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IN THE HIGH COURT OF MALAWI

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CIVIL CAUSE NO. 141 OF 1979

BETWEEN:

JANE MARY ALCOCK PETITIONER

and

TERENCE JOHN ALCOCK RESPONDENT

and

FIONA ARMSTRONG CO-RESPONDENT

Coram: Topping, Ag. J.
For the Petitioner: Msisha of Counsel
Respondent absent: unrepresented
Co-respondent absent: unrepresented
Official Interpreter: Mpalika
Court Reporter: Brown

JUDGMENT

By a petition dated the 17th of February 1979 the petitioner Jane Mary Alcock petitions for the dissolution of her marriage to Terence John Alcock, the respondent, on the grounds of his adultery with Fiona Armstrong, the co-respondent.

The petitioner gave evidence that she was married to the respondent at Limbe on the 26th of February 1972. There are two children, Michele Jane Alcock and Tanya Beth Alcock; both are infants. These matters are proved. The petitioner also gave evidence that the respondent came to Malawi in 1964 and that he has shares in Tobacco Suppliers Limited where he is a Relief Manager. The respondent's parents are living in Malawi, as are the parents of the petitioner, and the petitioner gave evidence that this was the respondent's permanent home. I am satisfied from the evidence that the parties are domiciled in Malawi.

The parties lived together in Limbe after their marriage and the marriage appears to have been satisfactory until the return of the petitioner from medical treatment in South Africa. This was in October 1977. Shortly after her return the petitioner and the respondent went to a party. The petitioner noticed that the respondent left the party with the co-respondent at about 11.00 p.m. He returned later at 1.00 a.m., and the petitioner was suspicious. She asked him about the matter but he denied any improper association. The petitioner was not entirely satisfied, particularly as the respondent used to come home late. When asked about this, he said that he was playing sport. She did not believe him. In June 1978 she again asked him about his conduct, and this time he admitted that he was committing adultery with the co-respondent. The petitioner then left him and instituted divorce

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proceedings. The respondent did not defend the petition and the co-respondent did not enter an appearance.

The respondent was invited by the petitioner's solicitors to make a statement about his adultery, and he was warned that if he did make such a statement it might be used in evidence. A statement has been tendered which the petitioner says was signed by her husband, in which he admitted committing adultery with the co-respondent over a period of several months from July 1978 onwards. He specifically admitted to acts of adultery at the Golden Sands Holiday Camp at Cape Maclear on the 21st and 22nd October 1978. This is the allegation contained in paragraph 7 of the petition. I am satisfied that the confession of adultery is signed by the respondent and that it is true. Corroboration for it may be found in the respondent's admission of adultery to the petitioner and in the petitioner's evidence that the respondent and the co-respondent are living together.

I find that the respondent has committed adultery and I grant the petitioner a decree nisi of divorce. The marriage between the petitioner and the respondent is dissolved.

The question of custody and maintenance is adjourned into chambers.

The respondent will pay the costs of these proceedings.

Pronounced in open court this 24th day of November, 1979, at Blantyre.

R.G. TOPPING
ACTING JUDGE