

ACPNS LEGAL CASE REPORTS SERIES

This series compiles short summaries of significant cases involving charitable, philanthropic, nonprofit and social enterprise organisations in Australia and overseas.



Patea Old Folks Association Incorporated [2022] NZHC 1856

High Court of New Zealand, Palmer J, 29 July 2022

Land held by trustees who died was transferred to an incorporated association.

Key words: Incorporated Association, New Zealand, Deceased Trustees, Transfer of Land,

1. The Patea Old Folks Association Inc (the Association) used a hall on land that was purchased in 1964.
2. The land was purchased in the name of the Chair of the Association at the time, who died in September 1971. His wife died in 1975 leaving no will.
3. The Association was incorporated in 1972.
4. The land had never been transferred into the name of the Association.
5. The Association sought an order from the Court that the land be transferred into its name.
6. Although there was no relevant provision under the [Trusts Act 2019](#), the Court relied on the authority of [Kahu v Westpac New Zealand Ltd](#) [2022] NZHC 1281 that the Court had power under its inherent jurisdiction.
7. As the property was held on trust for the Association, it was still held in trust for that Association, and it was just and equitable for the title to be transferred to the Association.

IMPLICATIONS



As an unincorporated association is not recognised in law as having a juristic personality, a trust arrangement is usually used to hold property for the purposes of the association.

In Queensland, [section 22](#) of [Associations Incorporation Act 1981](#) provides that property held for the association or its objects, whether on trust or otherwise, becomes property of the incorporated association, and the provisions of a trust that applied to the property immediately before incorporation continue to apply.

Similar provisions apply in other Australian jurisdictions.

VIEW THE CASE



This case may be viewed at <http://www.nzlii.org/cgi-bin/sinodisp/nz/cases/NZHC/2022/1856.html>

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