

IN THE SUPREME COURT OF NEW ZEALAND

SC 31/2013  
[2013] NZSC 67

BETWEEN

TE WHANAU O RANGIWHAKAAHU  
HAPU CHARITABLE TRUST  
First Applicant

FRIENDS OF MATAPOURI  
INCORPORATED  
Second Applicant

AND

CHIEF EXECUTIVE, LAND  
INFORMATION NEW ZEALAND  
First Respondent

ATTORNEY-GENERAL  
Second Respondent

Court: Elias CJ, McGrath and Arnold JJ

Counsel: J A Browne for Applicants  
H S Hancock and D A Ward for Respondents

Judgment: 9 July 2013

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**JUDGMENT OF THE COURT**

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- A The application for leave to appeal is dismissed.**
- B The applicants must pay the respondents costs of \$2,500 plus reasonable disbursements to be fixed by the Registrar.**
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**REASONS**

[1] The applicants seek leave to argue, contrary to findings in the High Court<sup>1</sup> and Court of Appeal,<sup>2</sup> that the Surveyor-General failed to comply with s 52 of the

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<sup>1</sup> *Te Whanau O Rangiwakaahu Hapu Trust v Department of Conservation* HC Whangarei CIV-2008-488-548, 22 December 2010.

<sup>2</sup> *Chief Executive Land Information New Zealand v Te Whanau o Rangiwakaahu Hapu Charitable Trust* [2013] NZCA 33.

Cadastral Survey Act 2002 by declining to direct, as he is empowered by do by s 52, that the cadastre be corrected, altering the boundaries of the Otito Scenic Reserve at Matapouri.

[2] Section 52 permits the Surveyor-General to correct the cadastre if satisfied an error exists. The applicants seek to argue that it is unclear on the legislation who must determine error and to what standard, but it is clear that the power to correct arises when the Surveyor-General is satisfied of error. Although criticisms are made by the applicants about the approach and language used by the Court of Appeal, they are not material because the Court of Appeal accepted the Surveyor-General's assessment that the cadastre was not in error. This is a question of fact on which there are concurrent findings in the High Court and Court of Appeal. No point of general or public importance arises.

[3] In addition, the applicant raises questions about the treatment of pegs and water boundaries. These factual matters were addressed thoroughly by the High Court and Court of Appeal. The applicants are in substance seeking to have this Court revisit the findings of fact in the Courts below. Again, there is no matter of general or public importance nor is there any appearance of miscarriage of justice in the points put forward.

[4] The applicants also seek an increase in the costs awarded<sup>3</sup> on the basis that the proceedings were public interest litigation. No question of principle arises. The issue of costs may have been finely balanced but the decision of the Court of Appeal is not shown to have been arrived at on an erroneous basis. No question of general or public importance arises.

Solicitors:  
Henderson Reeves Connell Rishworth, Whangarei for Applicants  
Crown Law Office, Wellington for Respondents

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<sup>3</sup> *Tē Whanau O Rangiwahakaahu Hapu Charitable Trust v Department of Conservation (No 2)* HC Whangarei CIV-2008-488-548, 1 August 2011.