

CIV/A/22/83

IN THE HIGH COURT OF LESOTHO

In the Appeal of

PONE RANTS'O Appellant

v

JANEFEKE RALEBITSO Respondent

J U D G M E N T

Delivered by the Hon Chief Justice Mr Justice
T S Cotran on the 12th day of June 1984

The present respondent Ralebitso, who was the plaintiff at the trial Court, sued the present appellant Pone Rants'o, who was the defendant at the trial Court, for 6 heads of cattle as damages for seduction of the respondent/plaintiff's daughter by the appellant/defendant's son

The trial Court (as well as the first Appeal Court) dismissed the claim for lack of evidence. The Judicial Commissioner disagreed.

There was, in fact, no evidence except the girl's. The trial Court heard and saw her, the Judicial Commissioner did not. The latter based his decision for disturbing the trial Court's finding on the grounds that it was incumbent on the defendant's son to deny that he had sexual intercourse with the girl complainant on the three or four occasions she named. The learned Judicial Commissioner thought that since the boy denied only that he impregnated the girl in general terms but had not further denied

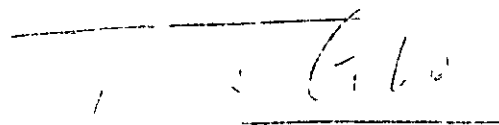
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sexual intercourse on the named occasions, that therefore the girl's story should have been believed but, with respect, the learned Judicial Commissioner's conclusion does not necessarily follow from the premises he has postulated

The girl herself did not make a complaint to her parents or to anyone standing to her in loco parentis until her brother discovered she was pregnant. If she had known the boy for two years as she says, and if they had intercourse with each other three or four times, I find it amazing that no one in the village or school had noticed their association especially when she adds that the boy had actually told her that he was going to marry her

Only God knows if the girl is speaking the truth and I am no god. At the trial Court the respondent/plaintiff and his daughter were unable to discharge the burden of proof. That was the end of the matter where, as here, the case depended entirely on the credibility of one witness

The appeal is allowed with costs



CHIEF JUSTICE
12th June 1984

For Appellant Mr Matihare

For Respondent Mr Mda