

IN THE SUPREME COURT OF NEW ZEALAND

SC 7/2010  
[2010] NZSC 88

BETWEEN JOHN HANITA PAKI, TORIWAI  
ROTARANGI, TAIHOPA TE WANO  
HEPI, MATIU MAMAE PITIROI AND  
GEORGE MONGAMONGA RAWHITI  
Applicants

AND ATTORNEY-GENERAL OF NEW  
ZEALAND FOR AND ON BEHALF OF  
THE CROWN ("THE CROWN")  
Respondent

Hearing: 19 July 2010

Court: Elias CJ, Blanchard and McGrath JJ

Counsel: I R Millard QC and M P Armstrong for Applicants  
V L Hardy and D A Ward for Respondent

Judgment: 21 July 2010

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**JUDGMENT OF THE COURT**

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**A The application for leave to appeal is granted.**

**B The approved grounds are:**

- (i) Did the applicants have standing to bring the proceeding in a representative capacity?**
- (ii) Did s 14 of the Coalmines Amendment Act 1903 vest title in the riverbed adjoining the Pouakani lands in the Crown?**
- (iii) If not, did the Crown acquire title to the claimed part of the riverbed through application of the presumption of riparian ownership *ad medium filum aquae* by reason of its acquisition of the riparian lands?**

- (iv) If so, in the circumstances in which the Crown acquired the claimed part of the riverbed, was it in breach of legally enforceable obligations owed to the owners from whom title was acquired?**
- (v) If so, have the applicants lost their right to enforce such obligations by reason of defences available to the Crown through lapse of time?**
- (vi) If not, what relief is appropriate?**

**C The Registrar is directed to set down the hearing of the first two questions only for hearing at a fixture of 2 days. Further timetabling and direction orders for hearing of the remaining Questions will be made at or following the first hearing. The Court may review the expression of grounds 3 to 6 if it considers it appropriate to do so after hearing the argument of questions 1 and 2.**

Solicitors:  
Aurere Law, Rotorua for Applicants  
Crown Law Office, Wellington for Respondent