

## High Court

*Faulkner v Tauranga District Council* 2/6/04, Cooper J,  
HC Hamilton CIV2004-470-00124

Maori affairs - Land - Valuation

Unsuccessful appeal by F against decision of the Land Valuation Tribunal ("LVT") - F challenged valuations of Maori freehold land owned or partly owned by him - F argued that land was Maori customary land as it held in accordance with tikanga Maori and had a nil value for rating purposes - LVT held property was Maori freehold land - in *Valuer-General v Mangatu Inc* [1997] 3 NZLR 641 it was held that when valuing Maori freehold land constraints on alienability of land had to be taken into account - LVT decided valuations were appropriate and requirements of *Valuer-General v Mangatu* had been met - no evidence had been submitted to establish that valuations were wrong - F appealed decision on four grounds - firstly, LTV erred in concluding that land had Maori freehold status - secondly, under *Te Ture Whenua Maori Act 1993/ Maori Land Act 1993 (TTWMA)* land with status of Maori freehold could be considered as being Maori customary land if it was held in accordance with tikanga Maori - thirdly, LTV failed to consider common law ruling of Privy Council, that despite Crown grants,

all land in New Zealand remains of unextinguished customary title - finally, F submitted LTV failed to consider that land was subject to Treaty of Waitangi claim.

Held, all issues have been previously dealt with by Blanchard J in *Faulkner v Tauranga District Council* [1996] 1 NZLR 357 - no evidence has been placed before Court to allow a different conclusion to be reached - decision of Attorney-General v Ngati Apa [2003] 3 NZLR 643 does recognise that customary title may be extinguished by statute and therefore would not lead to a different conclusion - Blanchard J's decision must be seen as holding that an extinguishment of customary title to the land had occurred - untenable for F to claim that the land should have any other status under s 129 TTWMA - argument that all land in New Zealand remains of unextinguished customary title is plainly wrong - fact that land is part of an unresolved Treaty of Waitangi claim does not make a difference - appeal dismissed.