

SELWYN SAE -v- ELIZABETH HALUTA

HIGH COURT OF SOLOMON ISLANDS
(F. O. KABUI, J.)

Civil Case No. 296 of 2001

Date of Hearing: 28th June 2002

Date of Judgment: 28th June 2002

Mr I. Kako for the Petitioner
Respondent not present

JUDGMENT

(F. O. Kabui, J): This is a Petition for divorce on the ground that the parties to the marriage have lived apart continuously for more than 5 years. The Respondent had been served with the Petition as well as the Notice of Hearing for today. She has no excuse for being absent in Court. The Petitioner is a clergyman in the Church of Melanesia. He married the Respondent on 27th January 1990 at the S. S. E. Church in Honiara. There is a marriage certificate to that effect. There is one child of the marriage. The child is a girl who is now married and has a family of her own. After the marriage, the parties lived in Honiara but soon the marriage got into difficulties. The Respondent did not co-operate with the Petitioner in the performance of his pastoral duties. In 1991, the parties separated and have lived apart since. The Petitioner believes that the Respondent has a child from another man during the course of the separation. It is now 11 years of continuous separation. There is no longer any chance of effecting reconciliation on the part of the Petitioner in order to save the marriage. On being asked whether what he was doing was against religious tenets, he said the gap of incompatibility between them was so extreme that any reconciliation was out of the question. I think the Petitioner was right. I believe him. Human tolerance also has limits in marriage. I think Mathew 19, verse 9 in the Holy Scriptures does give a leeway for a man to divorce his wife for unfaithfulness. There is some evidence that the Respondent had committed adultery but this is not the ground for seeking a divorce in this case. Counsel for the Petitioner, Mr. Kako,

by affidavit and from the bar table told me that the Respondent had no intention to appear in Court in this matter. This is an indication that the Respondent was no longer interested in anything to do with the Petitioner. I find that the parties have lived apart continuously for more than 5 years. Section 5(1)(d) of the Islanders Divorce (Cap.170) is therefore satisfied. I also find that the marriage has broken down irretrievably. I therefore declare that the marriage celebrated between the parties on 27th January 1990 is hereby dissolved. A decree nisi will issue accordingly to be followed by a decree absolute at the expiry of 3 months. I ORDER accordingly.

F.O. Kabui

Judge