with Judge Coxhead's judgment. We set out our reasons for this observation below.

[15] The appellant states that the Court did not take into account a minute issued by Judge Wara on 19 January 2024.⁷ However, it is clear from the minutes of the 10 September 2024 hearing that Judge Coxhead did take this minute into consideration.⁸ The appellant also appears to have misconstrued the meaning of Judge Wara's minute. According to her letter dated 7 April 2025, the appellant claims that paragraph [2] of Judge Wara's minute "stat[ed] that the Trustees lied and proven malfeasance and abuse". However, this minute doesn't draw these conclusions – rather, Judge Wara simply recorded that Ms Hona had stated these as grounds in her application for a rehearing on a matter heard on 3 November 2023.⁹ Further, while Judge Wara acknowledged Ms Hona's submission that she possessed evidence

⁷ 308 Waiariki MB 238–240 (308 WAR 238–240).

⁸ 322 Waiariki MB 208–225 (322 WAR 208–225) at 218–220.

⁹ 308 Waiariki MB 238–240 (308 WAR 238–240) at [2].

of such malfeasance, it appears that such evidence had not been provided to the judge at the time.¹⁰

[16] The appellant also argues that Judge Coxhead failed to consider that the minutes of a trustee meeting of 26 February 2023 show that she was given authority to negotiate a lease on her own, without the need for the approval of her co-trustees. These minutes, on their face, state that she will be a contact person for the handover of land from Te Tumu Paeroa, but as the judge noted, do not convey an authority on her to negotiate a lease independent of her co-trustees.

[17] Other than these points, no other errors of law or fact in Judge Coxhead's judgment have been raised by Ms Hona in her notice of appeal.

[18] Accordingly, we find that the interests of justice do not weigh in favour of granting the application for appeal out of time.

Decision

[19] For the reasons above, we decline leave to appeal out of time. This application is dismissed.

I whakapuaki i te wā 2:00pm ki Te Whanganui-a-Tara i te rā 23 o Hōngongoi i te tau 2025
Pronounced at 2:00pm in Wellington on this 23rd day of July 2025.

\$_{signature}\$

S F Reeves (Presiding)
JUDGE

\$_{signature}\$

T K T A R Williams
JUDGE

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A M Thomas
JUDGE

¹⁰ At [4].