



IN THE SUPREME COURT OF NAURU

[CIVIL JURISDICTION]

Miscellaneous Suit No. 13 of 2017
In the matter of an application for
special dispensation to marry under
s.27(3) of the *Births Deaths and
Marriages Act 1957*

AGEARE DEKURO

and

TIRIECKE DENGGOA

Applicants

Before: Crulci, J.

Pleader: V. Detenamo

Date of Hearing: 18 July 2017

Date of Decision: 19 July 2017

CIVIL – *Births Deaths and Marriages Act 1957 – section 27(3) Prohibited degrees of consanguinity and affinity - Dispensation sought to Marry – Dispensation GRANTED*

JUDGMENT

BACKGROUND

1. This matter comes before the Court under section 27(3) of the *Births Deaths and Marriages Act* 1957 with the Applicants seeking an order of dispensation to allow a marriage between them to be solemnized.
2. The Applicants are within the prohibited degrees of consanguinity as Dekuro is Dengo's step-father. Dekuro was married Dengo's mother Anna on 4 October, 1986 in Bikenibeu in Tarawa. At the time of the marriage Dengo was ten years old; she is the eldest of Anna's three children.
3. Shortly after their marriage, Anna, Dekuro and the three children left Tarawa and came to live in Nauru. Dekuro has land and a house here in Nauru and aside from a few months in the intervening three decades, the family lived in Nauru until Anna passed in 2003. Shortly afterwards the family went back to the Gilbert's to visit their mother's family, and on returning to Nauru all three children continued living with Dekuro.
4. Applicant Dekuro is 78 years of age (date of birth 19 June 1939) and Applicant Dengo is 41 years of age (date of birth is 29 April 1976).

Ageare Dekuro

5. Dekuro gave sworn evidence to the Court in support of his application. He said that when he married Anna she already had three children, one boy and two girls, of which Dengo is the eldest child. He and Anna did not have any children together.
6. He has a house and land in Ewa and currently living at the house with 3 to 4 families including his.
7. He and Anna did not formally adopt the three children, but when Anna passed the children stayed with him and he considered them part of the family. None of the three children are married and none of Anna's children have children of their own.
8. He and the Applicant have the care of a seven month old baby boy who is the son of his sister, and although he has not been formally adopted, the baby boy lives with them as a custom adoption.

9. The relationship between him and the other Applicant changed around six years ago. They want to get married because they want to do things the right way, like being able to go to church. He has sought the pastor's advice as to how that they can get married.
10. They all keep in contact with his wife Anna's family back in Kiribati via telephone.
11. He has raised the Applicant and the other two siblings since Dengo was 10 years of age; when his wife Anna passed he made a pledge that he would watch over, raise and look after the children.
12. Although Applicant Dengo is his stepdaughter she is not of his blood. They talked together and agreed to be in a relationship, which he would like to have properly and legally formalized.

Tiriecke Dengo

13. Applicant Dengo gave sworn evidence to the Court in support of the application to be allowed to marry Dekuro. She told the Court that she was ten years old when Dekuro married her mother.
14. Her mother was ill for some time with diabetes before she died, and after she passed they all went back to Kiribati for two months. Although their grandparents wanted them to stay with them, Dekuro also wanted them to be with him. They felt sorry for him and wanted to be with him and they felt that he was their father so they returned to Nauru with him.
15. Dengo was 27 years of age when her mother passed. Her relationship with Dekuro only started sometime when she was in her thirties. She does not have any children of her own but hopes to adopt the baby boy that is living with them.
16. She has spoken to her mother's family about the relationship with Dekuro and they said that they are happy if she is happy. The Kiribati family is not opposed to their relationship. Dengo's biological father is no longer alive.
17. Dengo is happy to get married, and the idea to get married is held by both of them. The subject of them getting married has been discussed with her younger brother and sister and they are happy for the relationship to continue in this way to marriage.

Pleader's submissions

18. Applicant Dekuro is known to the pleader through his work at the Nauru Lands Committee. It is said on behalf of Applicant Dekuro that he is a real gentleman and mind's his own business.
19. Dekuro waited until he was older before he married Anna Dekuro, as he is not the sort of man to chase around. When he married Anna he showed that he had a big heart and took in a lady with three children.
20. The pleader asks the Court take into account that when Dekuro first met Dengo she was already 10 years of age and, and so he had not been involved with her when she was a baby and raising her as a young child. She was already growing up when he met her.
21. It is only as adults, when Dengo was in her thirties, that they talked and an adult relationship formed between them. Dekuro is a very religious man and wants to do what is correct and not be afraid to declare this relationship publicly, and that is why they seek an order of dispensation to allow them to marry lawfully.
22. It is sought on behalf of the Applicants that the court looks favourably upon their application to marry, a marriage that is supported by their families. It would allow them to get on with their lives, adopt the child living with them and go as a family back to the Gilbert's to celebrate their relationship.
23. The Court is asked to take into account all the evidence it has before it and consider that on the merits of the case these two are adults who are trying to legitimize their relationship so they can live a life like everyone else in Nauru.

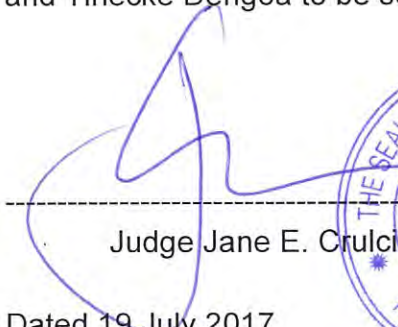
CONSIDERATIONS

24. The Court acknowledges the assistance in this matter by Mr. J. Detageawa and Ms. R. Daoe (members of the Family Court of Nauru), who attended the hearing and advised the Court on customary practices in Nauru and Kiribati.
25. The Court takes into consideration that Dengo is a mature woman in her forties. She has known and lived in the same family unit with Dekuro for many years; however he was not responsible for looking after her as a baby and young child, but first met her when she was ten years old.

26. The Court accepts that as two adults they discussed their situation and decided to embark upon a relationship and that their relationship has the approval of Dengo's younger siblings and their family in Kiribati.
27. The Applicants have told the Court that they seek to have their relationship legitimized for themselves, their family and to be accepted within the church and wider community.
28. Taking all the matters put before the Court, I am satisfied that a marriage between the two Applicants ought to be permitted.

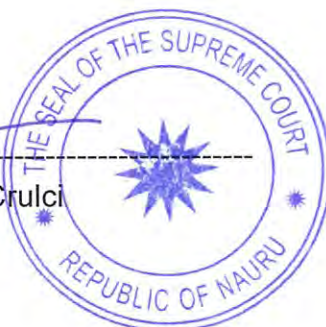
ORDER

29. Under section 27(3) of the *Births Deaths and Marriages Act 1957* the Court grants an order of dispensation permitting the marriage between Ageare Dekuro and Tiriecke Dengo to be solemnized according to law.



Judge Jane E. Crulci

Dated 19 July 2017



The seal of the Supreme Court of the Republic of Nauru is circular, featuring a central starburst design. The text 'THE SEAL OF THE SUPREME COURT' is inscribed along the top inner edge, and 'REPUBLIC OF NAURU' is inscribed along the bottom inner edge.