



TE WHAKAWHITI HEA WHENUA MĀORI

TETUREWHENUA MĀORI ACT 1993

Te Kooti Whenua Māori



Māori Land Court

Ko te whakakape

I pau te manawa me te kaha ki te whai i te tika me te pono o tēnei puka pānui, i tuhia, i whakatikaina, ā, i pānuitia i runga tonu i te mōhiotanga ko ōna kaituhi me ōna kaiwhakatika, kaipānui hoki kei te wātea mai i ngā herenga i mahia, kāhore rānei i oti i tētahi tangata te katoa, ētahi wāhanga rānei, ngā kupu me ngā kaupapa kōrero o tēnei puka pānui te mahi. Ko ngā kaititiro i ēnei tū āhuatanga me aro atu ki te tino pukapuka o te Ture, o ngā Ture rānei e pā ana ki tēnei take, kaupapa, te whai rānei i ētahi tohunga kaitohu i ēnei take kaupapa, ā, me te kore hoki e piripono ki ngā kupu kaupapa o tēnei pukapuka anake.

Tāhū o te Ture: he kupu mana tārua.

Ko ngā puka pānui ka tukua e te Tāhū o te Ture, ka noho tonu i raro i ngā ritenga maru o te mana tārua Karauna, ā, mēnā kāhore, ka whakamōhiotia anō hoki. Ko ngā rauemi mana tārua e whakamaru nei i tukua hoki e te Karauna, ka āheitia te whakamahia, te kape, te tuku, ahakoa pēhea nei te āhua, ā, kāhore he utu, kāhore hoki he tuku tonu kia whakaetia i te tuatahi. Kei te aro hoki tēnei ki te rauemi o ngā kupu me ngā kōrero kaupapa e whakamahia ana kia tika, kia pono hoki te tuku me te mahi. Ki te whakamahia, ki te hoatu rānei i tēnei rauemi ki tētahi atu tangata, me hoki tonu ngā kōrero ritenga i te tuatahi ki te kaituhi, ki te mana tārua hoki.

Ko te whakaaetanga ki te kape i te rauemi o te Karauna, kei raro nei i te maru o te mana tārua, kāhore e tika ana mō ngā rauemi mana tārua o tētahi atu tangata tuatoru. Ko te whakaaetanga mō te kape i ngā kupu kōrero o te tangata kē atu me whai anō i te mana tārua o taua ake tangata, rōpū rānei.

Kia mōhio ai: Ko ngā pukapuka pānui o te Tāhū o te Ture, ko aua pukapuka anō e tukua nei e te Tāhū o te Ture i roto anō i āna ake mahi. Kāhore hoki tēnei e pā atu ana ki ngā kupu pānui kōrero me ngā whakataunga mai i ngā Kooti me ngā kaimahi āpiha hoki o te Kooti.

Poutūterangi 2010



Te Kāwanatanga o Aotearoa

Ko te Kooti Whenua Māori te kooti o Aotearoa e rongohia ai ngā take katoa e pā ana ki ngā whenua Māori. E mārārama ana Te Kooti Whenua Māori ki te hononga motuhake a te Māori ki te whenua, nā reira kei te puritia e tēnei kooti ngā kōrero kāmehameha e pā ana ki ngā whakapapa o ngā Māori katoa. Ko te mana o te Kooti Whenua Māori ka taka mai ki raro i te korowai o Te Ture Whenua Māori 1993 (e kīia nei i roto i tēnei pukapuka ko 'te Ture').

Te Whakawhiti Hea Whenua Māori koia nei tētahi o ngā kohinga pukapuka pānui a te Kooti Whenua Māori hei āwhina i te iwi Māori – me ētahi atu iwi – ki te whai mōhiotanga mō ngā take whenua Māori. He aratohu hōhonu tēnei e pā ana ki te whakawhiti hea whenua Māori i raro i te tono tuku mana:

- mēnā he maha ngā kaupupuri poraka whenua Māori
- mēnā kua whakaurua te poraka whenua ki tētahi kaporeihana.

Kei roto i tēnei pukapuka pānui ko te whakawhitinga anake o ngā whenua he maha ōna nei kaupupuri (ie wehenga hono). Mō ētahi mōhiotanga mō te whakamana i te tuku whenua ki tētahi atu¹ anō ki te whakawhiti poraka whenua Māori, me whakapā atu ki te tari o te Kooti Whenua (tirohia te whārangi 6 mō te tari tata ki to kāinga).

Whakamahi tonu tuku mana

Me he whenua Māori² kua purua³ ki tētahi kaporeihana⁴, mā te tonu tuku mana⁵ anake mai i te Kooti Whenua Māori, e taea ai te whakawhiti ngā hea whenua Māori. Nā tēnei, me tonu rā anō koe ki te Kooti Whenua Māori mō tētahi tonu tuku, ina hiahia koe ki te whakawhiti i ō hea whenua ki tētahi atu.

Mēnā ka hiahia koe ki te takoha i ō hea whenua, engari kua purua kē ki tētahi kaporeihana Māori, me hoatu rawa koe i tō tonu whakawhiti ki te hēkeretari o te kaporeihana Māori.

Ka whakamahia te tonu tuku mana hei whakawhiti hea whenua Māori:

- mai tētahi ki tētahi atu, ina hokona, ina takohaina rānei aua hea
- ki ngā trusts⁶ o ngā kaupupuri whenua
- mai i te trust, he māngai rānei, ki te tangata ko ia ka whiwhi ki ngā rawa whenua
- kia noho hei kāinga mō te kaupupuri whenua
- mā ngā kaupupuri hei whakahaere he wāhanga o te whenua.

Ngā tātanga whai mana kia whiwhi ki ngā hea whenua me ōna rawa

Ko ngā hea whenua Māori, ka āhei te hoko, te takoha rānei ki ētahi tātanga anake e tohua ai i roto te Ture ko te reanga tauwehe taumata.

E mārama ana te Ture, he hononga tō ngā kaupupuri poraka whenua Māori ki a rātou anō, pēnei i te iwi⁷ te hapū rānei⁸.

Hei tiaki i ēnei rōpū whānau, ka aukatia ētahi tātanga mai i te hoko me te takoha whenua. Ko ēnei ko:

- ngā tamariki a te kaupupuri
- ngā uri whakaheke
- ngā whanaunga a te kaupupuri e mau ana ki ngā tikanga Māori⁹, e honotahi ana ki te whenua
- ētahi atu kaupupuri whai rawa¹⁰ o ngā whenua nei, mēnā he mema o te hapū e hono ana ki taua whenua
- ngā trusts mō ēnei tātanga i whakaatuhia i runga ake nei
- te uri whakaheke o tētahi kaupupuri o mua, mēnā ko ia tonu tētahi o ngā mema o te hapū e hono ana ki taua whenua.

Te whakawhiti i ngā hea

Te whakawhiti i ngā hea mā te hoko, te takoha rānei

Mā te tonu tuku mana anake, ka āhei te whakawhiti hea whenua Māori mā te hoko te takoha rānei, engari anō mēnā ka whakaae te Kooti Whenua Māori ki te whakamana he kawenata whakawhiti. Ka whakamahia he kawenata whakawhiti mēnā kotahi anake te kaupupuri, mēnā ko te katoa anō o ngā kaupupuri kei te hoko.

Te whakawhiti hea ki ngā trusts

Ka āhei te kaupupuri hea whenua Māori ki te whakawhiti i ana hea mā te tonu tuku mana ki te trust.

Te whakawhiti hea mai i ngā trusts, i ngā māngai rānei

Mā te tonu tuku mana, ka āhei te whakawhiti hea whenua Māori, mai i te trust, te māngai rānei mō tētahi atu, ki te tangata e tika ana ko ia te kaupupuri whiwhi rawa.

Te whakawhiti hea hei whakamahi wehenga

Ka whakamanahia e te Kooti Whenua Māori te hiahia o ngā kaupupuri whenua Māori ki te tohatoha i ngā hea o tētahi wehenga whenua. Ko te wāhanga 164 o te Ture ka whakamahia.

Te hoko hea

Mēnā kua hokona atu ngā hea whenua Māori, kāore te Kooti e āhei ki te haina, te whakaoti rānei he tono tuku mana, kia utua te moni ki te kaituku, ki te trust Māori, ki te māngai rānei, he mea tohu e te Kooti. Me whakaatu he tiwhikete ki te Kooti, me haina e te trust Māori, te māngai i tohua e te Kooti, te kaituku rānei. Kua rahi tēnā.

Te tono tuku mana

Me tono rawa koe ki te Kooti Whenua Māori mō tētahi tono tuku mana. Ka āhei koe ki te tono mēnā ko koe:

- te kaupupuri o ngā whenua Māori kei te whakawhitihia
- te tangata kei te whiwhi ki ngā hea whenua Māori
- te trust mō ngā tāngata i whakahuatia i runga ake nei.

Me haina rawa te kaitono, te māngai rānei o te kaitono i te tono tuku mana.

Ngā mōhiotanga e hiahiatia ana

Mō te tono hei tuku mana:

- whakaponohia te hononga i waenga i ngā rōpū nei
- me tāpiri ko te whakapapa¹¹ me ētahi atu pepa pono kia kitea ai te mana o te kaituku ki roto te kāhui kaiwehe.

Mēnā he kawenata kei roto i te tono¹² he whakaritenga motuhake rānei e pā ana ki te whakawhitinga, me tāpiri rawa atu ēnei ki te

He whakamārama

1 Ina hoatu te mana whenua o te kaupupuri ki tētahi atu, ko te Tauwehe tērā. Hei taurira: ina hokona te whenua, ka whiwhi te kaihoko i te mana pupuri, ina rīhitia te whenua, ka āhei kia nōhia te whenua mō te utu rēti (me ētahi atu here), ina mōketehia te whenua, ka āhei te kaupupuri mōkete ki te hoko atu mēnā kāre e ea ngā utu mōkete (tirohia wāhanga 4 o te ture).

Mō te Tauwehe ka tū he kaiwehe (ko ia ka hoko, ka whiwhi ki ngā rawa whenua) me he kaiwhakawehe (ko ia te kaihoko atu i ngā rawa whenua).

2 He whenua whai rawa nā te Kooti Whenua Māori i whakarite i raro i te tono herekore (arā, nā te Kooti i hanga he taitara whenua me te tohu anō i ngā kaupupuri whai rawa o taua whenua). Ko ngā taitara herekore ka tohatia i raro i te tono ārai. Ka mana tonu hei whenua Māori. Ka noho whenua Māori tonu, kia tono rā anō te Kooti Whenua Māori ki te whakarerekē i tērā āhua.

3 Ki te rerekē te kaupupuri whenua, ka whiwhi ki a ia ngā tikanga me te mana o ngā rawa whenua katoa (ka āhei te tuku mana ki tētahi trust, ki tētahi atu tangata rānei).

4 Ko te tari he mea hanga ōrite ki tētahi kamupene, hei whakahaere whenua Māori ka whai pānga hoki te Kooti Whenua Māori.

5 He tono nā te kooti, kia tukuna ai ngā rawa whenua ki tētahi atu, kua ki te kaupupuri tūturu, ā, ka rerekē ai te mana whenua.

6 He tangata whai mana ki te whakahaere i ngā whenua o ngā kaupupuri, ngā kaiwhiwhi rawa rānei. I raro i te ture ko te trust te kaupupuri tūturu ina ka tohua a ia hei trust mō te whenua kua rēhitatia ki te taitara. Ko ngā kaiwhiwhi rawa e kīia ana ko ngā kaupupuri whiwhi rawa.

7 Ko te iwi tūturu whai mana he mea hanga mai i te hapū me te whānau, e whai pānga ana ki te rohe pōtae i raro i tōna anō whakapapa.

8 He hapū, he whānau rānei e whakapapa ana ki te tipuna kotahi.

9 Tikanga Māori.

10 Te kaupupuri o te whenua whai rawa. Ina he whenua hoatu ki te trust, ko rātou ngā kaupupuri tūturu i raro i te ture, mō ngā kaiwhiwhi rawa. Ka mau tonu ki ngā kaiwhiwhi rawa ā rātou anō hea, ā, ko rātou ngā kaupupuri whiwhi rawa.

taha o te tono. Mēnā kāre te kooti e tohutohu atu, me tāpiri anō ko ēnei e whai ake nei:

- he kape tūturu o te urunga o te whenua, kei roto i te tono, ki te rārangi wāriutanga ā rohe, mō ngā hea kei roto i te tono tuku mana anō
- he wāriutanga nō te whenua mai i tētahi kaiwāriu whai mana
- he wāriutanga nō te katoa, o ētahi atu rawa rānei kei te hono ki te whenua.

Mēnā neke atu i te \$2,000 te wāriu o ngā hea whenua Māori e takohatia nei kei roto i te tono tuku mana, me whakapono rawa te kaupupuri i roto i te Kooti, ā tuhi rānei¹³, ā waha rānei kei te tautoko ia i te tono.

He utu tono anō tō te kooti mō te whakataunga tukunga. Tēnā, whakapā atu ki ngā Kooti Whenua Māori mō ngā kōrero whakamārama e pā ana ki te utu nei.

Te nohoanga Kooti

Ko te tono tuku mana, kia rangona tētahi nohoanga a te Kooti Whenua Māori. Me tae rawa atu te kaupupuri hea, kaupupuri rawa rānei. Ērā tāngata rānei ka whai hua ki ngā rawa e whakawhitihia ana, ka āhei tonu ki te haere ki te nohoanga a te Kooti mō tēnei take.

Te whakatō i te tono tuku mana

I mua i te whakatōnga i te tono tuku mana e whakawhitihia ai ngā hea me ngā rawa, me āta maupono tonu te Kooti Whenua Māori kua:

- mahia, kua tutuki ngā huarahi tōtika i whāia ai ngā tikanga whakawehe (ie signed and witnessed) i raro i ngā tohutohu a te Kooti. Ko ngā tāngata whai mana ki te tū hei kaitautoko i te hainatanga, kua tāpirihia ki te tono

- kore e takahia e te tono tētahi trust¹⁴ kaitiaki i te whenua
- uru katoa atu te wāriu o ngā whare me ōna taputapu, ngā hua whenua, rākau, kōhatu me ērā tūmomo mea ki roto i te wāriutanga o ngā rawa o te whenua
- uru atu anō ki roto i ngā wāriutanga hea me ngā rawa, te hononga motuhake o ngā rōpū nei
- utua ngā moni hoko ki te kaihoko, ki te trust Māori, te māngai, te trust rānei i tohua e te Kooti.

I raro i ngā tikanga o te Ture e kī nei he taonga tuku iho te whenua, me te mea anō me whakanui te noho o te whenua ki roto i ngā ringaringa o te kaupupuri, te whānau me te hapū. Ka hiahia te Kaiwhakawā me āta kōrero te kaupupuri ki āna tamariki i mua i te hoko, te takoha rānei.

Ngā hea kaporeihana Māori

Ko ngā hea kaporeihana Māori, e mōhio whānuitia ana, he hea kei roto i ngā whenua Māori e purihia ana e te kaporeihana engari ko ngā ture whakawhiti i ēnei hea kei roto i te wāhanga 264 o te Ture.

Ngā rēhita hea

Me hanga rawa e te kaporeihana Māori he rēhita hea, he rārangi tūturu o ngā kaupupuri hea. Ko te tikanga o te rēhita, me rārangi ngā ingoa, ngā kāinga noho, me te rahi o ngā hea o ngā kaupupuri.

Ko te hēkeretari o te kaporeihana Māori te kaitiaki o te rēhita, koia ka rekoata i ngā tono tuku mana ka whakamanahia e te Kooti Whenua Māori.

Te whakawhiti i ngā hea kaporeihana Māori

Ka āhei koe ki te whakawhiti i ō hea kaporeihana Māori mēnā:

- ko ngā hea e whakawhitihia ana, kāre e iti iho i te whiwhinga hea i tērā kua whakaritea e te kaporeihana
- kei te whakawhitihia ngā hea ki tētahi mema o te reanga i te taumata kaihoko.

Hei huarahi whakamutunga, ka āhei te tuku i ngā hea ki te kaporeihana Māori mēnā kāre e hiahiatia e ngā mema o te reanga taumata.

Ki te whakawhiti i ngā hea kaporeihana Māori, me whakauru rawa te kaiwhakawhiti i tētahi pepa whakawhiti hea, arā pānuu 5 o ngā Māori Incorporations Regulations 1994, ki te taha i te hēkeretari o te kaporeihana Māori.

Ko ngā mōhiotanga me tuhi ki te pepa whakawhiti, e whai ake nei:

- te ingoa me te kāinga noho o te kaiwhakawhiti
- te rahi o ngā hea ka whakawhitihia
- mēnā he hoko, he takoha rānei
- mēnā he hoko, he aha te utu
- te ingoa, te mahi, te kāinga noho me te rā whānau o te kaiwhiwhi hea.

Me haina rawa te pepa whakawhiti hea e te kaiwhakawhiti, ā, me tautoko e tētahi atu. Ko te kaitautoko me tuhi rawa i tōna kāinga noho, me tana wāhi mahi.

Kōmiti kaitiaki

Kei te kōmiti whakahaere a te kaporeihana Māori te mahi ki te rēhita i te tono whakawhiti, kia hāngai tonu ki te rārangi rēhita, engari ka āhei rātou ki te aukati i te rēhita mēnā ki tō rātou kitenga, ehara te kaiwhakawhiti i te mema o te reanga taumata, kāre rānei i tika ngā pepa whakawhiti.

Ētahi atu mōhiotanga

Mō ētahi atu mōhiotanga e pā ana ki te whakawhiti hea whenua Māori, me tuhi, waea, waea whakaahua, imēra, haere ā tinana rānei ki te tari Kooti Whenua Māori. Mā ngā kaimahi koe e āwhina, e kōrero i ōu hiahia.

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11 Te whakapapa o te tangata, āna uri whakaheke, me ōna hononga ki tētahi whānau, ki tētahi tipuna hoki.

12 He whakaritenga ā tuhi i waenga i ngā rōpū e rua e mana ana i raro i te ture. Ko te

kawenata he mea tuhi, engari, he kawenata anō te whakaritenga kōrero ā waha.

13 He whakaritenga ā tuhi, kua hainatia kua oātatia ka āhei te whakamahi ki roto i te kooti.

14 He whakahau e hono ai i ngā trusts ki te whakamahi i ngā whenua kei raro i tō rātou mana (the trust property) mō te painga o ngā kaiwhiwhi rawa.

Ngā Tari o te Kooti Whenua Māori

Te Rohe o Te Taitokerau

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Te Tari Matua, Te Tari o te Kairēhita, Te Tari o Te Kooti Pira Māori

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He rite tonu te whakamahi i ngā nama X i te mahi i ngā nama pouaka poutāpeta.