

**IN THE MĀORI APPELLATE COURT OF NEW ZEALAND  
WAIRIKI DISTRICT**

**A20140012957  
APPEAL 2015/1**

UNDER Section 58 of Te Ture Whenua Māori Act 1993

IN THE MATTER OF RUATOKI B13A2A and succession order made  
at 103 Waiariki 290-295, 7 July 2014 to  
WAIMIHI VERCOE also known as WAIMIHI  
KEEPA

BETWEEN PETER PIIPII KEEPA  
Appellant

AND FRANK VERCOE  
Respondent

Hearing: 19 May 2015  
(Heard at Rotorua)

Coram: Judge S R Clark, (Presiding)  
Judge S F Reeves  
Judge M P Armstrong

Appearances: Mr Keepa, in person  
Mr Vercoe, in person

Judgment: 20 May 2015

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**RESERVED JUDGMENT OF THE MĀORI APPELLATE COURT**

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## Introduction

[1] Peter Keepa appeals Judge Savage's decision of 7 July 2014<sup>1</sup> in relation to succession to the Māori land interests of his sister Waimihi Vercoe.

[2] Mrs Vercoe died intestate and therefore succession to her Māori land interests fell to be determined in accordance with the provisions of s109 of Te Ture Whenua Māori Act 1993 ('the Act').

[3] In his decision Judge Savage determined pursuant to s113 of the Act, that the persons entitled to succeed to Mrs Vercoe's interests were her 11 children equally, with substitution of issue, subject to a life interest to her husband Frank Vercoe. There was also an order pursuant to s118 of the Act vesting the interests in the persons entitled.

[4] In the lower Court Mr Keepa objected to succession by his nieces and nephews. His objection was based on the Preamble to the Act. Mr Keepa stated the Māori version of the Preamble was authority for the proposition that as Māori land interests are taonga tuku iho, he is the Keepa whānau rangātira, sole surviving male in his whānau, and should therefore succeed solely to his sister's Māori land interests.

[5] In his decision Judge Savage advised Mr Keepa that his objection was not in accordance with the law and he made the succession orders appealed against.

## Appeal Hearing

[6] The point raised by Mr Keepa in the lower Court was repeated by him on appeal. That is, the Māori land interests should stay within the male line of the Keepa whānau and that because his sister Waimihi had married into the Vercoe whānau that his nieces and nephews should therefore not succeed. Again, Mr Keepa asserted that the Preamble of the Act was authority for this proposition.

[7] In the lower Court Mr Keepa seemed most concerned with succession to the interests in Ruatoki B13A 2A and Ruatoki B92, but he confirmed for us that his objection to the succession was in respect of all interests held by his sister.

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<sup>1</sup> 103 Waiariki MB 290 (103 WAR 290)

[8] In response, Mr Frank Vercoe opposed the appeal stating that the succession was a straight forward one according to the law, and that the issues raised by Mr Keepa were wrong and/or irrelevant.

[9] Turning to Mr Keepa's objection, it is trite law that the Māori Land Court must interpret the Act in a manner that best furthers the principles set out in the Preamble and must exercise its powers, duties and discretions in a manner that facilitates and promotes the retention, use, development and control of Māori Land as a taonga tuku iho by Māori owners, their whānau, their hapū and their descendants.

[10] However, we consider that there is no wording within the Preamble or elsewhere in the Act which supports Mr Keepa's proposition that succession to his sister's Māori land interests must follow the male (the Keepa) line. We reject that argument which has no basis in law. For completeness we note that Mr Keepa did not argue this on the basis of any customary tikanga, but drew support for his argument solely from the wording and intent of the Preamble.

[11] The relevant parts of section 109 of the Act state:

**109 Succession to Maori freehold land on intestacy**

(1) Subject to subsection (2), on the death intestate of the owner of any beneficial interest in Maori freehold land, the persons primarily entitled to succeed to that interest, and the proportions in which they are so entitled, shall be determined in accordance with the following provisions:

(a) where the deceased leaves issue, the persons entitled shall be the child or children of the deceased living at his or her death, in equal portions if more than 1, together with the issue living at the death of the deceased of any child of the deceased who died before the deceased, that issue to take through all degrees, according to their stocks, in equal portions if more than 1, the portion to which their parent would have been entitled if living at the death of the deceased: ...

(2) Where the owner of a beneficial interest in any Maori freehold land dies intestate leaving a person who is the owner's surviving spouse or civil union partner, that person is, subject to subsection (4), entitled as of right to an interest in that interest for life, or until he or she remarries or enters into a civil union or a de facto relationship ...

[12] For the record we note that Mr Keepa and his brothers and sisters succeeded to interests in Ruatoki B13A 2A from their mother Kurataka Wharetineti pursuant to the provisions of her will on 3 October 1988<sup>2</sup>. On this occasion, Mr Keepa, who was the applicant, was clearly willing to succeed to interests through his mother from the Wharetineti whānau. Those circumstances are clearly at odds with what he has argued before us today.

**Decision**

[13] The law is very clear, Judge Savage correctly applied the law and Mr Keepa's appeal must fail.

[14] The Court therefore makes orders pursuant to s56(1)(g) of the Act dismissing the appeal.

Pronounced in open Court at 4.15 pm in Rotorua on this 20<sup>th</sup> day of May 2015

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S R Clark  
**PRESIDING JUDGE**

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S F Reeves  
**JUDGE**

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M P Armstrong  
**JUDGE**

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<sup>2</sup> 80 Whakatāne 194 (80 WHK 194)