

BOSETO -v- DORIS PILI

High Court of Solomon Islands
(Sam Awich)

Civil Case No.144 of 1995

Hearing: 20th October 1995

Judgment: 20th October 1995

M.B. Samuel for Petitioner
Respondent not Present

SAM AWICH, COMMISSIONER. Marriage has been conclusively proved by the production of the marriage certificate exhibit PI. The petitioner, the husband, Dr Fred Boseto by his testimony has proved desertion since September 1991, and that his wife showed disposition to violence. He is amply supported by the fact that after the wife had received petition for divorce, she has not filed papers in which she explained the reason for her living apart from her husband since September 1991, some 4 years now.

As a married woman, her matrimonial home and domicile are those of her husband. In her letter to solicitor she only now complained, about money to travel from PNG to Solomon Islands. She does not refer to any earlier attempt on her part to return. Desertion has been proved by testimony and by the fact that she must even today still be in PNG, that is where she addressed her letter of 2 July 1995 in response to petition from.

It is the law that even if ground for divorce is proved, the court has discretion to pronounce decree, and should normally exercise the discretion against the petitioner in circumstances in which the petitioner is guilty of adultery, unless the petitioner has confessed normally in a discretionary statement. In this case the petitioner has confessed his adultery and his solicitor would have filed discretionary statement, but for time on her part, not on the part of the petitioner. I accordingly exercise the discretion

to pronounce decree nisi of divorce on the petition of the petitioner on the ground that he has proved desertion which desertion has lasted since September 1991. Counsel is to send the Decree Nisi by registered mail to the Respondent.

As regards children, I am mindful of the fact that the main consideration in granting custody must be their well being. There is no evidence from the Respondent available. Although she has been given opportunity to respond to the case against her, I feel that for the sake of the children she must be given one more opportunity. Hearing about custody and maintenance is adjourned sine die. Counsel is to obtain date from the Office Manager and to send notice of it to Respondent by registered mail stating therein that

1. custody will be heard on that date.
2. Maintenance will be heard that date
3. Decree Nisi to last for 3 months, has been obtained and unless good cause is shown it will be made absolute after 3 months.

No order as to costs.

Dated this 20th day of October 1995 at Honiara.

Sam Awich
COMMISSIONER OF HIGH COURT