

Assets Co Ltd v Mere Roihi [1905] AC 176

<http://lawcasesummaries.com/knowledge-base/assets-co-ltd-v-mere-roihi-1905-ac-176/>

Facts

- Various groups of NZ first nations people brought an action for the return of land because it had been taken fraudulently and thus transfers were invalid
- The company that owned the land said they were not guilty of fraud and had purchased properly
- The NZ said it was theirs originally and they had not done anything
- The company said the previous owner had properly registered and they were bona fide purchasers – therefore COT was valid.

Issue

- Whether or not the alleged fraud affected the current title

Held

- The company's title was valid because they had not committed fraud
- The company had long been in possession of the land but insisted the case was of great importance
- There was the right in NZ to bring an action where the registration had been brought about in fraud; and therefore the remedy was one of damages
- He acknowledged the need to protect local people from the dealings of Europeans but also to protect bona fide purchasers
- In order for the NZers to succeed, fraud would need to be established against the current owners.
- The company had obtained title properly and thus were not fraudulent.
- Lindley: Fraud needed to be proved against the current owner; previous fraud is irrelevant and the current owner does not need to find it out [i.e. the fact the company did not need to make lots of enquiries to determine fraud. However if they had an inkling but chose to ignore it, the case would be different]

Relevance/Notes

This case demonstrates the principle that in order to prove fraud, it must be actual or constructive. Constructive fraud is more than a mere failure to make enquiries.