

**IN THE HIGH COURT OF THE COOK ISLANDS  
HELD AT RAROTONGA  
(LAND DIVISION)**

**APPLICATION NO. 9/12**

**IN THE MATTER** of Section 390A of the Cook Islands Act  
1915

**AND**

**IN THE MATTER** of the lands known as **NUKUPURE 3C,**  
**NGATANGHIA** and **TE AREITI 2K,**  
**NGATANGHIA**

**AND**

**IN THE MATTER** of an Application for Revocation of a  
Succession Order made in error to **TE**  
**ATAIA also known as TIATAIA** in the  
above lands on 15 February 1988

**BETWEEN** **TEAIA MATAIAPO** on behalf of the  
**TEPUTIKI AND TEKATUPU LINES**  
Applicant

**AND** **UIRANGI MATAIAPO**  
Respondent

Counsel: Mr C Little for the Applicant  
Mrs T Browne for the Respondent

Judgment: 6 May 2016 and 27 July 2018

---

**JUDGMENT OF HUGH WILLIAMS, CJ**

---

[WILL0418.dss]

[1] This judgment confirms a judgment of Weston CJ delivered on 6 May 2016 (New Zealand time) adopting a report dated 8 April 2016 by Savage J<sup>1</sup> recommending that a succession order made by the Court on 15 February 1988 concerning succession to the estate of Tiataia (also known as Te Ataia) be revoked.

[2] Although Weston CJ made orders in accordance with Savage J's recommendation, what was overlooked at the time was that since the application – made on 13 September 2012 – affected succession orders made more than five years previously, section 390A(8) of the Cook Islands Act 1915 required the consent of the Queen's Representative to be given before the Chief Justice was empowered to make the order.

---

<sup>1</sup> An amended application heard, by consent, on the papers

[3] For some unexplained reason, completion of the application then lay fallow until late 2017. Since people's property rights were involved that was unfortunate, and to the extent that the delay may have been attributable to the Court, the Court's regrets are extended to those involved.

[4] The Queen's Representative's consent was sought in October 2017 and was granted by him on 23 February 2018<sup>2</sup>.

[5] The Queen's Representative having consented to the making of the orders it is only necessary for the present Chief Justice to adopt both Savage, J's and Weston, CJ's conclusions and make orders confirming those made by Weston CJ on 6 May 2016. There will accordingly be orders setting aside the succession orders mentioned, namely those made on 15 February 1988 in respect of the Estate of Tiataia (also known as Te Ataia)..Both the report and the judgment are attached and form part of this judgment.

[6] As noted by Weston, CJ<sup>3</sup> it is now for counsel to agree on the form of the judgment to be sealed<sup>4</sup> with further submissions to be made if assistance is required in finalising the order. Costs are reserved in terms of the former Chief Justice's judgment.

[7] It is appropriate to note that, at the date Savage, J reported, 8 April 2016, the Judge recorded that related occupation right proceedings<sup>5</sup> were on foot concerning the same land as that covered in Land 9/2012, and that the occupation right proceedings stood adjourned pending finalisation of the s390A application. That, presumably, remains the position. If so, delivery of this judgment will clear the way for revival of the occupation right claim.

A handwritten signature in black ink, appearing to read 'H Williams', written in a cursive style. The signature is positioned above a horizontal line.

**Hugh Williams, CJ**

---

<sup>2</sup> received by the present Chief Justice on 4 May 2018 (NZT)

<sup>3</sup> at [15] and [16]

<sup>4</sup> despite the death of Mr Little, counsel for the applicant, since the judgment of 6 May 2016

<sup>5</sup> 441/12