IN THE MĀORI LAND COURT OF NEW ZEALAND
TAITOKERAU DISTRICT

A20110008736

	UNDER	Section 135, Te Ture Whenua Maori Act 1993
	IN THE MATTER OF	Wairau North 8A
	BETWEEN	MARLENE CAROLYN JOHNSON Applicant

Hearing: 18 January 2012
10 April 2012
25 September 2012
(Heard at Kaikohe)

Judgment: 02 October 2012

RESERVED JUDGMENT OF JUDGE D J AMBLER

Background

[1] Marlene Johnson together with her brothers and sister apply to the Court to change the status of Wairau North 8A from Māori freehold land to General land. The land is a 0.4046 hectares (1 acre) bare section on which a home formerly stood. The land was solely owned by their late grandmother, Susan Ngakuru. In 2007 Marlene and her siblings' late father, Rangi Ngakuru, succeeded to the land by way of a family arrangement with his brothers and sister. Earlier this year Marlene and her three siblings succeeded to their father's interests in the land.

[2] In the letter dated 1 September 2011 supporting the application the substantive grounds were expressed as follows:

> My brothers, sister and I wish to apply for this change in land status as we are thinking about putting a dwelling on it, but to do this we would need to obtain finance and are unable to do so under the lands current status. (sic)

[3] At the first hearing on 10 April 2012 I discussed the grounds of the application with Marlene. She said that no bank was prepared to lend because the land was Māori land. I explained that there were many examples of banks lending against Māori freehold land and where the status of the land was not an issue. It transpired that Marlene had in fact only approached her bank in Coromandel, the BNZ, and it was not even clear whether she had made a formal loan application.

[4] I adjourned the application for Marlene to issue public notice of the application and hearing, and for her to produce evidence from banks that they would not lend money on the basis of mortgage security over the land because of its status as Māori freehold land.

[5] The application came before me again on 25 September 2012. Marlene explained that her and her husband's financial circumstances had changed and that they were not now looking to build on the land. Consequently, she had not approached any banks. Nevertheless, she wished to proceed with the application on the basis of what she had placed before me. When I pressed her on the grounds for

the application, she said that her and her siblings wanted to leave their children something that they might be able to sell in the future.

Discussion

[6] The application must fail for two key reasons.

[7] First, the original rationale for the application - that the owners wished to build on the land and needed finance to do so - no longer exists as Marlene and her siblings are no longer pursuing that option. As the case law makes clear, the Court can only grant a change of status for cogent reasons and where there is a specific proposal for use of the land that is hindered by the current status of the land.[1] That has not been established here.

[8] Second, Marlene has not provided the Court with any evidence from banks to say that the current status of the land is a hindrance to the granting of finance. In that respect, s 136(d) is not satisfied.

[9] The application is dismissed.

Pronounced in open Court in Whangarei on Tuesday this 2nd day of October 2012.

D J Ambler
JUDGE

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1 *Hoko - Papamoa 2A1* (2003) 20 Waikato Maniapoto Appellate Court MB 167 (20 APWM 167) at 181; *DJ Whitfield and Sons Limited - Omahu 4C6* (2004) 14 Takitimu Appellate Court MB 1 (14 ACTK 1) at 2; and *Property Ventures Limited v Parata - Ngarara West B3B* (2007) 16 Whanganui Appellate Court MB 1 (16 WGAP 1) at [34].