

SAETIKERA -v- LELAPITU

High Court of Solomon Islands

(Ward C.J.)

Civil Case No. 198 of 1990

Hearing: 31 October 1990

Judgment: 31 October 1990

A. Radclyffe for the Appellant

M. Samuel for the Respondent

WARD CJ: This is an appeal against an increase of maintenance payments ordered by the Principal Magistrate increasing a previous order of \$10 per month per child for 2 children made in 1984 to a payment of \$25 per month per child.

At the hearing the respondent did not attend, being unable to afford the fare from Gizo. The learned Principal Magistrate then was told the respondent had obtained a job that paid a modest income and was told that she did not know the respondent's earnings.

He then made an order based on inflation.

In those terms this was not an unreasonable increase but he should not have made such an order without some further enquiry into the respondent's means.

His affidavit shows he earns a total net amount of \$124.99 per fortnight which after deduction of the previous maintenance and several expenses left \$96 per fortnight to feed and clothe his family of a wife and four children.

The new order would reduce that to approximately \$82.

The respondent points out she has both children at school and meets all the expenses arising out that herself. However, the man with whom she lives works although she does not know his income.

I have every sympathy with her difficulties but the court must strike a balance between the clear needs of the respondent and the basic requirements of the appellant in order to find a sum that is realistic.

It is pointless if making an order that improves the lot of one set of children if the effect will be seriously to deprive the other.

I feel in this case an appropriate order in all the circumstances is to increase the payments for each child to \$20 p.m. That will still require the respondent money to put them in the same position as the appellant's present family.

The appeal is allowed to that extent.

Order quashed and order of payments of \$20 p.m. per child to be made effective from the date of the magistrate's order.

Attachment of earnings order varied accordingly.

Court fees to be returned to appellant and no order for costs.

(F.G.R. Ward)
CHIEF JUSTICE