I TE KOOTI PĪRA MĀORI O AOTEAROA
I TE ROHE O AOTEA
In the Māori Appellate Court of New Zealand
Aotea District

A20220006084
Appeal 2022/5

WĀHANGA *Under*	Section 58, Te Ture Whenua Māori Act 1993
MŌ TE TAKE *In the matter of*	Sections 57, 58, 70, 72 and 100 of the Rātana Pā Block
I WAENGA I A *Between*	HARERUIA APERAHAMA, ANDRE MEIHANA, WIKITORIA WAITAI-RAPANA, PIKI-TE-ORA MANUEL, LANCE RAPANA, TIOWAANA HARRINGTON, JACK JOHN SMITH, NGAPERA BELLA SMITH, MITA RIRINUI AND KARLEEN EVERITT Ngā Kaitono pīra *Appellants*

Nohoanga: *Hearing*	18 August 2022, 2022 Māori Appellate court MB 304-346 (Heard at Whanganui)
Kooti: *Court*	Judge CM Wainwright (Presiding) Judge TM Wara Judge AHC Warren
Kanohi kitea: *Appearances*	L Watson for Appellants C LaHatte for Respondents J P Ferguson and N R Milner for Trustees of the Rātana Pā Reservations Trust
Whakataunga: *Judgment date*	4 November 2022

TE WHAKATAUNGA Ā TE KOOTI
Judgment of the Court

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(Further parties to proceedings continued overleaf)

(Proceedings continued)

ME *And*	ANDRE TUTERE ANDERSON, DANA PUKETOHE, DESIREE DOCHERTY, JAMIE NEPIA, REO MARAKU, JASON HIHIRIA, PIRI RURAWHE, RAWINIA ANDERSON, MERE TUNGA NEPIA, PIRIHITIA MEIHANA, MURRAY RIRINUI, COLE PAKI AND ERROL TURUKI MEIHANA Ngā Kaiurupare pīra *Respondents*
ME *And*	DANIELLE HIKA, KAHUI HURINUI, TE PAHUNGA DAVIS, KEVIN ANDERSON, LEI GRAHAM AND JOSEPHINE HOTU AS TRUSTEES OF THE RĀTANA PĀ RESERVES RESERVE TRUST Ngā Tangata Whaitake *Interested Parties*

Kupu arataki

Introduction

[1] Two rival komiti made up of Morehu (Rātana Church members) disagree as to which of them is properly Te Komiti Matua o Te Hāhi Rātana ("Te Komiti"). Te Komiti is the body that governs Te Hāhi Rātana. The appellants, one of the contending groups, applied to the Māori Land Court for a determination under s 30(1)(b) of Te Ture Whenua Māori Act 1991 ("the Act") as to which collective is properly Te Komiti and therefore represents Te Hāhi Rātana ("the s 30 application").

[2] In the court below, the judge did not embark on that determination because he decided that the court lacked jurisdiction to do so. He took the view that Te Hāhi Rātana is not "a class or group of Māori" for the purposes of s 30, because the church's members are not exclusively Māori, and because they are connected by faith rather than whakapapa.

[3] In this appeal, we decide whether the judge's approach to the issue of jurisdiction was correct.

[4] The appellants ask us to set aside the Māori Land Court's decision that no jursidiction exists. This would have the effect of sending the decision about representation back to the lower court for determination under s 30. The respondents agree with the judge's decision that there is no jurisdiction (although they differ as to reasoning). The Rātana Pā Reserves Trust ("the Trust") participates as an interested party and abides our decision.

Te horopaki me ngā meka

Context and Background Facts

[5] In the lower court, Judge Stone directed the filing of evidence, the most relevant parts of which we summarise briefly here. None of the evidence adduced was challenged.[1]

[6] Judge Stone quoted this passage from the submissions of counsel appearing before him on behalf of the applicant group:[2]

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1 447 Aotea MB 80-92 (447 AOT 80-92) at 80.

2 Watson 'Submissions for Applicants' (23 March 2022) at 195.

> The evidence establishes that Te Hāhi Rātana is a Māori movement, with Māori foundations; an overwhelming majority of Māori members; operating in te reo Māori; and with recognition by other Māori as being Māori in nature.

[7] Lying behind this characterisation are facts that we understand to be uncontroversial, and we recite them here for context:

1. Te Hāhi Rātana was founded by a Māori, Tahupōtiki Wiremu Rātana in 1925;

2. It "was established for the Morehu...addressing it to many Māori who were landless";[3]

3. It was established by Māori for Māori, but over time the composition of the church has changed to include people of all walks of life and regardless of ethnicity;[4]

4. Te Hāhi Rātana is described as ture wairua (spiritual) and ture tangata (secular/physical) and each part is dealt with separately in the Constitution of the Rātana Church, Ngā Kaupapa o Te Haahi Rātana;

5. Ngā Kaupapa o Te Haahi is written in both Māori and English, with the clauses in Māori appearing first;[5]

6. The leader of Te Hāhi Rātana is known as the Tūmuaki (the President of the Church). There is currently no living Tūmuaki. The new Tūmuaki is to be appointed at the Hui Whakapūmau set down for Easter 2023;

7. All Tūmuaki appointed thus far have been Māori;

8. The whānau of TW Rātana appoints the Tūmuaki;

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3 447 Aotea MB 80-92 (447 AOT 80-92) at 90.
4 'Statement of Evidence of Mita Michael Ririnui' (18 March 2022) at (9).
5 Ratana Established Church of New Zealand, *Ngā Kaupapa o Te Haahi* (30 April 2002).

9. Members of Te Hāhi Rātana are known as Morehu, regardless of their ethnicity;[6]

10. According to NZ Census statistics (2018), Te Hāhi Rātana comprises 42,711 Māori members and 1704 non-Māori members;

11. The Trust is the legal owner of the Rātana Pā reserves land (Sections 57, 58, 70, 72 and 100 of the Rātana Pā), where the church/temple and other facilities of Te Hāhi Rātana are located;

12. Te Komiti governs Te Hāhi Rātana; and

13. The two groups now both claiming to be Te Komiti comprise only Morehu, and all of them are Māori.

[8] We look to this factual underpinning in assessing whether Te Hāhi Rātana is a "class or group of Māori".

Ko te hātepe ture o te tono nei
Procedural History

[9] The s 30 application was lodged in the Māori Land Court on 20 June 2020. Judge Stone directed the parties to consider mediation under the Act. The respondents declined.

[10] At a judicial conference on 11 March 2022 to discuss procedural matters for the hearing, one of the parties (not counsel) raised as an issue whether the Māori Land Court had jurisdiction to determine the application.[7] The judge directed the parties to submit evidence relevant to the jurisdiction question. The court convened via Zoom on 8 April 2022 to hear submissions on jurisdiction. The evidence was taken as read and there was no cross-examination.

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6 Morehu Youth Movement Book (1980) at p. 5, (1.2(iii); MOREHU "…Go and Preach and Heal the sick in the name of the Father, the Son, the Holy Ghost and their Faithful Angels. From now on we will call you a MANGAI and those who follow you shall be called MOREHU."

7 447 Aotea MB 80-92 (447 AOT 80-92) at 82.

[11] On 11 April 2022 Judge Stone issued his written decision and dismissed the application under s 30. The appellants filed their appeal on 14 April 2022.

[12] Once a bench was appointed to hear the appeal, the presiding judge convened a judicial conference on 8 June 2022 to canvass with the parties once again the possibility of mediating their differences. Again, the respondents rejected that possibility. Timetable orders for the appeal ensued.[8]

[13] This court sat at Whanganui on 18 August 2022. All parties filed written submissions in advance.

Te Ture

The Law

[14] The application for the Māori Land Court to determine which of the two komiti represents Te Hāhi Rātana was made under s 30(1)(b) of the Act. This appeal turns on a question of statutory interpretation, so we reproduce the relevant provisions here:

> **30 Māori Land Court's jurisdiction to advise on or determine representation of Māori groups**
>
> (1) The Māori Land Court may do either of the following things:
>
> (a) advise other courts, commissions, or tribunals as to who are the most appropriate representatives of a class or group of Māori:
>
> **(b) determine, by order, who are the most appropriate representatives of a class or group of Māori.**
>
> (2) The jurisdiction of the Māori Land Court in subsection (1) applies to representation of a class or group of Māori in or for the purpose of (current or intended) proceedings, negotiations, consultations, allocations of property, or other matters.
>
> (3) A request for advice or an application for an order under subsection (1) is an application within the ordinary jurisdiction of the Māori Land Court, and the Māori Land Court has the power and authority to give advice and make determinations as the Court thinks proper.
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> [Emphasis added]

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8 2022 Māori Appellate Court MB 179-184 (2022 APPEAL 179-184) at 184.

[15] Judge Stone's is the only decision in which the Māori Land Court has construed the phrase "class or group of Māori". The Act does not define what the phrase means, but s 4 defines the word "Māori" as "a person of the Māori race of New Zealand; and includes a descendant of any such person."

[16] Judge Stone began the exercise of interpreting s 30 by referring to s 10 of the Legislation Act 2019.[9] As is well known, s 10 says that to ascertain the meaning of legislation, we focus on "its text and in the light of its purpose and its context." The senior courts have applied s 10 in many cases, and have distilled its meaning and effect in these terms:[10]

> 1. It is necessary to bear in mind that [s 10 of the Interpretation Act 2019] makes text and purpose the key drivers of statutory interpretation.
>
> 2. Even if the meaning of the text may appear plain in isolation of purpose, that meaning should always be cross-checked against purpose in order to observe the dual requirements of [s 10].
>
> 3. In determining purpose, the court must obviously have regard to both the immediate and the general legislative context. Of relevance too may be the social, commercial or other objective of the enactment.
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> 4. The rule of law must still stand for the proposition that it is the law that rules, not those who make the law or apply the law or interpret the law. The law is the text. In the search for certainty of meaning the statutory text cannot be stretched beyond breaking point.

[17] While s 10 is the starting point for ascertaining the meaning of a statutory provisions in New Zealand law, in this case our own Act also specifically addresses how it is to be interpreted:

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9 *Aperahama v Anderson – Sections 57, 58, 70, 72 and 100 of the Rātana Pā Block* (2022) 447 Aotea MB 93 (447 AOT 93) at [13].

10 *Commerce Commission v Fonterra Co-operative Group Ltd* [2007] 3 NZLR 767 at [22]; and *Re Edwards (No 2)* [2021] NZHC 1025 at [22]-[24].

> **2 Interpretation of Act generally**
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> (1) It is the intention of Parliament that the provisions of this Act shall be interpreted in a manner that best furthers the principles set out in the Preamble to this Act.

[18] The Preamble says:

> Nā te mea i riro nā Te Tiriti o Waitangi i Motuhake ai te noho a te iwi me te Karauna: ā, nā te mea e tika ana kia whakaūtia anō te wairua o te wā i riro atu ai te kāwanatanga kia riro mai ai te mau tonu o te rangatiratanga e takoto nei i roto i te Tiriti o Waitangi: ā, nā te mea e tika ana kia mārama ko te whenua he taonga tuku iho e tino whakaaro nuitia ana e te iwi Māori, ā, nā tērā he whakahau kia mau tonu taua whenua ki te iwi nōna, ki ō rātou whānau, hapū hoki, a, a ki te whakangungu i ngā wāhi tapu hei whakamāmā i te nohotanga, i te whakahaeretanga, i te whakamahitanga o taua whenua hei painga mō te hunga nōna, mō ō rātou whānau, hapū hoki: ā, nā te mea e tika ana kia tū tonu he Te Kooti, ā, kia whakatakototia he tikanga hei āwhina i te iwi Māori kia taea ai ēnei aupapa te whakatinanana.
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> Whereas the Treaty of Waitangi established the special relationship between the Maori people and the Crown; And whereas it is desirable that the spirit of the exchange of kawanatanga for the protection of rangatiratanga embodied in the Treaty of Waitangi be reaffirmed; And whereas it is desirable to recognise that land is a taonga tuku iho of special significance to Maori people and, for that reason, to promote the retention of that land in the hands of its owners, their whanau, and their hapu, and to protect wahi tapu: and to facilitate the occupation, development, and utilisation of that land for the benefit of its owners, their whanau, and their hapu: And whereas it is desirable to maintain a court and to establish mechanisms to assist the Maori people to achieve the implementation of these principles.

[19] It follows that we must also distil relevant principles from the Preamble and consider how they apply to s 30 and its interpretation.

Our powers on appeal

[20] We agree with Mr Watson for the appellants that this is a general appeal under s 58 of the Act, and not an appeal as to an exercise of discretion. It follows that we must come to our own view on the merits.[11]

Te Take

The Issue

[21] There are formally five separate grounds of appeal. However, as stated in the introduction the sole issue before us is whether the court below was correct when it decided

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[11] *Logan v Logan – Patangata 2F Section 2B* [2022] Māori Appellate Court MB 234 (2022 APPEAL 234) at [12].

that it lacked jurisdiction to determine which group is Te Komiti because Te Hāhi Rātana is not a "class or group of Māori" as defined in s 30 of the Act.[12]

Te Wewete
Analysis

[22] In this section of our judgment we follow the structure of s 10 of the Legislation Act 2019. We focus first on the text of s 30(1)(b), and then consider its purpose and context. We analyse the role of the Preamble in our Act in that context.

Text: the words themselves

[23] The issue here may be simply stated. The words used in s 30 are "a class or group of Māori". The section provides for the Māori Land Court to determine matters of representation for persons who meet that description. Section 2 of the Act defines "Māori" as "a person of the Māori race of New Zealand, and includes a descendant of any such person". A class or group of Māori is, in plain language, a collective of people meeting the definition of "Māori".

[24] In this case, the Māori Land Court was asked to determine who are the most appropriate representatives of Te Hāhi Rātana, the "class or group" in question. Although Te Hāhi Rātana is a Māori church whose members are very substantially Māori, a small percentage are non-Māori. The question is whether this means that Te Hāhi Rātana does not constitute "a class or group of Māori" for the purposes of s 30(1).

[25] Judge Stone said that before looking at the statutory language and associated purpose and context, he needed to consider the "ordinary meaning" of the phrase "group of Māori" or "class of Māori". In his view, the ordinary meaning of these words limited the groups on whose behalf the court can decide matters of representation to those comprising only Māori members.[13] He derived support for this conclusion from the definition of Māori in s 2 of the Act, to which we have referred. The judge said that because s 2 defines Māori as people of

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12 Watson 'Notice of Appeal' (14 April 2022).

13 *Aperahama v Anderson – Sections 57, 58, 70, 72 and 100 of the Rātana Pā Block* (2022) 447 Aotea MB 93 (447 AOT 93) at [15]-[16].

that race and their descendants, the definition is based on whakapapa, and the class or group of Māori referred to in s 2 must also be whakapapa-based:[14]

> This descent-based framework points strongly to the interpretation that s 30 is aimed at descent-based classes or groups.

[26] The judge's view that s 30 is aimed at deciding questions of representation for groups whose members are linked by whakapapa meant that he considered the court's jurisdiction would not extend to deciding such questions for Te Hāhi Rātana. Membership of the Hāhi arises not by descent but by faith.[15]

[27] The judge then explored the instances in the Act where the words "class of persons" and "class or group of Māori" appear. His analysis led him to to the view that:[16]

> If there was a distinction in the Act before the 2020 amendments between a class of persons (which could include non-Māori) and a class of Māori (which is exclusively Māori), that distinction is now blurred.

[28] Nevertheless he considered that the choice by Parliament to use the phrase "class or group of Māori" in s 30 rather than "class of persons" was a choice to define a group that could include only Māori. This supported his earlier conclusions about the need for any group on whose behalf the court would determine matters of representation to be whakapapa-based and exclusively Māori.[17]

[29] We do not agree with the judge's approach. We do not think that the language of s 30(1) makes it necessary to limit the court's jurisdiction under s 30 to groups whose members are exclusively Māori. Nor do we think it necessary that the court limits itself to determining questions of representation to Māori groups whose members are linked by whakapapa. While whakapapa is the means of determining whether a person is Māori, we do not agree that the reference to descent in the definition of Māori in s 2 has the effect of limiting the work of the court only to situations where the Māori members of a group share whakapapa. The focus in s 30(1)(b) is on the power to determine the most appropriate representatives of the Māori class or group. The only requirement is that the group or class is a Māori class or group. We did not find persuasive the judge's attempt to distinguish between the uses in the Act of the

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14 At [18]-[19].
15 At [20].
16 At [28].
17 At [30].

words "class of persons" and "class or group of Māori". The Act does not consistently evince an intention to include non-Māori in one group but not in the other.

[30] The judge was not persuaded by the submission that the purpose of s 30 is to enable representation disputes among Māori to be resolved, and it would be inconsistent with that purpose to limit its application to groups that are exclusively Māori.[18] Acknowledging the "initial lustre" of this argument, the judge was deterred by its requirement, he said, to read concepts into s 30 that are not there.[19] To determine representation issues for groups with a majority of Māori members, for example, would be "arbitrary"; anything less than requiring the group to be exclusively Māori would be arbitrary. Similarly unappealing would be a focus on whether the kaupapa and values of the group were Māori.[20] Such an assessment would take the court into uncharted territory.

[31] We will look into the purpose of the legislation shortly but staying for now with a focus on the text, we do not agree with the judge that allowing members of Te Hāhi Rātana to use the court to resolve a dispute about representation is outside the scope of the words used in s 30(1)(b). We are not of the view that a "class or group of Māori" ceases to be a class or group of Māori if one or two among them are not Māori. Nor do we think it is necessary to import rules about the percentage who need to be Māori in order for the group to meet that description, nor whether the focus of the group is kaupapa Māori.

[32] It is important not to look for problems of application that do not really exist. We see s 30(1)(b) as a simple provision allowing Māori groups to seek the assistance of the court in matters of representation. In practice, whether a group is a Māori group is not difficult to determine. There is certainly no difficulty in characterising Te Hāhi Rātana as a Māori church. Its unique characteristics and its very Māori nature are evident from the facts recited at paragraph [7]. It is known throughout the country as a Māori institution. Is there anyone who would question that the adherents of the Rātana faith comprise a group of Māori? The fact that some non-Māori are also members of the church does not derogate from the quintessentially Māori character of the class or group that constitute the Hāhi and its Morehu.

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18 At [33].
19 At [34].
20 At [34].

[33] If there were ever a case where there was a real doubt, for whatever reason, about whether a group invoking the jurisdiction of the court under s 30 is properly characterised as a Māori group, the court could certainly decline to enter into the matter of representation. That might arise because the group lacks essentials of 'Māoriness' – such as where the members were substantially not Māori. We do not consider that it will be common for such situations to arise, because the Māori Land Court is an institution that sits within te ao Māori, and it is Māori people who come to the court to sort out Māori concerns. That the inclusion of non-Māori in a Māori group will not ordinarily be seen as problematical may be inferred from the fact that this is the first time since 1993, when the Act came into force, that the matter has been the subject of deliberation in the court. The present s 30 application is a typical example of an essentially Māori context from which differences about representation arose. That there are non-Māori loosely connected to the matter (none of those who are named in the intitulements nor who appeared in court were non-Māori) should not act as an obstacle to the court's playing its intended role.

[34] We see it as critical that the court does not exclude groups that are fundamentally Māori in nature and composition from its jurisdiction to determine representation issues except for the most compelling reasons. That is because issues about representation can be paralysing for groups, and s 30 is plainly a provision that was included in the legislation to provide an avenue to resolve them. Alternative pathways offering decision-makers who are culturally knowledgeable and whose services are low-cost and accessible are typically unavailable.

Purpose and context

[35] Section 30 is located in a section of the Act headed "Other provisions about jurisdiction and powers". It sits among a number of miscellaneous provisions that are not focused on Māori land. Section 29, for example, is entitled "Reference to the court for inquiry". It allows the Minister, the chief executive, or the Chief Judge to refer to the court for inquiry and report "any matter as to which, in the opinion of [those persons] it may be necessary or expedient that any such inquiry should be made." Under s 29(2) the Māori Land Court has complete discretion as to how to undertake such an inquiry.

[36] Also located here are the many new provisions concerning mediation brought in by the Te Ture Whenua Māori (Succession, Dispute Resolution, and Related Matters) Amendment Act 2020.

[37] Collectively, these provisions mark out for the Māori Land Court a role as problem-solver where Māori issues are causing difficulty, or where Māori are unable to agree on issues. "Issues", that broadest of nouns, is the word used in the legislation to describe the matters to be addressed at mediation in s 30E. The possible topics to be mediated are not at all limited, and nor are the participants. Section 30E gives entitlement to attend and participate in mediation to "persons affected and their representatives", and anyone else whom the judge thinks should be there.

[38] And yet s 30D, which concerns the appointment of a mediator, states the need for a mediator to have the skills and experience to "undertake mediation on issues of representation for a class or group of Māori". Is it to be supposed then that the mediation jurisdiction of the court is to be limited to groups that comprise only people of Māori descent? No. The intention is simply to recognise that the work of the Māori Land Court is at its essence to do with Māori land and Māori people, and anyone acting as mediator must be able to operate skilfully in those contexts. Just as in the s 30 context, it would be perverse if this language were to be read as ousting the problem-solving powers of the court in situations where non-Māori also had some part to play. That would be to deprive Māori of an important service that the court is uniquely qualified to provide. There is no benefit to anybody from reading in a requirement that for the court to work in this way those involved may not include anyone who is not Māori. Many Māori groups include non-Māori because Aotearoa New Zealand is an integrated society. Non-Māori own interests in Māori land. Whānau Māori include non-Māori. Marae committees include non-Māori. The congregations of Māori churches include non-Māori. To limit the court's problem-solving role to groups that are exclusively Māori would be to fly in the face of the lived experience of many Māori in the 21st century.

[39] Like the provisions referred to in the previous paragraphs, s 30 is an enactment of a problem-solving kind. It too focuses on the relationships between people rather than their relationship to land. Its aim is to assist where questions of representation arise, to ensure that the right people are recognised as having the authority to represent the wider group. The

court's powers here are also broadly expressed: the legislation does not seek to limit the purposes for which people are representing the Māori class or group in question. Section 30(2) provides:

> (2) The jurisdiction of the Maori Land Court in subsection (1) applies to representation of a class or group of Maori in or for the purpose of (current or intended) proceedings, negotiations, consultations, allocation of property, **or other matters**.
>
> [Emphasis added]

[40] The phrase "or other matters" gives the court completely free rein as to the contexts within which representation issues might arise. The breadth of this provision in our view pulls entirely in the other direction from Judge Stone's view that the Act's focus is on representation issues arising only among people linked by whakapapa. Thus far, the area in which the court's s 30 jurisdiction has most often been invoked is when questions have arisen as to the right group to represent the wider collective in Treaty settlement negotiations or matters under the Resource Management Act 1993.[21]

[41] Contextually, therefore, we see s 30 as a simple provision sitting within a range of statutory devices giving the Māori Land Court broad powers to assist. These provisions are designed to help Māori to function well as collectives – not always easy where interests and motivations have been increasingly individualised under the influence of western culture. Despite these countervailing pressures, Māori must continue to act collectively both as landowners (because Māori land is almost always multiply-owned) and as members of whānau, hapū and iwi (which are intrinsically communal).

[42] This characterisation of s 30 and the other provisions in the "Other provisions about jurisdiction and powers" section of the Act as part of the problem-solving jurisdiction of the Māori Land Court sits comfortably with the emphases of the Preamble and s 2.

[43] While it is the case that the main focus of the Preamble is the retention and utilisation of Māori land in the hands of its owners, whānau and hapū, whenua Māori and communities

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[21] *McClutchie-Morrell v Te Rununga o Ngāti Porou – representation for Ngati Uepohatu, Ruawaipu and Te Aitanga-a-Hauiti* (2010) Chief Judge's MB 278 (2010 CJ 278) (Treaty settlement negotiations); *Ngāti Pāoa Trust Board v Ngāti Pāoa Iwi trust – Ngāto Pāoa* [2020] Māori Appellate Court MB 318 (2020 APPEAL 318) (Resource Management Act).

are inextricably linked.[22] The Māori words of the Preamble talk about "te mau tonu o te rangatiratanga e takoto nei i roto i te Tiriti o Waitangi", and imply a role for the Māori Land Court in recognising and upholding rangatiratanga. In these times, this includes supporting the integrity of Māori collectives to do the work they need to do on behalf of their communities. The role of the court in assisting with the resolution of disputes can be key to this. Establishing tikanga to this end is part of what the court is enjoined to do in the final declaration of the Preamble. Here, the Māori version states that it is "tika" for the Māori Land Court to be a standing court "kia whakatakototia he tikanga hei āwhina i te iwi Māori kia taea ai ēnei kaupapa te whakatinana". That is, the court is to lay down "tikanga" to give effect to the principles expressed in the Preamble, which include rangatiratanga. We can see no tikanga-based reason for limiting the support that the Māori Land Court offers to Māori collectives to circumstances where there are no non-Māori. On the contrary, the centrality of supporting rangatiratanga means that the court must deploy all the legislative means at its disposal to support Māori groups whenever and however their functions as collectives are being complicated and diminished by conflict.

[44] Section 10 of the Interpretation Act 2019 makes text and purpose the key drivers of statutory interpretation. The text should not be looked at in isolation from the purpose, or from the context. The social objective of an enactment may be relevant in this context.[23]

[45] We do not consider that a group of Māori cease to be a group of Māori because non-Māori are also members of the group. As we have said, while the number in the group who are Māori or non-Māori may be relevant in certain circumstances, it will not usually be a numbers game. It is perhaps worth noting here, however, that counsel for the respondent in the hearing accepted in questioning from the bench that it would be relevant to the characterisation of a class or group as Māori if a majority of the members are Māori.[24] In doing so, counsel resiled from the contention that the group needed to be exclusively Māori in order to meet the description "class or group of Māori".

[46] As we have observed, it is our experience that the identity of the group as a Māori group will typically not be difficult to discern – as it is not difficult to discern here. The

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22 *Grace - Ngarara West A25B2 Ahu Whenua Trust* (2014) 317 Aotea MB 268 (317 AOT 268) at [80].

23 *Commerce Commission v Fonterra Co-operative Group Ltd* [2007] 3 NZLR 767 at [22]; and *Re Edwards (No 2)* [2021] NZHC 1025 at [22]-[24].

24 2022 Māori Appellate Court MB 304-346 (2022 APPEAL 304-346) at 336.

Morehu of Te Hāhi Rātana undoubtedly comprise a Māori group even though they number non-Māori among them.

[47] This interpretation of the words in the Act is supported by both its purpose and context. Parliament intended the Māori Land Court to play a problem-solving role for Māori groups beset with problems like the one occurring in Te Hāhi Rātana, and it was to seek the intervention of the court in resolving these difficulties that the present application came before the court. It is a problem that might have been resolved by mediation – where the court would certainly have jurisdiction under s 26H and the succeeding provisions – but one of the parties was not disposed to go down that route. It would, in our estimation, be contrary to the purpose of the Act if the applicant group were denied the benefit of the court's problem-solving jurisdiction because Te Hāhi Rātana is not an exclusively Māori group, or because its focus is spiritual. The Act does not provide such limitations, and we are unwilling to impose them.

Te whakataunga
Decision

[48] For these reasons, we allow the appeal. The lower court may now exercise its powers under s 30(1)(b) to determine the most appropriate representatives of Te Hāhi Rātana, which for the purposes of the application comprises a group of Māori.

[49] Per s 56(1)(b) of the Act we annul the order of the lower court dismissing the s 30 application for want of jurisdiction, and direct that court to hear the application.

Ngā utu
Costs

[50] We are minded to allow the costs to lie where they fall. However, if the parties see it differently the appellant is to file submissions within 14 days of the date of this judgment

and other parties to reply within 14 days after that. We will then address the issue of costs on the papers.

I whakapuaki i te 3:00pm i Whanganui i te whā o ngā rā o Maramamātahi i te tau 2022.
Pronounced at 3:00pm in Whanganui on this 4th day of November 2022.

C M Wainwright **JUDGE** (Presiding)	T M Wara **JUDGE**	A H C Warren **JUDGE**