



[3] Finally, in a memorandum dated 27 July 2016 counsel for the appellant advised the Court that the respondent had given notice by email that, if leave to appeal is granted, the respondent sought to add a “supplementary question” in the following terms:

As Mr Philip Dean Taueki is a direct descendant of Taueki who signed the Treaty of Waitangi on behalf of Taueki (Tauheke), and as these questions apply to ancestral lands that have belonged in fee simple estate to Mua-Upoko since a certificate of title was issued in 1899, will an affirmative response effectively nullify the Treaty of Waitangi upon which the jurisdiction of this Court is founded?

[4] After hearing from the parties and exploring with them the most appropriate process for the progression of this matter, I made the following rulings and directions:

- (a) leave is granted to the appellant to appeal on the three questions of law set out in the notice of application for leave, subject to the amendment referred to at [6] below;
- (b) leave is granted to the respondent to cross-appeal on the question set out at [3] above;
- (c) the respondent’s application for an order transferring the appeal to the Supreme Court is declined for reasons that there is no jurisdiction to make such an order and, even if there were jurisdiction, this is not an appropriate case for such a transfer;
- (d) the respondent is to file his written submissions in support of the question at [3] above by 23 August 2016;
- (e) the appellant is to file submissions in response by 30 August 2016.

[5] Once those submissions are filed the Registry is to liaise with the parties for the allocation of a one day fixture for the hearing of the appeal.

[6] I discussed with Mr Sinclair the issue whether the appellant's proposed third question amounted to a question of law in view of the reference to "no adequate evidence". In the light of that discussion, the third question of law in respect of which leave is granted is amended as follows:

Was the District Court correct in law to hold that the prosecution must be dismissed because there was no, or no adequate, evidence that the Domain Board had resolved to issue a trespass notice and no evidence that it had delegated the authority to trespass Mr Taueki to the person who served the notice on him?

A handwritten signature in black ink, appearing to read "Alan J.", positioned above a horizontal line.

Brown J