

IN THE SUPREME COURT OF THE)
TERRITORY OF PAPUA AND NEW)
GUINEA)

CORAM: His Honour Mr. Justice
Bignold.
20th December, 1957
at 9.30 a.m.

No. M.C. 6 of 1957

THE UNIVERSITY
OF
PAPUA & NEW GUINEA
THE LIBRARY

B E T W E E N

PATRICIA MARION LITTLE Applicant

and

FREDERICK MILLER LITTLE Respondent

JUDGMENT IN APPLICATION FOR CUSTODY OF
CHILDREN.

In this case the mother of two male children, aged 6 and 2, is applying for their custody, she having left her husband, her children and the matrimonial home at Lae and gone off with her paramour with whom she is now living at Ela Beach, Port Moresby.

In approaching the question of custody, it is quite plain that it in no way involves the infliction of a penalty for past matrimonial misconduct; the vital question is purely what is in the best interests of the children.

Of course, usually it is in the best interests of the children to have a normal home life with the care, love and devotion of both natural parents, but unfortunately the Court is presented with a situation falling short of that ideal, and must do its best for the children, bearing in mind all the various factors disclosed by the evidence before it.

Counsel for the Applicant wife stressed that with young children, the mother's care is to be preferred. In the circumstances of the parties in this case, I am not convinced of this, and have come to the conclusion that the feeling of insecurity attendant upon the removal of the children from their present home is quite undesirable and to be avoided.

Counsel for the Respondent husband stressed the importance of the fact that the children were at present in the home to which they were accustomed and in which they have been for some time. This factor is one which should be taken into account, and as well, there is a possibility - even probability - that the Defendant and Co-Defendant with the passage of time may undergo a period of disillusionment which will create an atmosphere inimical to the interests of the children, and it is indeed not beyond the bounds of possibility that the Co-Defendant may decide against a

legal union, if that becomes possible, and at any time could withdraw his support of the present Applicant.

After anxious consideration, I dismiss the Application by the wife for the custody of the children, reserving to her liberty to re-apply if it can at any time be shown that the father is not caring for his children in a proper manner.

I order that the Applicant, however, shall have access to the children at all reasonable times, and in making this Order, it is noted that the Respondent has already shown his willingness in this respect.

I order that the Respondent pay the costs of and incidental to this Application.

J.