

Maori Land and the new Land Transfer Act: Observations and comments

Judge Layne Harvey, Judge of the Māori Land Court

The Privy Council decision *Assets Co Ltd v Mere Roihi and Others* [1905] AC 176 commenced a line of authorities confirming that, even when title to Māori land was secured by fraud and where the Native Land Court had failed to discharge its statutory obligations, there could be no remedy if the subsequent purchaser had no knowledge of the impugned transaction. By this and subsequent decisions, many Māori were deprived of their lands.

Today Māori land makes up only five percent of the total area of New Zealand, but in regions like Taranaki and Whanganui it accounts for up to thirty percent. In 2018, Māori land entities exceed the combined value of Treaty settlement bodies, holding billions of dollars in assets and retaining significant economic, social and cultural footprints within their communities. The Land Transfer Act 2017 permits the setting aside of registration on the grounds of 'manifest injustice' including whether there has been compliance with Te Ture Whenua Māori Act 1993, the Māori Land Act, which prohibits alienation of Māori land except in accordance with the strict provisions of that legislation. Those restrictions include a prohibition against alienation of undivided interests outside of the hapū (subtribe) and a right of first refusal on any sale of a whole block of Māori land to members of the hapū.

This paper outlines the nature of Māori land, the impact of the Torrens system on customary land tenure, the government's Māori freehold land registration project, and the possibilities of securing a remedy where manifest injustice may be present