

**VICKERS BOSO-V- JESSIE TONAVIDO**

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

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Civil Case No. 02 of 2002

Date of Hearing: 30<sup>th</sup> January 2003Date of Judgment: 06<sup>th</sup> February 2003*Ms C. McWilliam for the Petitioner**No appearance for the Respondent***JUDGMENT**

**Kabui, J.** This is a Petition filed by the Petitioner on an unspecified date. The Petition was dated 24<sup>th</sup> October 2002 but bears the seal of the High Court. It seeks the dissolution of his marriage with the Respondent on the ground of adultery and failing that on the ground that the parties have lived separately for a continuous period of more than 5 years and that the marriage has irretrievably broken down.

The parties were married on 30<sup>th</sup> November 1983 at Kena Hill on Kolombangara, Western Province. The parties had lived together until the Petitioner left in January 1984 to train as a teacher at the Teachers' College in Honiara. In about August 1984, the Respondent wrote to the Petitioner at the College admitting an act of adultery with an unnamed male person. The Petitioner did not return to the Respondent after graduation from the College. He was posted to Makira where he taught at a school. In 1990, he returned to the Western Province. Whilst there he heard that the Respondent had had 2 children. On one occasion, he saw the Respondent at Gizo with another male person. The last time he saw the Respondent was in 1990. He has never spoken to her nor lived with her since January 1984, the date he left her at home to go to Honiara as a student teacher. It is about 18 years ago. The marriage certificate was not produced at the trial but on being questioned by the Court the Petitioner said the marriage certificate had been kept by the Respondent and was known to have destroyed it at a later date. He said he was sure there was a marriage certificate because he was sure that Mendana Kera was the marriage celebrant. This matter was not disputed and so I accept it as told to me by the Petitioner. I think the question of adultery is irrelevant in this case as a ground for divorce once the Petitioner alleges irretrieval break down of the marriage following a continuous living apart for at least 5 years. Adultery is relevant though as evidence of the circumstance that led to the parties living apart for a period of 5 years or more resulting in the irretrieval break down of the marriage. There has been no attempt by any of the parties in this case to reconcile with each other and the chances of the parties coming together again is nil. The marriage is truly dead. As such, the dissolution of this marriage is a foregone conclusion. I therefore declare a decree of divorce by granting a decree nisi to be followed by a decree absolute as the case may be after 3 months from the date of the decree nisi. I order accordingly.

F.O. Kabui  
Judge