

relatives they may reasonably expect under Trukese custom to be allowed some use of the land, if they cooperate well with Sawas' children.

2. This judgment shall not affect any rights of way there may be over the land in question.

3. The plaintiff Toris is awarded such costs as she may have had which are taxable under the first sentence of Section 265 of the Trust Territory Code provided she files a sworn itemized statement of them within thirty (30) days after the entry of this judgment; otherwise she will be awarded only three dollars and fifty cents (\$3.50) costs to cover the filing fee and the trial fee. The costs are assessed one-half against the defendant Nusio and one-half against the defendant Rukan Farek.

ELISINERY J. MUTONG, Plaintiff

v.

PELERINO MUTONG, Defendant

Civil Action No. 251

Trial Division of the High Court

Ponape District

May 11, 1966

See, also, § T.T.R. 588

On remand from previous appeal to Trial Division of High Court in which customary divorce was confirmed, the Ponape-District Court granted motion to dismiss divorce action. On appeal, the Trial Division of the High Court, Associate Justice Joseph W. Goss, held that divorce had become finalized thirty days after decree and could not be thereafter dismissed.

Domestic Relations-Divorce

Once marriage has been dissolved by court action, it is not possible to dismiss action on basis of motion filed thereafter reciting that parties have reconciled.

GOSS, Associate Justice

This matter is before the Court for review, under the provisions of Section 713 of the Trust Territory Code, of an order purporting to dismiss the above entitled action.

Civil Action 251 is an appeal from a District Court Judgment in its Civil Action 833. In its decision the High Court decreed that ". . . in December, 1963, the same parties were duly divorced in accordance with recognized custom from the bond of marriage between them, and that their marriage to each other was thereby dissolved, effective at that time, under recognized custom . . . and the above-mentioned divorce between Elisinery J. Mutong and Pelerino Mutong, . . . hereby confirmed in accordance with Section 715, T.T.C."

It appears from the record that the judgment confirming the divorce of the parties entered September 10, 1964, in the Trial Division of the High Court became final thirty (30) days thereafter.

The Motion to Dismiss Action filed by the Appellant does not meet the requirements for an appeal from a Judgment (Rules of Civil Procedure 21 and 23 (incorporating Criminal Rule 32)), vacating a judgment (30A Am. JUL. p. 603 et seq.) or relief from a judgment (Rules of Civil Procedure 18e).

The marriage having been dissolved, it is not possible to dismiss the action on the basis of a motion filed October 6, 1965, reciting that the parties have reconciled. Therefore, it is

Ordered, adjudged, and decreed that the undated order for dismissal made pursuant to said motion is hereby vacated and rescinded.