

**IN THE MĀORI LAND COURT OF NEW ZEALAND  
WAIARIKI DISTRICT**

**A20150004181**

UNDER Section 164 of Te Ture Whenua Māori Act  
1993

IN THE MATTER OF Whakarewarewa No 3 Sec 1B Reserves and  
Whakarewarewa No 2B

BETWEEN RANGINGANGANA NOKE WADE  
Applicant

Hearing: 128 Waiariki MB 37-40 dated 3 September 2015

Appearances: R Wade in person

Judgment: 28 October 2015

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**RESERVED JUDGMENT OF JUDGE L R HARVEY**

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**Introduction**

[1] Rangingangana Wade wishes to gift her cousin Hone John Raymond Nuku Tarawhiti shares in Whakarewarewa No 3 Sec 1B Reserves and Whakarewarewa No 2B blocks per s 164 of Te Ture Whenua Māori Act 1993. The application is unopposed.

[2] Following receipt of the application, the case manager requested that the applicant provide further information regarding the blood relationship between her and Mr Tarawhiti.

[3] Whakapapa information was filed on 3 August 2015. That information records that the applicant and Mr Tarawhiti are related through the applicant's paternal line. The shares sought to be transferred are derived from the maternal line.

[4] At the hearing held on 3 September 2015 Mr Tarawhiti provided further whakapapa information.<sup>1</sup> Ms Wade also provided a letter in support of Mr Tarawhiti being entitled to receive the shares. I adjourned the application to further consider the evidence provided.

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<sup>1</sup> 128 Waiariki MB 37 (128 WAR 37)

## Issue

[5] The issue is whether Mr Tarawhiti is a member of the preferred class of alienees for the purposes of ss 148 and 164 of the Act and thereby entitled to receive the interests.

## Background

[6] Ms Wade has 0.00244 shares in Whakarewarewa No 2B. There are 2,612 owners. Whakarewarewa No 3 Sec 1B has 3,067 owners with Ms Wade holding 0.10822 shares in the land.

[7] The applicant intends to gift 0.00122 shares in Whakarewarewa No 2B and 0.0275 shares in Whakarewarewa No 3 Sec 1B to Mr Tarawhiti.

[8] Ms Wade received her interests in the blocks through her maternal line from her mother, Ngapera Wade, who in turn succeeded through her mother, Katahi Raponi. Katahi Raponi received the interests from her father Raponi Tamati Arama.

## The Law

[9] Section 164 provides

### **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.

[10] The relevant section of Part 7 is s 148 which provides:

### **148 Alienation of undivided interests**

(1) An owner of an undivided interest in any Maori freehold land may alienate that interest to any person who belongs to 1 or more of the preferred classes of alienee.

[11] Preferred class of alienees is defined in s 4 of the Act as follows:

### **4 Interpretation**

In this Act, unless the context otherwise requires,—

**preferred classes of alienees**, in relation to any alienation (other than an alienation of shares in a Maori incorporation), comprise the following:

- (a) children and remoter issue of the alienating owner:
- (b) whanaunga of the alienating owner who are associated in accordance with tikanga Maori with the land:

- (c) other beneficial owners of the land who are members of the hapu associated with the land:
- (d) trustees of persons referred to in any of paragraphs (a) to (c):
- (e) descendants of any former owner who is or was a member of the hapu associated with the land

[12] In *Barnes – Te Horo 2B2B2B Residue* Judge Ambler discussed the principles of s 164.<sup>2</sup> He expanded on those considerations in *Epere - Waima A12B*.<sup>3</sup> I adopt the principles set out in those decisions.

### **Is Mr Tarawhiti a member of the PCA?**

[13] As foreshadowed, the parties have been had sufficient opportunity to provide evidence demonstrating Mr Tarawhiti's entitlement to receive the interests. To date the evidence provided has shown that the parties have a blood connection through Ms Wade's paternal line through her father Rawiri Wade.

[14] In *Prime - Tapui Lot 33 DP 113755* Judge Ambler commented:<sup>4</sup>

[17] Establishing that a person is of the preferred classes of alienees is normally not a particularly onerous task. It is usually a simple matter of identifying a tupuna who held interests in the land or establishing that the person belongs to the hapū associated with the land. These facts can normally be verified by the Court record or by a kaumātua who is expert in whakapapa or by wider support from the community of owners.

[15] In that case the application was dismissed as the Court was not satisfied that the recipient was of the preferred class of alienees.

[16] At the hearing, Mr Tarawhiti spoke to the application and the whakapapa evidence provided. He gave evidence that on his father's side he is an Erueti. Mr Tarawhiti acknowledged that he knows little of his whakapapa on his father's side and says that when he sought out his connections he met the applicant.

[17] Ms Wade confirmed that the gift is intended to provide Mr Tarawhiti with a "platform" on which to be able to represent whānau in matters concerning Whakarewarewa lands.

[18] The whakapapa provided confirms that the parties are related through the marriage of Mr Tarawhiti's great grand uncle and Ms Wade's great grandparent. It does not however demonstrate a

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<sup>2</sup> *Barnes – Te Horo 2B2B2B Residue* (2008) 125 Whangarei MB 11 (125 WH 11)

<sup>3</sup> *Epere - Waima A12B* (2012) 35 Taitokerau MB 131 (35 TTK 131)

<sup>4</sup> *Prime - Tapui Lot 33 DP 113755* (2013) 61 Taitokerau MB 133 (61 TTK 133)

blood connection to the applicant. Moreover, no evidence has been provided to confirm a direct connection to Ms Wade's maternal line, being the line from which the interests are derived.

[19] Accordingly, I am not satisfied, based on the evidence, that Mr Wade is whanaunga of the applicant and associated in accordance with tikanga Māori with the land. Nor am I satisfied that Mr Tarawhiti is a descendant of any former owner who is or was a member of the hapū associated with the land. There is simply insufficient evidence to demonstrate that Mr Tarawhiti is a member of the preferred class of alienees and entitled to receive the interests per s 164 of the Act.

### **Decision**

[20] There is insufficient evidence to confirm that Mr Tarawhiti is a member of the preferred class of alienees per s 147 of the Act. The application is dismissed.

[21] A fresh application may be filed if further evidence is obtained to confirm Mr Tarawhiti's entitlement to receive the interests.

[22] There will be no order as to costs.

Pronounced at 2.00 pm in Whakatāne on Wednesday this 28<sup>th</sup> day of October 2015

L R Harvey  
**JUDGE**