

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

OA NO. 7/2017

IN THE MATTER of the Declaratory Judgments Act
1994

AND
IN THE MATTER of an Application pursuant to
sections 357 and 359 of the Cook
Islands Act 1915

AND
IN THE MATTER of the proposed Crown taking by
consent of 9394m² of land in
Avarua, part Ngatairi Sections 46
and 46A

BETWEEN **ATTORNEY-GENERAL**
Applicant

AND **NUKUTERE HOLDINGS
INCORPORATED and THE
ADMINISTRATOR OF THE
CATHOLIC DIOCESE OF THE
COOK ISLANDS**
First Respondents

AND **THE PROPRIETORS OF
SAVAGE LANDS
INCORPORATION**
Second Respondent

Date of Hearing: 29 May 2018

Appearances: Mr D James, former Solicitor-General for Applicant
Mr T Arnold for First Respondents (on all occasions other than 29 May
2018 when Sister Elizabeth appeared for the First Respondents)
Mr B Mason for Second Respondents (with, on 29 May 2018,
representatives of the Management Committee of the Second
Respondents in attendance)

Date of Minute (No.1): 7 February 2018

Date of Minute (No.2): 22 February 2018

Date of Minute (No.3): 20 April 2018

Judgment (No.1): 15 June 2018

Judgment (No.2): 1 May 2019

Judgment (No.3): 16 May 2019

JUDGMENT (NO.3) OF HUGH WILLIAMS, CJ

[1] In Judgment (No.2) in this matter delivered on 1 May 2019¹ the Court expressed uncertainty as to whether the shares of the compensation ordered which would have been payable to the restricted number of owners whose whereabouts had not been ascertained were to be retained by the Second Respondent, The Proprietors of Savage Lands Incorporation, in its Bank of the South Pacific Account pending the members being located, or whether the Second Respondent proposed to pay the whole of the \$1.7M to its known members and/or their successors at this point and meet the balance payable to unascertained owners, once located, from the Second Respondent's general funds.

[2] Counsel for the Second Respondent filed a memorandum dated 7 May 2019 saying that "it is not intended the interests of the landowners who have not yet succeeded or who have, but cannot be located, be paid their shares from the cash flow of the Second Respondent when those landowners do succeed or are located, it is intended the share of the capital paid in compensation payable to these persons be held in the Second Respondent's bank account with BSP until they can be paid and that it is only interest on that capital the Second Respondent hopes to use to fund operating expenses.

[3] Counsel is thanked for that clarification and accordingly there will be orders in terms of paragraph (b) of the application filed in this matter by the Second Respondent dated 2 April 2019.

A handwritten signature in black ink, appearing to read 'H Williams', written over a horizontal line.

Hugh Williams, CJ

¹ At para 8.