

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

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

AP-20230000027852

AP-2024000002364

A20210008729

WĀHANGA
Under

Section 164, Te Ture Whenua Māori Act 1993

MŌ TE TAKE
In the matter of

Whareongaonga 5

NĀ
Between

PAULINE EUNICE TANGIORA
Te Kaitono
Applicant

Nohoanga:
Hearing

17 February 2022, 110 Tairāwhiti MB 91-97
9 March 2023, 117 Tairāwhiti MB 184-188
7 December 2023, 122 Tairāwhiti MB 180-181
7 March 2024, 124 Tairāwhiti MB 252
4 April 2024, 125 Tairāwhiti MB 206-212
(Heard at Gisborne)

Whakataunga:
Judgment date

2 August 2024

TE WHAKATAUNGA Ā KAIWHAKAWĀ MATUA C L FOX
Judgment of Chief Judge C L Fox

Hei tīmatanga kōrero*Introduction*

[1] This case concerns the transfer by way of gift of 10 shares in Whareongaonga 5 from Pauline Eunice Tangiora (the applicant) to her son Paschasius Mathys Sier Vermont (Sier).

Kōrero whānui*Background*

[2] The applicant received her shares upon succession to her husband John (Codford) Tangiora on 26 June 1992.¹ He had left a will dated 30 October 1986 leaving all his Māori land interests to her.

[3] Codford Oronsay Tangiora (hereafter referred to as Codford) is the son of John Tangiora. He opposes the application on the basis that Sier is not the biological son of John Tangiora. Others who opposed the application were Helaman Paratene Tangiora, Brendon Haaka Tangiora, Raymond Tangiora, and Te Aihurangi Te Kauru Tangiora. These are children and grandchildren of John Tangiora and his first wife Kathleen Katerina Tangiora.

Ko te hātepe ture o te tono nei*Procedural History*

[4] The matter first came before the Court on 17 February 2022 when the case was referred to mediation.² On 9 March 2022 the matter was before the Court again.³ The Court was advised that mediation had been successful with all the family agreeing to the outcome. Pursuant to the settlement agreement, it was agreed that all John Tangiora's shares (except for these 10 shares in the Whareongaonga 5 block) would be transferred to his natural children or a whānau trust.

[5] The only person who continued to object was Codford. Legal submissions for Codford were to be filed and the matter was adjourned to chambers. Those submissions and supporting affidavits were not filed until 28 April 2023.

¹ 19 Tairāwhiti Registrar's MB 84 (19 RGTA 84).

² 110 Tairāwhiti MB 91-97 (110 TRW 91-97).

³ 117 Tairāwhiti MB 184-188 (117 TRW 184-188).

[6] The applicant then instructed counsel. The matter was adjourned on 7 December 2023 at the request of her counsel and again on 7 March 2024.⁴

Te nohonga a te Kooti

The Court Hearing

[7] The application came before me on 4 April 2024.⁵ Codford reiterated his opposition. The Court received submissions in reply for the applicant from counsel, Mr Watson. I reserved my decision.

Te kēhi mō te Kaitono

The case for the Applicant

[8] The key submission was that the applicant is the legal owner of the shares. The applicant is transferring all interests in 22 other blocks back to John Tangiora’s natural children. It is only the Whareongaonga 5 block shares at issue, and even then, the applicant is only transferring 10 out of 24.4 shares.

[9] Secondly, the issue of whether Sier is a natural child of John Tangiora is not relevant as the applicant and her son have their own whakapapa line to the former and current owners of Whareongaonga 5.

[10] Mr Watson agreed that in accordance with the mediation agreement, all other interests held in the name of the applicant and derived from John Tangiora’s estate should be transferred and vested in the whānau. What was needed was amendment to this application pursuant to s 71 of Te Ture Whenua Māori Act 1993 (the Act) to include such a vesting. The application is amended accordingly.

Ngā Ture

The Law

[11] Part 7 of the Act addresses alienation of Māori land. It provides, inter alia, that the owner of an interest in any Māori freehold land may only alienate that interest to a person

⁴ 122 Tairāwhiti MB 180-181 (122 TRW 180-181); 124 Tairāwhiti MB 252 (124 TRW 252).

⁵ 125 Tairāwhiti MB 206-212 (125 TRW 206-212).

who belongs to one or more of the preferred classes of alienees.⁶ Part 8 provides that no undivided interest may be alienated otherwise than by a vesting order of the Court.⁷ The relevant section for transfers such as the one contemplated here is s 164. It provides as follows:

164 Transfer of land or undivided interest by court vesting orders

[1] The court may, in accordance with this section, make a vesting order for the transfer of any Maori freehold land or any undivided interest in any such land to and in favour of any person or persons to whom that land or interest may be alienated in accordance with the provisions of Part 7.

[2] An application for a vesting order may be made by—

- (a) a party to a contract or arrangement relating to the proposed transfer; or
- (b) a donor of the land or interest; or
- (c) a trustee for a person entitled to the land or interest.

[3] The provisions of sections 152 and 158, so far as they are applicable and with any necessary modifications, shall apply to an application for a vesting order as if it were an application for confirmation of an instrument of alienation.

...

(6) Where a vesting order is sought to effect a gift of any land or share having a value in excess of \$2,000, the court may decline to make the order without evidence in support of the application from the alienor, either in person or in any other manner authorised by the rules of court.

...

(8) A person who is entitled to a beneficial interest in the land, or who will be entitled to such an interest if the order is made, shall be entitled to appear and be heard on an application for a vesting order, whether or not that person is a party to any contract or arrangement to which the application relates.

[12] Section 152 deals with the matters that apply before the Court may confirm a vesting order, and s 158 provides for special valuations. In assessing the merits of this application for a vesting order the Court must also measure the circumstances of the case against the intentions and objectives of the Act as set out in the Preamble, s 2 and s 17.

⁶ Sections 4, 147 and 148.

⁷ Section 150(1).

Kōrerorero*Discussion*

[13] In this case granting the application would not contravene any of the above requirements. The Court retains a discretion to deal with the application.

[14] How the Court will exercise its discretion turns on the evidence. It was the evidence of the applicant that the two reasons for the gift were first to maintain the whakapapa bond between the two families and second to fulfil a promise that John Tangiora made that these shares were to go to the applicant's son Sier. She noted John Tangiora was a tikanga expert and understood what he was doing leaving all his land to her. In response to this last point, Codford queried why his father did not leave shares to Sier in his will.

[15] Codford argued that it is not in accordance with tikanga to leave shares to someone outside the whakapapa line. In support, Alice Freida Wairau, of the Te Rakato hapū, agreed that what was proposed by the applicant was contrary to the tikanga of this hapū. However, she did not claim to be an expert in the tikanga of the hapū. It is also not clear that this is the only hapū associated with Whareongaonga 5.

[16] Codford queried whether the whakapapa used by the applicant to show a relationship between Sier and past and current owners was correct, but he did accept that Sier has a whakapapa link to Whareongaonga 5. It is based on Sier's whakapapa that the substantive issues before me turn.

[17] Taking that into account, I consider that the application should be granted because:

- (a) John Tangiora left all his interests in Māori land to the applicant and she is the owner;
- (b) In accordance with tikanga the applicant has agreed to vest all his Māori land interests in John's family, except for the 10 shares in Whareongaonga 5; and
- (c) Sier is of the preferred class of alienees with respect to Whareongaonga 5.

Kupu whakataunga me ngā ōta

Decision and Orders

[18] Therefore, I make orders under the Act as follows:

- (a) pursuant to s 158, granting an exemption from the need to furnish special valuation;
- (b) pursuant to s 164, vesting those Māori land interests held by Pauline Eunice Tangiora and derived from John Tangiora, except the 10 shares in Whareongaonga 5, in accordance with the mediation settlement. These interests are to vest in John's children in equal shares or where deceased, their share is to vest in their successors also in equal shares; and
- (c) pursuant to s 164, vesting 10 shares in Whareongaonga 5 in Paschasius Mathys Sier Vermont.

[19] The Registrar is directed to circulate a copy of this decision to all the parties.

I whakapuaki i te 4.00 pm i Te Whanganui-a-Tara, te tuawhitu o ngā rā o Ākuhata i te tau 2024.

Pronounced at 4.00 pm in Wellington on this 7th day of August 2024.

C L Fox
CHIEF JUDGE