

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

App No.s: 278/16 & 281/16

AND

IN THE MATTER

of the land known as HOUSE SITE 163B,
AVARUA

AND

IN THE MATTER

of applications for confirmation of
Resolution of Assembled owners by
RANGITAKAU MAZEL TUIA
BRYDON AND UANA NGANU

Applicant

DECISION OF JUSTICE W W ISAAC

Introduction

[1] The applications before the Court are for confirmation of a resolution of assembled owners in respect to:

1. That the Occupation Right for a Declaration be made to cancel Occupation Right granted to Teinakore Paurangi on the 14th June 1978 of part House Site Section 163, Avarua, Rarotonga comprising an area of 455m²
2. That a lease be granted to Uana Nganu of an area of 500m² for a term of 60 years commencing from the 1st day of October 2015 at an annual rental of \$1.00 per annum reviewable 5 yearly subject to the terms and conditions in the draft deed of lease attached to the application to be explained during the meeting.
3. That the Occupation Right for a Declaration be made to cancel Occupation Right granted to Teinakore Paurangi on the 14th June 1978 of part House Site Section 163, Avarua, Rarotonga comprising an area of 455m².
4. That a lease be granted to Rangitaku Mazel Tuiate Brydon of an area of 750m² for a term of 60 years commencing from the 1st day of October 2015 at an annual rental of \$1.00 per annum reviewable 5 yearly subject to the terms and conditions in the draft deed of lease attached to the application to be explained during the meeting.

[2] These matters initially came before the court on 16 May 2016 and after hearing from the parties I granted the orders sought.

[3] On 17 May 2016, certain owners had arrived at Court on 16 May 2016 at the time allocated but Court had already made the orders set out in paragraph 2 above.

[4] The owners requested that the matter be recalled to give them the opportunity to put their objections to the Court.

[5] The recall was not opposed and on 17 May 2016 I again heard the submissions in support of the applications and the objections of Teremoana Ngatokorua and Belinda Nganu.

[6] After hearing from the parties, I directed a further meeting of owners on the grounds that Mr Ngatokorua who is an owner and POA holder was not notified of the meeting and also that the recording officer did not record the objections at the meeting of owners.

[7] I stated that after the meeting of the report is to send it to me and if the results are the same I will make the orders sought if the results differ then the applications will be set down for a further hearing.

[8] The meeting was held on 20 June 2016 and the results of the meeting indicate the same result as the first meeting. That is that the majority of owners support the application as follows:

- i. Rangitakau: Agree 18 – Oppose 2
- ii. Uana Nganu: Agree 13 – Oppose 7

Decision

[9] Having regard to the above I am satisfied I can grant the applications and I will now do so as follows:

- i. I declare that the order granted to Teinakore Paurangi on 14 June 1978 Part Home Site Section 163B, Avarua of 455m² is cancelled.
- ii. That a lease to Uana Nganu for 500m² for 60 years from 1 October 2015 at \$1.00 per annum reviewable 5 yearly is confirmed.
- iii. I declare that the order granted to Teinakore Paurangi on 14 June 1978 on 14 June 1978 Part Home Site Section 163B, Avarua of 455m² is cancelled.
- iv. That a lease to Rangitakau Mazel Tuiate Brydon of 750m², for a term of 60 years from 1 July 2015 at \$1.00 per annum reviewable 5 yearly is confirmed.

[10] A copy of this decision is to be sent to all parties

Dated at Gisborne this 19th day of December 2017.



W W Isaac
JUSTICE