IN THE MĀORI APPELLATE COURT OF NEW ZEALAND
TAKITIMU DISTRICT

A20170004176
APPEAL 2017/13

UNDER	Section 58, Te Ture Whenua Māori Act 1993
IN THE MATTER OF	OMAHU 4C SECTION 6
BETWEEN	WERO KARENA Applicant
AND	DOUGLAS WHITFIELD First Respondent
AND	MARK DENNIS ALEXANDER Second Respondent

Hearing: 20 February 2018
(Heard at Hastings)

Court: Judge S Te A Milroy (Presiding)
Judge S F Reeves
Judge M P Armstrong

Appearances: Dr Bryan Gilling for the Appellant
Ms Cara Bennett for the Second Respondent

Date: 23 April 2018

JUDGMENT OF THE COURT

Copies to: Dr B Gilling, Morrison Kent Lawyers, DX SP 2020 Wellington
C Bennett, Langley Twigg, PO Box 446, Napier 4140

Introduction

[1] In an oral decision dated 8 February 2017, Judge Harvey confirmed a sale of Omahu 4C Section 6 from Douglas Whitfield to Mark Alexander under s 151 of Te Ture Whenua Māori Act 1993 (the Act).

[2] Wero Karena appeals that decision. The substantive issues on appeal are:

a) Whether the respondents discharged their duties to the preferred class of alienees (PCA); and

b) Whether the trial Judge adequately protected the rights of the PCA.

[3] Mr Karena's notice of appeal was accepted out of time per s 58(3) of the Act. This decision also sets out our reasons for granting leave to appeal out of time.

Background

[4] Omahu 4C Section 6 (the land) is Māori freehold land comprising 13.772 hectares. It sits immediately adjacent to Omahu 4C Section 5, a block of general land appurtenant to which an easement for access exists on the land. Prior to the hearing before the lower Court, the land was owned by Mr Whitfield.

[5] On 3 August 2016, Judge Harvey confirmed the sale of the land to Mr Karena at a price of $215,000.00. This order was conditional on the Court receiving confirmation that the purchase price had been paid.[1] On 2 December 2016, Mr Karena advised the Registrar that the purchase price had not been paid but that he still wished to purchase the land.

[6] On 21 and 28 January 2017, advertisements were placed in a local newspaper, the Hawkes Bay Today, notifying an application for alienation of the land to a purchaser from outside the PCA, and inviting submissions from members of the PCA. These advertisements were placed in the name of the Registrar. As of 7 February 2017, the Court had not been advised of any member of the PCA wishing to exercise the right of first refusal to purchase the land.

---

1 51 Tākitimu MB 258-261 (51 TKT 258-261).

[7] On 8 February 2017, the Court received written submissions advising that Mr Whitfield wished to amend the application so that the sale would be to Mr Alexander instead of Mr Karena. The submission noted that Mr Alexander was not within the PCA but the sale had been advertised. It was also noted that the purchase price was $192,500.00 pursuant to a new agreement for sale and purchase that had been signed.

[8] The Court confirmed the sale of the land to Mr Alexander on 8 February 2017.[2] The transfer to Mr Alexander, and a mortgage in favour of ASB Bank Limited, were registered against the Computer Freehold Register title to the land on 30 May 2017.

Decision of the lower Court

[9] Judge Harvey heard from Mr Bloor, on behalf of Mr Whitfield, and from Mr Karena in person. Judge Harvey noted Mr Karena's request that he be given until 25 February 2017 to arrange finance and allow his purchase to proceed.[3] Judge Harvey found that as Mr Karena had not paid the purchase price under the original agreement, and had not negotiated an extension to the settlement, the condition in the initial order had not been met, and the first application for confirmation of an alienation was at an end. Judge Harvey then confirmed the sale of the land to Mr Alexander. He found:[4]

> [12] I am satisfied that the correct processes have been followed in terms of notice to the preferred class of alienees and in giving them the proper opportunity to make submissions on the application. There has also been sufficient time for any of the preferred class to present appropriate offers to purchase. In addition, I accept that there have been no other proposals to purchase from any of the preferred class, other than Mr Karena's earlier agreement.

Reasons for granting leave to appeal out of time

[10] Mr Karena filed a notice of appeal and paid the filing fee on 7 April 2017 in the Māori Land Court registry in Hastings. This is within the 2 month time period set out in s 58(3) of the Act. The appeal was rejected by the Deputy Registrar on the basis that it should have been filed in the prescribed form at the Māori Appellate Court registry in Wellington. Unfortunately, Mr Karena did not become aware of the Deputy Registrar's decision until 19 May 2017, and only as a result of contacting the Court to request an

---

2 *Whitfield – Omahu 4C Section 6* (2017) 56 Tākitimu MB 233 (56 TKT 233).
3 At [4].
4 At [12].

update on the progress of his appeal. Mr Karena then made efforts to prepare the appeal as required by the Deputy Registrar, but fell ill and did not, at that time, have counsel to carry out his instructions. The appeal was filed on 21 June 2017, approximately four and a half months after Judge Harvey issued his decision.

[11] The considerations relevant to whether leave to appeal out of time will be granted are:[5]

a) The length of the delay 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; and

e) Whether the appeal raises any issue of public importance.

[12] The core question is whether the interests of justice warrant the granting of leave.[6]

[13] Mr Karena initially lodged the appeal within the statutory timeframe and the appeal documents and the filing fee were accepted and processed at the Hastings registry of the Court. The failure to file in the correct form and at the correct registry are technical defects which should not impede reasonable access to justice.

[14] We also accept that, in circumstances where he fell ill and was without legal representation, further time was required to file the appeal in the correct form together with an application for leave to appeal out of time. We do not consider that the time taken was unduly excessive in the circumstances.

---

5 *Tahere v Tau – Rangihamama X3A and Omapere Taraire E (Aggregated)* [2017] Māori Appellate Court MB 62 (2017 APPEAL 62) citing *Koroniadis v Bank of New Zealand* [2014] NZCA 197.

6 *Davis v Mihaere – Torere Reserves Trust* [2012] Māori Appellate Court MB 641 (2012 APPEAL 641) at [43] and *Nicholls v Nicholls – Part Papaaroha 6B Block* [2013] Māori Appellate Court MB 636 (2013 APPEAL 636) at [19].

[15] There is no evidence to suggest that Mr Karena was anything but genuine in appealing the decision of the lower Court, and in the manner of his appeal. There is also no doubt of his interest in the land. His conduct of these proceedings is not so inequitable that leave to appeal should be denied.

[16] Counsel for Mr Alexander, Ms Bennett, referred to the stress that the appeal would cause her client if allowed to go ahead, and that her client had registered the transfer against the title to the land so that any appeal would be futile. An appeal, whether filed in time or not, is inevitably stressful for the parties. That is not a reason to withhold leave to appeal out of time. If Ms Bennett's argument is correct that indefeasibility protects Mr Alexander's title, there can be no prejudice in granting leave. We consider the question of indefeasibility further below.

[17] The merits of the appeal are addressed later in this judgment. When granting leave to appeal out of time, we were satisfied that the appeal was not a hopeless case and there was utility in hearing argument on the substantive issues.

[18] We agree with Dr Gilling, counsel for Mr Karena, that the appeal raises matters of public importance regarding the use of the Court's discretionary powers granting confirmation of an alienation, and the protection of the rights of the PCA. These are matters that go to the heart of the principles to be applied in interpreting the Preamble and ss 2 and 17 of the Act.

[19] No other matters were raised that convinced us that leave to appeal out of time should be withheld. Considering the overall interests of justice, we granted the necessary leave to Mr Karena, so that the appeal could proceed to hearing.

The arguments on the substantive appeal

[20] The Appellant submitted:

a) the Respondents did not provide sufficient notice to the PCA of the intended alienation, as the final public notice was published on Saturday 28 January and any written notice from the PCA was required to be filed on Monday 30 January which was the next working day after publication. Furthermore, the

hearing was held eight days later, which gave the PCA only half the amount of time required under r 11.5(3)(c) of the Māori Land Court Rules 2011 (the Rules) to respond;

b) the Judge did not ensure the notice given by the First Respondent was in accordance with r 11.5(3)(c) of the Rules;

c) the requirement for written notice to be filed by members of the PCA wishing to appear should not be strictly upheld as the Appellant's ability to file the notice was limited by the timing of the public notice of alienation given by the First Respondent;

d) the adjournment requested by the Appellant was for only two weeks, which was not unreasonable in light of case authority where several months or several extensions were granted to the PCA. The Court should be flexible and judge each case on its facts when exercising its discretion to grant extensions of time. It was unreasonable not to grant the short extension given the Respondents had not adhered to the time periods prescribed in r 11.5(3)(c);

e) the Judge should have decided on an adjournment and not left the matter for the parties to decide between them. The Respondents pressed for an immediate conclusion to the application because they wanted to complete any dealings with the Māori Land Court within the time limits of their agreement for sale and purchase. However, that is not sufficient reason to deny what was a short extension;

f) the Appellant's understanding was that his original agreement for sale and purchase had lapsed when he notified the Registrar of his inability to obtain finance. Therefore, the agreement for sale and purchase before Judge Harvey was a new agreement and subject to the normal application of s 147A; it should not have been treated as an amendment of the agreement between the First Respondent and the Appellant;

g) Judge Harvey gave undue consideration to the lapsed agreement for sale and purchase between the Appellant and the First Respondent. The Judge ought to have treated the appearance of the Appellant as an exercise of his right as a member of the PCA with regard to the new agreement for sale and purchase between the First Respondent and the Second Respondent. Furthermore, the Judge failed to ascertain whether the extension sought by the Appellant was for the lapsed agreement for sale and purchase or as part of a new proposal as a member of the PCA;

h) Judge Harvey ought to have exercised his discretion to either extend the time for exercising the right of first refusal or adjourn proceedings to allow parties to negotiate an extension of time. Reasons for this include that the Appellant is a member of the PCA who was entitled to a right of first refusal, the Appellant requested an adjournment for a not unreasonable amount of time in order to organise finance, and an extension would have promoted the principle of retention of Māori land;

i) the principle in *Taueki – Horowhenua X1B41 North A3A and 3B1* regarding an illusory right of first refusal is applicable here as the sale was to a new buyer who was not a member of the PCA, for a lower price and to be completed on different dates to the lapsed agreement.[7] As such, the Court failed to properly apply the requirements of s 147A when confirming the alienation;

j) the Appellant had clearly stated he was present at the hearing as a member of the PCA and that he wanted to purchase the section. The Judge could have used the Court's inquisitorial powers to question the Appellant on his understanding of the proceedings in order to obtain a correct picture of the Appellant's standing at the hearing; and

k) because the Second Respondent has gained indefeasible title, the Court should use its power under s 56(1)(b) of the Act to revoke the order of the

---

[7] *Taueki – Horowhenua X1B41 North A3A and 3B1* (2008) 16 Whanganui Appellate Court MB 30 (16 WGAP 30).

lower Court. Although this would have no effect on the Second Respondent's Land transfer title, it would be a message about the importance of the PCA's right of first refusal. The Appellant acknowledged that there are separate issues of registration and indefeasibility but as the original order was conditional, there is provision under s 73 of the Act for it to be cancelled.

[21] The Respondents submitted:

a) the timeframe for exercising a right of first refusal is a matter of judicial discretion so the Judge was within his right to accept the short notice period. However, the Respondents acknowledge that if the decision was an amendment of the previous application before the Court for sale of the land and not a new application, the Respondents should have notified the Appellant as one of the parties. It would have been desirable for a new application to be submitted for confirmation of the alienation to the Second Respondent, instead of an amendment of the Appellant's application;

b) the Appellant's appearance at the hearing in lower Court meant that the notice given was sufficient for any member of the PCA to exercise their right of first refusal. If it had not been, it is presumed that members of the PCA would have applied for a rehearing, as has happened previously, however the notice was clearly sufficient as no PCA members other than the Appellant applied to appear or to have the matter reheard;

c) although the Rules around timeframes were not complied with, the Appellant was aware of the notice given for the alienation and failed to give the required written notice to be considered as a member of the PCA. The Appellant's oral submission in Court was not sufficient to meet the requirements of written notice. It was therefore open to the Court to disregard the oral submission made by the Appellant in the lower Court. Furthermore, the Appellant did not say he was unable to file written notice of his intention to appear;

d) the Court has discretion to vary an application. Therefore, the Court did not err by varying the initial application instead of requiring a new application for the alienation of the land. Although the Court had power to amend or cancel the conditional order, the Judge's failure to make a statement to that effect is not consistent with the Court's wide ambit of power and general flexibility;

e) the Appellant was unlikely to be able to purchase the land as he did not have the necessary funding, therefore the right of first refusal is nugatory. Furthermore, it is reasonable to assume the Judge took into account the history of the matter when coming to his decision, including the previous failures by the Appellant to gain funding. These failures by the Appellant to raise the necessary funds would have been given due consideration by Judge Harvey in his application of r 2.4;

f) the Judge weighed the importance of retaining land within the hapū but his decision respected the rights of vendors not to be subjected to a protracted process;

g) the rights of the PCA have not been defeated by the Court using its power to vary the agreement. The land remains Māori freehold land and the PCA maintain a right of first refusal that will be activated when next the land is alienated. The rights of the PCA were better protected by the process of the sale to the Second Respondent than by the sale to the Appellant as the second agreement was advertised twice for submissions by the PCA but the initial sale was not advertised at all;

h) it is not clear whether the Appellant is indeed a member of the PCA as this was not tested in the first hearing, although counsel conceded that this information cannot be rejected by the Māori Appellate Court now;

i) because the PCA has not supported the Appellant at any stage on this matter, it is hard to substantiate the Appellant's claim that the appeal is a matter of public interest and about the rights of the PCA in general;

j) none of the exceptions to indefeasible title could apply to these facts, particularly as no fraud has been alleged by the Appellant; and

k) although it may not be the practice in other Māori Land Court districts, it is customary in Tākitimu for notices to the PCA to be published under the name of the Deputy Registrar.

The Law

[22] In *Taueki – Horowhenua X1B41 North A3A and 3B1*, this Court considered the sale of land to those outside of the PCA. It found that where the consideration offered to the PCA differs to that offered to the prospective purchaser, this will render the right of first refusal illusory:[8]

> [75] Section 147A is one of the key mechanisms in the Act to give practical effect to the principle of retention of Māori land. It represents the final opportunity for those associated with Māori land in terms of tikanga Māori to prevent the land falling into outside ownership. Vendors cannot expect a hasty treatment of that right. Equally, potential purchasers within the preferred classes of alienees cannot expect a drawn out process. The time allowed must be practical and reasonable, having regard to the aim of retention of Māori land as expressed in the Preamble and section 2 of the Act. In the present case the time allowed did not meet these criteria and was unreasonably short.

[23] Section 62 of the Land Transfer Act 1952 states:

> **62 Estate of registered proprietor paramount**
>
> Notwithstanding the existence in any other person of any estate or interest, whether derived by grant from the Crown or otherwise, which but for this Act might be held to be paramount or to have priority but subject to the provisions of Part 1 of the Land Transfer Amendment Act 1963, the registered proprietor of land or of any estate or interest in land under the provisions of this Act shall, except in case of fraud, hold the same subject to such encumbrances, liens, estates, or interests as may be notified on the folium of the register constituted by the grant or certificate of title of the land, but absolutely free from all other encumbrances, liens, estates, or interests whatsoever,—

[24] In *Muraahi v Phillips Rangitoto Tuhua 55B1B and 55B1A2 (Manu Ariki Marae)* this Court held that principles of indefeasibility apply to Māori freehold land.[9]

---

8 At [79].

9 *Muraahi v Phillips Rangitoto Tuhua 55B1B and 55B1A2 (Manu Ariki Marae)* [2013] Māori Appellate Court 561 (2013 APPEAL 561) at [60] to [61].

Discussion

[25] This case rests on three points:

a) Whether the Judge was right to find that due process had been followed in terms of notice to the PCA;

b) Whether the Judge took into account an irrelevant factor in coming to his decision (the lapsed agreement for sale and purchase between Mr Karena and Mr Whitfield); and

c) Whether the Judge failed to take into account a relevant factor in coming to his decision (the difference in price in the agreements).

[26] We also consider whether Mr Alexander has received indefeasible title and whether this affects the grant of any relief.

Did Mr Whitfield provide proper notice to the PCA?

[27] Section 147(1)(a) of the Act provides that a sole owner of a block of Māori freehold land has the capacity to alienate all or any part of that land. Section 147A of the Act states:

> **147A Right of first refusal for sale or gift**
>
> A person referred to in section 147 who seeks to alienate any Maori freehold land by sale or gift must give the right of first refusal to prospective purchasers or donees who belong to 1 or more of the preferred classes of alienees, ahead of those who do not belong to any of those classes.

[28] Rule 11.5 of the Rules sets out the procedure for an applicant to notify the PCA as to the right of first refusal. This provides that the notice must:[10]

a) Be in form 27;

b) Be published at least twice at intervals of not less than five working days in a newspaper approved by the Registrar and circulating in the district in which the land is situated; and

---

[10] We note that the Māori Land Court Rules 2011, rr 11.6 and 11.7 are also relevant.

c) Stipulate a day for filing and serving a notice of intention to exercise the right of first refusal that is not less than 15 working days after the date of publication of the second notice.

[29] These requirements link to and give efficacy to the principles in the Preamble, s 2 and s 17 of the Act which, amongst other things, promote the retention of the land in the hands of its owners, their whānau and hapū. We consider this to be a minimum requirement for notice to the PCA. The notice in this case did not comply with these requirements. It only provided one working day for a member of the PCA to file a notice of intention to exercise the right of first of refusal.

[30] The Court may excuse compliance with a rule if it is satisfied that compliance would be oppressive or otherwise inappropriate. In doing so, the Court must have regard to:[11]

a) The purpose of the rule;

b) The consequences of non-compliance for a party or any other person affected by it; and

c) The fairness of requiring compliance or otherwise.

[31] Judge Harvey did not excuse compliance with r 11.5 and his decision does not refer to any of the factors set out above. Rather, he found that the correct process had been followed in terms of giving notice to the PCA. This was plainly wrong and we consider the PCA were not given proper notice, or a proper opportunity, to exercise their right of first refusal.

Was the previous sale and purchase agreement relevant?

[32] In coming to his decision, Judge Harvey referred to the previous agreement for sale and purchase with Mr Karena. As Mr Karena had not paid the purchase price, Judge Harvey found that the application to confirm that sale had come to an end.

---

[11] Māori Land Court Rules 2011, r 2.4.

[33] The sale to Mr Alexander was brought as an amendment to the original application which was to confirm the sale to Mr Karena. In fact, this was a new agreement involving a different purchaser and different terms, including a lower purchase price. Ms Bennett correctly acknowledged before us that a new application should have been filed, or that any amendment to the original application should have been notified to Mr Karena. No such notice was given.

[34] When Judge Harvey considered the amended application, he only took into account Mr Karena's position as the purchaser under the original agreement. It is accepted that Mr Karena did not pay the purchase price under the original agreement. However, at the hearing of 8th February 2017, Mr Karena presented himself as one of the PCA, gave an explanation of why his previous funding had fallen through, and that a source of funding might be available by the 25th February 2017.[12] His request for this short extension was treated as if it was a part of the lapsed agreement,[13] rather than the response of a member of the PCA to the new agreement.

[35] Mr Karena, as a member of the PCA, was entitled to the protections given to the PCA in what was a fresh application for confirmation of an alienation. This includes the full opportunity to exercise the right of first refusal. It was not relevant that Mr Karena's previous agreement for sale and purchase had lapsed. What was relevant was the period of time that ought to have been given to the PCA to exercise the right of first refusal on the same or similar terms as the proposed sale to Mr Alexander.

[36] We consider that Judge Harvey took into account an irrelevant factor. That is, he should have treated Mr Karena as a member of the PCA, not as the purchaser under the old agreement.

[37] This may have been different if the second agreement was for the same price as the first. In those circumstances, the failure to obtain finance in that amount would have been relevant in deciding whether to give Mr Karena a further opportunity to purchase the land. That was not the case. The price under the new agreement was lower and so the failure to

---

12 56 Tākitimu MB 229 – 232 (56 TKT 229-232) at MB 231.

13 *Whitfield – Omahu 4C Section 6* (2017) 56 Tākitimu MB 233 (56 TKT 233) at [12].

obtain finance at the higher purchase price was no longer relevant. We address this further below.

[38] We also note the PCA is required by r 11.5 to file a notice of their intention to exercise the right of first refusal. Mr Karena did not file such a notice. However, the hearing took place within the 15 working days set out in r 11.5(3)(c), and Mr Karena's failure to file formal notice is understandable in those circumstances.

Did the lower Court consider the rights of the PCA and the new sale price?

[39] The new agreement to sell the land to Mr Alexander was at a lower price than the agreement with Mr Karena. Judge Harvey was aware of the difference, as he noted that Mr Whitfield would receive better consideration by $23,000.00 if he sold to Mr Karena.[14] Judge Harvey also noted the importance of providing the PCA with "appropriate opportunities that were not illusory".[15]

[40] An alienation of Māori freehold land must be offered to the PCA on the same terms and conditions as that offered to the non-PCA party. Mr Karena did not have to pay the price in the original lapsed agreement. He only had to match the price in the new agreement which was more favourable. The PCA, including Mr Karena, should have been given a proper opportunity to take advantage of that, which did not happen. Instead Judge Harvey only referred to Mr Karena's opportunity to purchase the land at the original, and higher, purchase price.

[41] While Mr Karena failed to pay the original purchase price, it may have been possible for him to obtain finance at the lower purchase price. Mr Karena did seek further time to arrange finance. We consider he should have been offered that opportunity. Judge Harvey failed to take into account this relevant factor in coming to his decision.

Should we grant relief?

[42] Ms Bennett argued that, although there may have been defects in the process which approved the sale to Mr Alexander, he now has indefeasible title which cannot be

---

14 At [15].
15 At [9].

disturbed. She contends the transfer of the title to Mr Alexander, and the grant of the mortgage in favour of ASB, were registered against the title to the land after the statutory appeal period had expired, and the exceptions to indefeasibility do not apply.

[43] Dr Gilling accepted that registration of the transfer and the mortgage triggered the protections set out in the Land Transfer Act 1952. He did not allege that any of the exceptions to indefeasibility apply. However, he submitted we should nevertheless make a declaration in support of his client's position.

[44] This Court does not have the power to overturn a title registered under the Land Transfer Act 1952 even where it has been obtained in a manner that falls within the exceptions to indefeasibility.[16] That is a matter for the High Court under s 62(3) of the Land Transfer Act 1952. However, we do not believe this precludes us from determining whether or not the decision of the lower Court to confirm the alienation of the land was correct.

[45] The rights of the PCA in respect of Māori land is a matter of public interest and should be dealt with correctly under the law. We do not accept the submission that the land remains Māori freehold land and the PCA will be able to exercise their right when it is next alienated. That is no excuse for non-compliance with the rules of notice, because it may mean that Māori are alienated from their land for generations in situations where they might have had the ability to purchase the land beforehand. While a finding that the order of the lower Court was incorrect will have no effect on the current title, it recognises the rights of the PCA. It will also mean that the grant of confirmation will be cancelled, and will therefore not be an impediment, if Mr Karena is able to obtain further relief in another jurisdiction.

Other matters

[46] There are two further matters which require comment. Under s 73 of the Act, orders conditional on performance may be amended or cancelled by the Court if the condition is not completed within the specified time. As the original order was conditional on Mr Karena paying the purchase price, that order should have been cancelled when the

---

16 *Muraahi v Phillips Rangitoto Tuhua 55B1B and 55B1A2 (Manu Ariki Marae)* [2013] Māori Appellate Court 561 (2013 APPEAL 561) at [60].

Court was informed that finance could not be arranged, or at the subsequent hearing on 8 February. While Judge Harvey noted the original application had come to an end, the original order itself was not cancelled per s 73 of the Act.

[47] Ms Bennett argued it is the practice in the Tākitimu registry for the Registrar to be named in notices of alienation. The Registrar had not approved the form and contents of the notice in this case and should not have been named in the notice. If the Registrar is to be named in such notices, the notice should first be submitted to the Registrar for review to ensure it complies with the Act and the Rules before the notice is published.

Decision

[48] The appeal is allowed.

[49] Pursuant to s 56(1)(b) of the Act, the confirmation granted on 8 February 2017 of an agreement for sale and purchase dated 23rd November 2016 transferring the land known as Omahu 4C Section 6 from Douglas Whitfield to Mark Alexander is annulled.

[50] Pursuant to s 73(3)(a) the confirmation of alienation of Omahu 4C Section 6 granted on the 3 August 2016 for sale of the block from Douglas Whitfield to Wero Karena is cancelled for failure to meet the conditions of the order.

[51] The Registrar is directed to attend to the matters set out above.

This judgment will be pronounced in open Court at the next sitting of the Māori Appellate Court.

S Te A Milroy **JUDGE** (Presiding)	S F Reeves **JUDGE**	M P Armstrong **JUDGE**