

**IN THE HIGH COURT OF SOLOMON ISLANDS**

(D. R. Chetwynd, Registrar)  
Civil Case No. 161 of 1999

**In the matter of Wills Probate and Administration Act Cap 33  
and  
In the matter of the Estate of Father Robert T Pule (Deceased)**

Date of Hearing: 20 August 1999  
Date of Order: 22 October 1999

P Tegavota for the Applicant

**(REGISTRAR CHETWYND):** This is an application by one John Meint Smith for a grant of Letters of Administration in respect of the estate of the late Father Pule. There is an affidavit lodged by the Applicant on 4th May 1999. I have to say that the affidavit is a rambling document that has very little to do with the application before me.

The affidavit does not depose anywhere to the death of the late Father Pule. However, it is within my knowledge that Father Pule has indeed died.

The affidavit also states that Mr Smith is a "reputable and respected" businessman. However, Mr Smith is also in contempt of this Court. He has not purged that contempt. I have some doubts whether or not someone in contempt of Court can actually seek the Court's aid in a different matter. Happily, I do not have to delve into that issue.

The main fact is that Mr Smith hangs his whole application on the Power of Attorney given to him when Father Pule was alive. I need make no comments as to whether that grant was valid or whether the formalities were complied with. All I need to know is that Father Pule has died. Quite simply the Power of Attorney dies with him.

I have not been given a copy of the Power of Attorney relied on, strangely it was not exhibited to Mr Smith's affidavit. However, at the first hearing in May I was able to peruse a copy of the document. Mr Tegavota confirmed that the copy document given to me to look at by the Public Trustee was the document that Mr Smith relied on.

It was a bare grant of a Power of Attorney. I say this because in certain circumstances a Power of Attorney can survive the death of the donee of the power.

The relevant law is to be found in the Law of Property Act 1925. That is an English Act of Parliament. Whilst much of its provisions have been superseded by various acts of Solomon Islands, parts of it still do apply here. In particular (and in respect of this

case) sections 126 and 127 remain good law in Solomon Islands. Those sections make it quite clear that a Power of Attorney is revoked on death and is not irrevocable unless the power is granted in the circumstances set out in S.128 of Law of Property Act 1925. There is no evidence or indeed any suggestion by the applicant that the Power of Attorney he relies upon was granted in any of the circumstances set out in those sections.

I have to say that Mr Smith has confused himself. He is of the opinion that he has control over the late Father Pule's estate. He does not. He has not established that he should have any say in the late Father Pule's affairs. He no longer holds a Power of Attorney, that power died with the late Father Pule. The applicant has not shown any other ground on which he can claim to have the right to a Grant of Letters of Administration.

As the late Father Pule died without a will then his estate will devolve in accordance with the rules on intestacy. There is nothing in those rules to say Mr Smith will in any way be beneficially entitled to the deceased's estate.

**I therefore will dismiss the application**

I direct that the Public Trustee should be granted Letter of Administration in the estate of the late Father Pule.

I order the applicant to pay the costs of the Public Trustee, and those costs to be taxed if not agreed.

**Order**

1. The application for a Grant of Letter of Administration in the estate of Father Robert T Pule deceased by John Meint Smith is dismissed.
2. Letters of Administration in the estate of Father Robert T Pule deceased be granted to the Public Trustee.
3. The applicant John Meint Smith to pay the costs of the Public Trustee in this application, and such costs to be taxed if not agreed.

**Dated this 22nd day of October 1999  
In the High Court  
Honiara**

**D. R. Chetwynd  
Registrar of the High Court**