

**Mahe v Tatafu, Deputy Minister of Lands and Motu'apuaka**

Land Court  
Hill J  
Land Case 3/75

*Land - grant of allotment - must be in accordance with promises made by estate holder and Governor unless some good reason*

*Succession - right of widow to succeed to full area of allotment*

The plaintiff claimed to succeed to an allotment of 8 acres which she said had been promised to her husband by the estate holder and the Governor on allocation day.

This was opposed by the estate holder on the ground that the land had been subdivided and that the register of tax allotments showed that an allotment of only 4 acres had been registered in the name of her husband.

**HELD**

Upholding the plaintiff's claim:

1. The grant of the allotment should have been made in accordance with the promises made by the estate holder and the Governor on allocation day
2. The register should be amended to show the allotment as containing 8 acres, and a deed of a grant issued to the widow.

Hill J

**Judgment:**

In this case the Plaintiff claims an allotment known as lot 30 Block 214/156 which is 8 acres 1 00 perches in extent to which she says she is entitled to a life estate as the widow of the lawful holder her late husband Kaati Mahe (deceased). The second Plaintiff is her son who is entitled to the reversion when her life estate terminates.

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The relevant facts are as follows:

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On the 7th February 1969 the allocation of tax allotments in this area took place. All the evidence is to the effect that the name of Kaati Mahe was entered without reservation on the plan. It is true that there is a note that the area was subdivided with the consent of the Tofi'a holder but I am satisfied that this subdivision took place well after the allotment had been granted to Kaati Mahe. Both Fatai Mahe - the Plaintiff - and Fetaulaki Mahe - brother of the deceased said that they had never heard of the purported subdivision until she went to arrange the transfer into her name. She says, and I believe her, that she was told by the Governor that she was only going to get four acres. And it is true to say that the registration p.147 of Volume 2 of the Register of Tax Allotments shows the registration of only 4 acres and the transfer to the Plaintiff of the same amount.

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The question is really this. If, as I hold to be the case, this 8 acres 1 rood allotment was promised by the Tofi'a holder and the Governor to Kaati Mahe on allocation day can they go back on that promise. In my view they cannot without some weighty reason. To hold otherwise would not only cause injustice but would undermine the confidence of much of the agricultural community who cultivate and develop land relying on the promises made on allocation day. It is of course desirable that they should register and obtain their deed of grant because otherwise their equitable title may be defeated by someone obtaining a legal estate.

This has not however happened in this case and the Plaintiff is entitled to the whole of lot 30 and the Register is to be amended to show this and a deed of grant should be issued to her as soon as possible.