

IN THE MATTER of an Application by JUDITH Mungale for letters of administration in respect of the Estate of Johnson Eape (Deceased).

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

Civil Case No. 221 of 2002

Hearing: 14th October 2002
Ruling: 17th October 2002

Mr Michael Ipo for the Applicant

RULING

Kabui, J. This application is by Motion filed on 23rd September 2002 for the grant of letters of administration to Judith Mungale, the daughter of the deceased. At the hearing of this application, I raised with Counsel the application of the provisions of the Public Trustee Act (Cap.31) after ascertaining that this application arose from the death of the deceased who died intestate on 7th June 2001 in Honiara. Counsel informed me that he was aware of the provisions of the Public Trustee Act but was advised by other Solicitors in the Public Solicitors Office that previous applications of the same nature had been granted by the High Court. I ruled that the applicant had no locus standi to make an application for grant of letters of administration in this case under the Wills, Probate and Administration Act (Cap.33). I said I would give my reasons later. I do so now.

The brief Facts

The deceased was hit by a vehicle and died on 7th June 2000. There is a death certificate to that effect. There is also a burial certificate confirming funeral rites. The deceased had not made any will before his death.

Intestacies.

The administration of the estates of persons who died without having made wills for the provisions of the Public Trustee Act govern the disposition of their estates. (See Part 111 of that Act). Section 4 provides for the reporting of deaths to the Public Trustee. Section 5 vests in the Public Trustee the locus standi to apply for the probate of the will or letters of administration where the deceased died intestate or where there are defects in the will. The functions of what used to be the Official Administrator of Unrepresented Estates appointed under article 13 of the old British Solomon Islands and Gilbert and Ellice Islands (Probate and Administration) Order in Council, 1914 have now been assumed by the Public Trustee. To apply for the grant of letters of administration

on behalf of applicants whose relatives had died intestate under the Wills, Probate and Administration Act would be to oust the provisions of the Public Trustee Act and to render the statutory functions of the Public Trustee defunct in this regard, contrary to the intention of Parliament. The fact that this point might have overlooked in the past is no substitute for the voice and intent of Parliament. I would suggest that the applicant reconsider her case in the light of this ruling by the Court. Section 5(1) of the Public Trustee Act does allow at least by implication any party to apply directly to the Public Trustee without following the procedure in section 4 where appropriate.

F. O. Kabui
Judge