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MATRIMONIAL CAUSES JURISDICTION:

ERNEST JACK STEEPLES

Petitioner

and

FAY STEEPLES

Defendant

J U D G M E N T.

1. In this case, the Petitioner, Ernest Jack Steeples, seeks a dissolution of his marriage with his wife (born Fay Ketch) upon the grounds of desertion in an undefended action, *in which Mr. Tonking of Counsel, appeared on his behalf*.
2. The Petitioner was married on the 7th August, 1946 to his wife, who was then a minor, but in respect of whom consent to the marriage was duly given by her mother.
3. After the marriage, the Petitioner and his wife cohabited in Sydney and he left in September, 1946 for Milolo in the Territory of New Guinea on his own, as there was no "married accommodation" available for him then.
4. The wife followed about 9 months later, and the parties seemed to have then lived a normal matrimonial life.
5. In September, 1948 they went on leave, returning to New Guinea again in February or March, 1949; they continued to live together until about September, 1950. The wife then, apparently with the consent of her husband, left to stay with her mother in Queanbeyan, New South Wales.
6. In February, 1951 (later corrected by the Petitioner to April, 1951) he rejoined his wife at Queanbeyan and found her pregnant, a pregnancy for which he could not have been responsible, according to his testimony, as the wife then admitted to him verbally.
7. The Petitioner forgave his wife this lapse, and the resultant child was made the subject of an adoption by some person seeking a child in that way. This episode is quite irrelevant to the present considerations.

8. There is issue of the marriage two children, John Ernest Steeples, born 15th September, 1946, and Margaret Helen Steeples, born 10th June, 1949.

9. The husband, after being in Australia with his wife about a month, was admitted to the Yaralla Repatriation Hospital where he remained an inmate about 9 months. During this time he testifies that his wife did not visit him or communicate with him in any way.

10. After his discharge, he did not go to stay with his wife at Queanbeyan but stayed in Sydney, and he says he returned to Bulolo in June or July, 1951 (a date which he subsequently corrected to September, 1951).

11. Before his departure, he called at his mother-in-law's house in Queanbeyan and was received cordly by his wife, and he thereupon collected his luggage and said he was off to New Guinea. She did not reply.

12. His witness, Carlo Cavalleiri, however, fixed the date of the Petitioner's visit to Queanbeyan as in April, 1952, and the Petitioner himself, in his subsequent evidence, placed it as in 1952 also.

13. The Petitioner returned to his work at Bulolo and has not lived with his wife since. Upon being asked by the Court what efforts he had made to get his wife to return to him, he said that upon his return he was making arrangements with the ^{employer} Bulolo Gold Dredging Company for married accommodation, when about 5 or 6 months after his return he received a letter from his sister giving him information which apparently put out of his head any thoughts of the possibility of a resumption of their matrimonial life.

14. The evidence satisfies me of the marriage and the domicile required of the Petitioner, but as regards the desertion, it is necessary to point out that the date of the commencement of the desertion, as set out in the Petition, is the 31st May, 1951, a date when he was, according to his evidence, in the Yaralla Repatriation Hospital, and his wife residing with her mother in Queanbeyan. But, as I understand the law, such facts would not necessarily prevent proof of desertion by her if the facts placed before the Court warrant such a finding.

15. The Petition is dated the 15th October, 1954, so that in order to establish the statutory length of time of desertion, namely three years, the Petitioner would be required to show that the Defendant deserted him on a date not later than the 15th October, 1951.

16. Upon ~~the facts recited~~, the evidence does not enable me to conclude that the wife deserted her husband prior to that date, ^{or at all} in fact, the evidence placed before the Court by the Petitioner was of the flimsiest and quite

unsatisfactory, and, in the view of the Court, fails
~~dismiss~~ to support a finding of desertion such as he seeks.

17. The Petition is therefore dismissed.

J.

13/9/55.