

Civil No. 30

IN THE CIRCUIT COURT OF THE FIFTH CIRCUIT
TERRITORY OF HAWAII

JONN W. GREGG and PAUL G. RICE,
Plaintiffs,

vs.

HEIRS OF HANAH K. AHI, et al.,
Defendants.

O R D E R

FILED at 10:48 o'clock a.m.

SEP 9 1955

Joseph H. Hui
Filing Clerk

HOWARD H. MOORE
ALEXANDER & BALDWIN BUILDING
HONOLULU, T. H.

Attorney for Plaintiffs

PRATT, LAVARES & CASSIDY
of Counsel

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JOHN W. GREGG and PAUL G. RICE,)
) Plaintiffs,
) vs.
HEIRS OF HANAH K. AHI, et al.,)
) Defendants.

O R D E R

The above entitled suit came on to be heard before this Court, Honorable Benjamin M. Tashiro presiding, on the 9th day of September, 1955, at the hour of 9:30 A. M., continued from August 15, 1955, upon the verified Complaint of the above named plaintiffs for a partition of the land of the Hui Kuai Aina o Haena (the said lands being hereinafter referred to as "Hui") in said Complaint described, Howard H. Moore, Esq. of the firm of Pratt, Tavares & Cassidy, appearing as counsel for the plaintiffs;

The defendants being called by the Clerk of the Court on August 15, 1955, the following made appearances by counsel: Territory of Hawaii by Edward N. Sylva, Esq., Attorney General; County of Kauai by Morris S. Shinsato, Deputy County Attorney; Alice Robinson, Sinclair Robinson, Aylmer F. Robinson, Selwyn A. Robinson and Eleanor Robinson by Robertson, Castle & Anthony and Robert E. Brown, Esq., their attorneys; Charles Chu, Mary K. Ellis, Pau Waiuli, Maria Waiuli, Kamala Kanealii De Fries, Ben Kanealii Jr., David Kanealii, Joseph Iokepa Kanealii, Michael Kanealii.

Wichman by Anderson, Wrenn & Jenks and Hugh Shearer, Esc., their attorneys, George M. Monaha, Madlene Anuna, Pearl Kapuniat, William Monaha Mason, Florence L. Bannister and William Mason, Sr. (heirs and widower of Hattie K. Mason) by Kinji Kanazawa, Esc., their attorney; Jacob Meka, Hilda Meka, Muroky K. Meka, Mildred Meka Olanolan, Helena Meka Santos and Marjorie Meka Yokotske, by Martin Pence, Esc., their attorney; Olaf Thronas, Jr., and Helen Chun Thronas by Bouslog & Symonds and Edward Stanwood, Esc., their attorneys; Estate of Olaf Thronas, deceased, Alice Kaulkeolani Wilcox and Winifred Wilbur Willis, by Leland E. Black, Esc., their attorney; Elizabeth Mahuiki Chandler, Marie Mahuiki Inouye and Jeremiah Mahuiki, by Norito Kawakami, Esc., their attorney; and the following minors: Harriette U. Dias, Charles Huddy, David Huddy, Kikau Huddy, Joseph Kauwe Kanealli, Robert P. Kanealli, Bernard Mahuiki, Donald Mahuiki, Lawrence Mahuiki, Jr., Ruth Mahuiki and Samson Mahuiki, individually and representing as a class all other minors and incompetents and other persons unable by disability to represent themselves as may hereinafter appear to have a claim or interest in said Hui Lands or in Lands bordering on the same, by Norito Kawakami, guardian ad litem; the following persons filed answers on their own behalf: Dora Jane Cole, Helen R. Ellis, Joe M. Hashimoto, Dora Hashimoto, Florence Ahi Medeiros, Emma Ouye, Charles A. Rice, William Hyde Rice, Limited, and Dora R. Wallis; the following filed disclaimers: Hawaiian Trust Company Limited and Johanna K. Rohrig, Trustees under the Will and of the Estate of Herman Rohrig, Hanni Rohrig and Marjorie Ahi Aki; and the following appeared in person and entered their appearances: Eugenia F. Akana, George K. Akana, William T. Akana

and Samuel Thronas; and the following persons have entered their appearances and answers by letter on file with the Clerk of the above entitled Court; Esther Uo Makaila and Bettie Souza; that the defendants appearing and who had not prior to making appearance filed written answer, were upon said 15th day of August, 1955, given to and including September 6, 1955 within which to file an answer; and further hearing was set for September 9, 1955 at 9:30 A.M. of said day:

That evidence was adduced at said hearing on August 15, 1955, establishing, (1) the conveyance of all interests of Hanni Rohrig and of Haweller Trust Company, Limited and Johannes K. Rohrig, Trustees of the Estate of Herman Rohrig to Charles Rice Wichman, (2) the death of Olaf Thronas Sr. intestate leaving a widow, Helen Chun Thronas, and the following sons and daughters as his heirs-at-law: Bettie Souza, Irene Thronas Strong, Agnes Thronas, Fred Thronas, Henry Thronas, Olaf Elia Thronas, Jr. and Samuel Thronas, (3) the conveyance of all interests of Marjorie Ahi Aki to Florence Ahi Medeiros, (4) that the ownership of said Hul Lands is as set forth in said Complaint, except as above modified; (5) that all records, papers and monies of said Hul in the custody of Charles A. Rice, president of said Hul, were ordered to be delivered to the Clerk of this Court and said records, papers and monies have been so delivered and are now in the custody of said Clerk;

That thereafter and upon the 9th day of September, 1955 at the hour of 9:30 A.M., the above entitled suit again came on to be heard before this Court, and no answers having been filed which contest the prayer of said Complaint, and from the evidence and from the records the Court finding as follows:

having or claiming to have any legal or equitable right, title or interest in the premises described in the Complaint, or any part thereof, or any lien or other claim with respect thereto, have had notice of the action by summons duly served upon them respectively or by publication and posting of the summons or by registered mail in the manner required by law and the order of this Court;

(b) That immediately after the filing of said Complaint, the plaintiffs did file in the office of the Registrar of Conveyances of the Territory of Hawaii a notice of the pendency of this suit in the manner and form required by law;

(c) That a general order of default against all parties not appearing in person or by counsel on September 5, 1955, or who had not filed answers was entered and filed on September 7, 1955;

(d) That from the answers that have been filed in this suit, and from the evidence that has been received in open Court, there is no controversy or conflict between the claims of the plaintiffs and any defendants or between the claims of any of the defendants with respect to any estate, title, right, interest, share or claim of any person named in said suit, nor any inconsistency between the pleadings filed by any party with the pleadings filed by any other party, save and except as follows:

I. That there is a controversy between John W. Gregg and Alice Robinson, each claiming to be the owners of an undivided one-half interest in Share #25 to Kaula; neither party claiming against or contesting the remaining one-half interest in said Share #25 owned by the heirs of Waikenaloa Hallama;

II. That the pleadings show a claim of title by

through the Hui Lands or to easements for road purposes over portions of the Hui Lands.

(s) That there is presented to this Court by the pleadings, and by the evidence a proper case for a partition of said property according to the respective rights of the parties interested therein in accordance with law and the practice of courts in cases of partition and wherein the rights of all of the parties interested may be heard and determined as contemplated by law;

(t) That the allegations set forth in paragraphs I, VI, XIII and XVIII of said petition are true;

Now, therefore, on motion made on behalf of said plaintiffs in open Court, no objection being made thereto by any party or person interested, the Court does hereby ORDER, ADJUDGE AND DECREE as follows:

1. That the lands hereinafter described in Paragraph 2 of this order were at the date of filing said Complaint owned, held and vested as in said Complaint and answers set forth, that is to say:

1. The following parties are the owners in fee simple of an undivided share and/or portions of shares in said Hui Lands, to-wit:

<u>Owners</u>	<u>Share No.</u>	<u>Original Owner</u>	<u>Int. in Share</u>	<u>Percentage Interest in Entire Hui</u>
Henry Ahl	31	Pili	0.0780	0.1975
George K. Akana	25	Keuka	0.0625	0.1645
John Akana	25	Keuka	0.0625	0.1645
William Akana	25	Keuka	0.0625	0.1645
Sam Aoo	7	Pakana	0.0714	0.1810

<u>Owners</u>	<u>Share No.</u>	<u>Original Owner</u>	<u>Int. in Share</u>	<u>Percentage Interest in Entire Hul</u>
George Bartels	31	Pili	0.0150	0.0395
Rachel Maria Bickel	16	Hale	0.0556	0.1463
Lillian C. Brewer	4 33	Napuamaui Keoki	0.3000 0.2500 <u>0.5500</u>	0.7894 0.6579 <u>1.4473</u>
Helen A. Bruns	25	Kauka	0.0625	0.1645
Elizabeth Mahuiki Chandler	14 18	Apolo Naai	0.0313 0.0156 <u>0.0469</u>	0.0824 0.0411 <u>0.1235</u>
Rose W. & Wm. J. Chandler	3 17	Kahilikolo Kuehuehu	0.8000 0.1250 <u>0.9250</u>	2.1053 0.3289 <u>2.4342</u>
Charles Chu	27	Paamaui	0.3000	0.7894
Sarah Chu	5 25	Huakahi Kauka	0.5000 0.1250 <u>0.6250</u>	1.3158 0.3289 <u>1.6447</u>
Dora Jane Cole	3 4 18 32 33	Kahilikolo Napuamaui Naai Upai Keoki	0.2000 0.1000 0.1250 0.4000 0.2500 <u>1.0750</u>	0.5263 0.2631 0.3289 1.0526 0.6579 <u>2.8288</u>
County of Kauai	6 9 27	Kale Wahine Emalia Paamaui	1.0000 0.5000 0.5000 <u>2.0000</u>	2.6316 1.3158 1.3158 <u>5.2632</u>
Kamala Kanealii De Fries	17	Kuehuehu	0.0208	0.0547
Beatrice Kanealii dela Cruz	17	Kuehuehu	0.0556	0.1463
Beryl M. Dias	7	Paakaua	0.0238	0.0626
Harriette U. Dias	7	Paakaua	0.0238	0.0626
Lillian Lee Dupio	17	Kuehuehu	0.0625	0.1645
Helen R. Ellis	5	Huakahi	0.0600	0.1580

<u>Owners</u>	<u>Share No.</u>	<u>Original Owner</u>	<u>Int. in Share</u>	<u>Percentage Interest in Entire Hul</u>
Mary K. Ellis	32	Upai	0.4000	1.0526
Isabel B. Faye	4	Napuanauu	0.1000	0.2631
Eva A. Fountain	20	Kapilohi	0.2500	0.6579
	25	Kauka	0.0625	0.1645
			0.3125	0.8224
John W. Gregg	2	Kaahukoo	1.0000	2.6316
	10	Henrietta	1.0000	2.6316
	11	Z. Seta	0.1071	0.2818
	17	Kuehuehu	0.5000	1.3158
	18	Naai	0.1250	0.3289
	23	Kau	0.3333	0.8772
	30	Uo	1.000	2.6316
	34	Kealohi	0.1333	0.3508
	37	Nihoa	0.5000	1.3158
			4.6987	12.3651
Hazel Apo Gross	7	Paakaua	0.0714	0.1880
Joe M. Hashimoto and Dora Hashimoto	31	Pili	0.5000	1.3158
Hawaiian Evangelical Associa- tion of Congregational- Christian Churches	32	Upai	0.2000	0.5263
Charla Huddy	7	Paakaua	0.0159	0.0418
David Huddy	7	Paakaua	0.0159	0.0418
James Huddy, Jr.	7	Paakaua	0.0476	0.1252
Kikau Huddy	7	Paakaua	0.0159	0.0418
Marie Mahuiki Inouye	14	Apolo	0.0313	0.0824
	18	Naai	0.0156	0.0411
			0.0469	0.1235
Ben Kanealii, Jr.	17	Kuehuehu	0.0208	0.0547
David Kanealii	17	Kuehuehu	0.0208	0.0547
Joseph Iokepe Kanealii	17	Kuehuehu	0.0208	0.0547
Joseph Kauwe Kanealii	17	Kuehuehu	0.0556	0.1463

<u>Owners</u>	<u>Share No.</u>	<u>Original Owner</u>	<u>Int. in Share</u>	<u>Percentage Interest In Entire Hui</u>
Roger M. Kanealii	17	Kuehuehu	0.0556	0.1463
Sam Kanealii	17	Kuehuehu	0.0208	0.0547
Alma Bartels Kaulu	31	Pili	0.0150	0.0395
Elmer C. Keahi	16	Hale	0.0666	0.1753
Joseph K. Keahi	16	Hale	0.0666	0.1753
Norman K. Keahi	16	Hale	0.0666	0.1753
Raymond M. Keahi	16	Hale	0.0666	0.1753
Winona M. Keahi	16	Hale	0.0666	0.1753
Halaki Kelau	14 18	Apolo Naai	0.2500 0.1250 <u>0.3750</u>	0.6579 0.3289 <u>0.9868</u>
John Keone Lee	17	Kuehuehu	0.0625	0.1649
Bernard Mahuiki	14 18	Apolo Naai	0.0313 0.0156 <u>0.0469</u>	0.0824 0.0411 <u>0.1235</u>
Donald Mahuiki	14 18	Apolo Naai	0.0313 0.0156 <u>0.0469</u>	0.0824 0.0411 <u>0.1235</u>
Jeremiah Mahuiki	14 18	Apolo Naai	0.0312 0.0157 <u>0.0469</u>	0.0824 0.0411 <u>0.1235</u>
Lawrence Mahuiki, Jr.	14 18	Apolo Naai	0.0312 0.0157 <u>0.0469</u>	0.0824 0.0411 <u>0.1235</u>
Ruth Mahuiki	14 18	Apolo Naai	0.0312 0.0157 <u>0.0469</u>	0.0824 0.0411 <u>0.1235</u>
Samson Mahuiki	14 18	Apolo Naai	0.0312 0.0157 <u>0.0469</u>	0.0824 0.0411 <u>0.1235</u>
Hilda Maka	5 34	Huakahi Kealahi	0.0400 0.0400 <u>0.0800</u>	0.1052 0.1052 <u>0.2104</u>
Jacob K. Maka	12			

<u>Owners</u>	<u>Share No.</u>	<u>Original Owner</u>	<u>Int. in Share</u>	<u>Percentage Interest in Entire Hui</u>
Edward Malia	16	Hale	0.0556	0.1463
Joseph Malia	16	Hale	0.0556	0.1463
William K. Malia	16	Hale	0.0556	0.1463
Harriet Bartels Mariani	31	Pili	0.0150	0.0395
Florence Ahi Medeiros	31	Pili	0.1500	0.3946
Rose Trask Miranda	7	Paakaua	0.1429	0.3759
Lillian Kanealii Montibon	17	Kuehuehu	0.0556	0.1463
William M. Moragne	4	Napuamauu	0.2000	0.5263
Caroline Malia Nakamoto	16	Hale	0.0556	0.1463
Mary Jane Neves	7	Paakaua	0.1429	0.3759
Mildred Maka Olanolan	5	Huakahi	0.0400	0.1052
	34	Kealahi	0.0400	0.1052
			<u>0.0800</u>	<u>0.2104</u>
Emma Ouye	16	Hale	0.2779	0.7313
David Pa	31	Pili	0.1250	0.3289
Chas. A. Rice	11	Z. Seta	0.0089	0.0234
Paul G. Rice	5	Huakahi	0.0600	0.1580
	11	Z. Seta	0.0714	0.1880
	12	Kahea	0.5000	1.3158
	14	Apolo	0.5000	1.3158
	15	Kainalu	0.2000	0.5263
	18	Naai	0.5000	1.3158
	20	Kapiohi	0.1000	0.2631
	21	Piilani	0.2000	0.5263
	22	Enoka	0.2000	0.5263
	24	Beni	0.0400	0.1052
	27	Paamaui	0.0400	0.1052
	38	Pili	0.2000	0.5263
			<u>2.6114</u>	<u>6.8721</u>
Richard H. Rice	5	Huakahi	0.0600	0.1580

<u>Owners</u>	<u>Share No.</u>	<u>Original Owner</u>	<u>Int. in Share</u>	<u>Percentage Interest in Entire Mul</u>
William H. Rice	5	Huakahi	0.0800	0.1580
	15	Kainalu	0.2000	0.5263
	20	Keolihohi	0.1000	0.2631
	21	Pillani	0.2000	0.5263
	22	Emeka	0.2000	0.5263
	24	Beni	0.0400	0.1082
	27	Paamaul	0.0400	0.1052
	38	Pili	0.2000	0.5263
			<u>1.0400</u>	<u>2.7367</u>
Alice Robinson	1	Kenoi Kaukaha	1.0000	2.3316
	7	Paakeus	0.2333	0.7318
	9	Emelia	0.2500	0.6379
	19	Aumona	1.0000	2.3316
	24	Beni	0.3000	2.1052
	29	Nakalolani	1.0000	2.3316
	34	Kealohi	0.3333	0.8772
	35	Kalae	1.0000	2.3316
	36	Kelihune	<u>1.0000</u>	<u>2.3316</u>
		<u>6.8889</u>	<u>17.5501</u>	
Eleanor Robinson	26	Pueo	1.0000	2.3316
Selwyn A. Robinson	9	Emelia	0.2500	0.6379
	11	Z. Seta	0.2733	0.7297
	33	Keoki	<u>0.5000</u>	<u>1.3168</u>
		<u>1.0233</u>	<u>2.7084</u>	
Helena Make Santos	5	Huakahi	0.0400	0.1052
	34	Kealahi	<u>0.0400</u>	<u>0.1052</u>
		<u>0.0800</u>	<u>0.2104</u>	
Bernice Ahi Smith	31	Pili	0.0750	0.1973
Bettie Souza	12	Kahea	0.0357	0.0939
Rose Malia Stanley	16	Hale	0.0556	0.1463
Irene Thronas Strong	12	Kahea	0.0357	0.0939
Helena Bartels Sukanuma	31	Pili	0.0150	0.0395
Agnes Thronas	12	Kahea	0.0357	0.0939
Fred Thronas	12	Kahea	0.0357	0.0939
Henry Thronas	12	Kahea	0.0357	0.0939

<u>Owners</u>	<u>Share No.</u>	<u>Original Owner</u>	<u>Int. in Share</u>	<u>Percentage Interest in Entire Hui</u>
Mary A. Wallace	25	Kauka	0.0625	0.1645
Dora R. Wallis	5	Huakahi	0.0600	0.1580
	16	Kairalu	0.2000	0.5263
	20	Keolihohi	0.1000	0.2631
	21	Pillani	0.2000	0.5263
	22	Enoka	0.2000	0.5263
	24	Heni	0.0400	0.1052
	27	Pamau	0.0400	0.1052
	33	Pili	0.2000	0.5263
			<u>1.0400</u>	<u>2.7367</u>
Charles R. Wichman	4	Nepuameuu	0.3000	0.7894
Juliet R. Wichman	13	Pechao	1.0000	2.6316
	20	Keolihohi	0.2500	0.6579
	23	Makahuki	1.0000	2.6316
	34	Keolohi	<u>0.3333</u>	<u>0.8772</u>
			<u>2.5833</u>	<u>6.7985</u>
Alice Kauikeolani Wilcox	8	J. W. Lota	0.3333	0.8772
	11	Z. Seta	0.1667	0.4386
	37	Miho	<u>0.1667</u>	<u>0.4386</u>
			<u>0.3333</u>	<u>0.8772</u>
Minifred Wilbur Willis	8	J. W. Lota	0.3333	0.8772
	11	Z. Seta	0.3333	0.8772
	37	Miho	<u>0.3333</u>	<u>0.8772</u>
			<u>1.3333</u>	<u>3.5068</u>
Marjorie Maka Yokoteke	6	Huakahi	0.0400	0.1052
	34	Keolohi	<u>0.0400</u>	<u>0.1052</u>
			<u>0.0800</u>	<u>0.2104</u>
In dispute between John Gregg and Alice Robinson	25	Kauka	<u>0.5000</u>	<u>1.3158</u>
TOTALS			36.0000	100.0000

II. That the following persons are the owners of and entitled to power rights in undivided shares or interest in said Hui Lands, to-wit:

<u>Owner of Power</u>	<u>Interest in Share</u>	<u>Owner of Interest</u>
Mary Gilman Trask Chang	0.1429	Mary Jane Neves

Esther M. Keahi	0.3333	Elmer C. Keahi Joseph K. Keahi Norman K. Keahi Raymond M. Keahi Winona M. Keahi
Rachel Manuiki	0.3750	Elizabeth Manuiki Chandler Marie Manuiki Inouye Bernard Manuiki Donald Manuiki Jeremiah Manuiki Lawrence Manuiki, Jr. Ruth Manuiki Samson Manuiki
Helen Chum Thronas	0.0313	Irene Thronas Strong Bettie Souza Agnes Thronas Fred Thronas Henry Thronas Olaf Elia Thronas, Jr. Samuel Thronas

III. That the following persons are the owners of and entitled to estates by curtesy in undivided shares or interest to said Hui Lands, to-wit:

<u>Owner of Curtesy</u>	<u>Interest in Share</u>	<u>Owner of Interest</u>
William G. Bartels	0.0750	Adolph Bartels George Bartels Alma Bartels Kaulu Harriet Bartels Mariani Helena Bartels Sukanuma
Samuel K. Dias	0.0476	Beryl M. Dias Harriette U. Dias
Robert Moewai Kanealii	0.3333	Beatrice Kanealii dela Cruz Joseph Kauwe Kanealii Raymer K. Kanealii Robert P. Kanealii Roger M. Kanealii Lillian Kanealii Montibon
Jacob K. Maka	0.4000	Hilda Maka Murphy K. Maka Mildred Maka Olanolan Helena Maka Santos Marjorie Maka Yokotake

Hui Lands, for a period of twenty-five years from December 15, 1932, as set forth in instrument dated December 15, 1932 and attached to and made a part of said Complaint as Exhibit "D" thereof;

2. That the parties named in Paragraph 1 of this order were at the date of filing said Complaint the owners as tenants in common of an estate in freehold (subject to the lease hereinbefore referred to) in all that certain tract or parcel of land generally known as the Hui Lands of Haena and being more particularly described by metes and bounds on Exhibit "A" hereto attached, which exhibit is hereby referred to and is hereby made a part hereof; that the kuleanas and the school lot within said Hui Lands and being excepted therefrom and not the property of the Hui are correctly set forth and described in Exclusions 1 to 21 attached to and made a part of said Exhibit "A"; that certain roadways are also excepted therefrom, the exact location and description of which shall be hereafter determined;

3. That said Hui Land sought to be partitioned is in a compact area and should be partitioned in kind as far as practicable, as prayed in said Complaint and concurred in by the answering defendants, with due regard for preferential rights of such particular occupants as it may appear have acquired such rights under the rules and practice of the Hui Kua'i Aina o Haena hereinbefore adopted by said parties or their predecessors in interest or otherwise;

4. That those to whom wet lands are partitioned and who desire water therefor should be given as an appurtenance to such wet lands the right to use a portion of the waters of Haena;

5. That the Territory of Hawaii and/or the County of

6. That if the interests of any of the defendants are so small as to make it impracticable to apportion land to such defendants, if available enough land shall be set aside to represent, collectively, the total aggregate interests of such defendants and shall be sold at public auction with due notice, and the proceeds divided among such defendants in proportion to their respective interests or if enough land is not available, sufficient funds shall be set aside to represent the value of their interests and the same shall, in such event, be divided among them in proportion to their respective interests;

7. That if any lands of said Hui, or interest therein, are not desired by any of the members thereof, or if in the opinion of the Commissioners the best interest of the members of said Hui would be served by the sale of any of said lands or interest therein, including water rights, at public auction, with due notice, the same shall be reported by the Commissioners for appropriate ruling by the Court;

8. That pending settlement of the dispute between John W. Gregg and Alice Robinson as to title of a one-half portion of Share #25 of said Hui, the Commissioners shall set aside sufficient land to represent the interest of the owner, when determined, of said disputed one-half portion of said Share #25.

AND IT IS HEREBY FURTHER ORDERED AND DECREED that

HENRY C. WEDEMAYER (who shall be Chairman),

YEISO YAMAURA and NICHOLAS A. AKANA

be and they are hereby appointed Commissioners of this Court to act under the directions and subject to the review and approval

a plan for division of said land into lots or parcels, including provisions for necessary roads and rights-of-way, and make maps, and surveys in connection therewith; to appraise or procure appraisements to be made as of the date hereof of the values of the whole property and of the various portions under any division that may be made thereof; to investigate and report to this Court upon the extent to which particular portions of said land have been occupied by any of the parties in interest and upon the leases, mortgages, easements, and other liens and incumbrances and amounts involved in connection therewith, and contingent estates, which may exist or be claimed with respect to any portion, share or interest in said land; and upon any assignments, transfers or devolutions of any interest subsequent to the date of filing said petition, and any other matter or thing affecting the rights or claims of any persons interested in the premises which in their investigations may come to their attention, or which may otherwise be referred to them by this Court; to devise drainage and irrigation systems and easements where necessary and to find and report upon the interests of any defendants too small to warrant apportioning land to them; and that said Commissioners present to this Court their recommendations as to the division or allotment of specific parcels of the Hui Lands and/or funds of the Hui among the parties interested, and as to the sale of any portion or portions of said Hui Lands, as to payments (if any) that should be made by owners of the Hui Lands by reason of the fact that the allotments made to them are valued in excess of the value of their interests in the Hui Lands and the application or division of the

In connection with all or any of the matters aforesaid the said Commissioners may call and hold hearings, and, subject to the approval of this Court first obtained, may engage and hire assistance, including surveyors, and an appraiser or appraisers; and they shall act as Receivers of this Court to collect all funds belonging to said Hui Kual Aina o Wainiha both now held and heretofore accrued and unpaid and which may hereafter accrue pending the final decree of this Court herein and recommend the application thereof, and shall take custody of the records, papers and monies of said Hui now held by the Clerk of this Court and any other records, papers, monies, etc. of said Hui as they may find.

IT IS FURTHER ORDERED that the costs of this proceeding shall hereafter be ascertained and apportioned in the manner provided by law.

This Court hereby reserves the right at any time to make such other interlocutory orders or decrees as shall in its judgment from time to time seem necessary or proper in the premises.

Done in open Court this 9th day of September,

1955.

Judge of the above entitled Court.

ATTEST:

Clerk

EXHIBIT A

Description of the Hui Lands of Haena

Being all of the Ahuapuaa of Haena, being also all of Royal Patent 3596, Land Commission Award 10613, Apana 6 to Abner Paki at Halelea, Island and County of Kauai, Territory of Hawaii, and more fully described as follows:

Beginning at the Northeast corner of this parcel of land, being also the Northwest corner of the land of Wainiha as shown in Equity No. 109 filed in the Circuit Court of the Fifth Circuit, Territory of Hawaii, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NIHA 2" being 728.37 feet North and 3,179.58 feet West, and running by azimuths measured clockwise from true South:

- | | | | |
|----|------|---------|---|
| 1. | 49° | 28' | 876.33 feet along the Land of Wainiha; |
| 2. | 49° | 25' | 305.00 feet along same; |
| 3. | 49° | 27' | 977.80 feet along same; |
| 4. | 49° | 09' | 647.75 feet along same; |
| 5. | 348° | 57' | 282.68 feet along same; |
| 6. | 352° | 28' | 180.59 feet along same; |
| 7. | 347° | 30' 30" | 730.97 feet along same; |
| 8. | 341° | 03' | 1,335.00 feet along same to "Puu Nopili" marked by a Territory of Hawaii Forest Reserve Monument in the middle of ridge; thence following up the middle of ridge along the Land of Wainiha to "Kealewalewa", the approximate direct azimuth and distance being: |

10. 23° 15' 9,550.00 feet; thence following up the middle of ridge along the Land of Wainiha to "Hono-o-Pali", the triple divide between the Lands of Wainiha, Hanakapiai and Haena, the approximate direct azimuth and distance being:
11. 66° 10' 3,060.00 feet;
12. thence following down along the boundary of the Land of Hanakapiai to highwater mark at seashore;
13. thence following along highwater mark at seashore to the point of beginning and containing an area of approximately 1850 acres.

EXCEPTING THEREFROM:

1. L. C. Aw. 9179 to Kaukapawa
Owned by George K. Akana, Eugenia F. Akana and the heirs of Kamealoha.
2. L. C. Aw. 7998 to Haole
Owned by County of Kauai.
3. L. C. Aw. 7949, Apanas 1, 2 and 3 to Kekela
Owned by John W. Gregg.
4. L. C. Aw. 10940 to Uiha
Owned by John W. Gregg.
5. L. C. Aw. 10674 to Pea
Owned by Howard K. Kinney.
6. L. C. Aw. 7946 to Kanulopu
Owned by Howard K. Kinney.
7. L. C. Aw. 10965 to Wahioloa
Owned by Carlos A. W. Long,
Elia A. Long and Leslie W. Long.

9. L. C. Aw. 7945, Apanas 1 and 2 to Kekulu and Mahu
Owned by Madlene Apuna, Florence L.
Bannister, Pearl Kapuniai, William Monaha
Mason and George M. Monaha, subject to
the curtesy rights of William Mason, Sr.
10. L. C. Aw. 10223 to Moa
Owned by Benjamin K. Montgomery.
11. L. C. Aw. 7942 to Kuapiko
Owned by Uichi Onoue.
12. L. C. Aw. 10396 to Nahialaa
Owned by Emma Ouye.
13. L. C. Aw. 10941 to Nalwi
Owned by Kila Pa, Halaki Kelau,
Elizabeth Mahuiki Chandler,
Marie Mahuiki Inouye, Bernard Mahuiki,
Donald Mahuiki, Jeremiah Mahuiki,
Lawrence Mahuiki, Jr., Ruth Mahuiki
and Samson Mahuiki, subject to the
dower rights of Rachel Mahuiki in
1/4th thereof.
14. L. C. Aw. 8262 and 10396 to Ohule
Owned by Wm. Hyde Rice, Limited.
15. L. C. Aw. 7996-C to Kanehakili
Owned by Paul G. Rice and
Kathryn O. Rice.
16. L. C. Aw. 8200-B, Apanas 1 and 2 to Nanahu
Owned by Alice Robinson.
17. L. C. Aw. 8200-C, Apanas 1, 2 and Part II to Mukuohai for
Kaenaku
Owned by Alice Robinson.
18. L. C. Aw. 7967, Apanas 1 and 2 to Keahiaka
Owned by Alice Robinson.
19. L. C. Aw. 7943, Apanas 1 and 2 to Keahiahi
Owned by Esther Uo Makaila, Beatrice
Kanealii dela Cruz, Joseph Kauwe Kanealii,
Raymer K. Kanealii, Robert P. Kanealii,
Roger M. Kanealii and Lillian Kanealii
Montibon, subject to the curtesy rights
of Robert Moewai Kanealii in 1/2 thereof.
20. L. C. Aw. 9140 to Kukukaelele
Owned by Juliet R. Wichman.
21. Grant to Apanas 1 and 2 to Mukuohai for Kaenaku

Civ. No. 30

IN THE CIRCUIT COURT OF THE FIFTH CIRCUIT
TERRITORY OF HAWAII

IN OPEN COURT
FRIDAY, SEPTEMBER 9, 1955
COURT CONVENED AT 9:35 A. M.

Present: HONORABLE BENJAMIN M. TASHIRO, JUDGE PRESIDING
William Nestuk, Court Reporter
John Iialale, Jr., Courtroom Clerk

JOHN W. GREGG, et al.,

Plaintiffs,

vs

HEIRS OF HANAH K. AHI,
et al.,

Defendants.

(further hearing)

Appearances: Howard H. Moore, Esq., (Fratt, Tavares & Cassidy)
counsel for plaintiffs.
Jack H. Mizuha, Esq., counsel for certain respondents.
Norito Kawakami, Esq., counsel for certain respondents.
Plaintiffs present.

Mr. Moore informed the Court that all answers have been filed and that none contain any controversial matters.

The Court upon the motion by Mr. Mizuha reserved unto Mr. David Fa the right to later determine the amount of his courtesy right in Share 31.

Pursuant to a motion by Mr. Mizuha, no objection by counsel for plaintiffs, the Court granted Mr. Mizuha leave to file answers of other share holders in order that the record may show their appearances in said matter.

Argument by counsel as to the draft of the Court's order to be entered.

Court recessed at 9:45 a.m., reconvening at 10:17 a. m.

Mr. Robert Moewai Kanealii entered his appearance in the above matter and informed the Court that Mr. Bernard Trask of Honolulu is his attorney and that he is claiming one share in the Hui.

Mr. Moore informed the Court that plaintiffs had no objection

however, to any amendments or modifications as to mathematical computations of interest or substitution of language and that such exceptions be filed on or before October 31, 1955.

The Court set the matter for hearing as to such exceptions, if any, at 9:30 a. m., November 18, 1955.

The court allowed Mr. Kanealii up to and including October 31, 1955, within which to file an answer.

The Court appointed Mr. Henry C. Wedemeyer, chairman, Mr. Nicholas Akana and Mr. Yeiso Yamaura as commissioners.

Counsel entered no objection as to the Court's appointment.

Mr. Mizuha entered an objection and took a general exception as to the order of court to be entered aforesaid.

Court adjourned at 10:40 a. m.

BY ORDER OF COURT:


Courtroom Clerk