

CIVIL CAUSE NO. 261 OF 1979



BETWEEN:

MONICA PHIRI ..... PETITIONER

and

WILLIAM PHIRI ..... RESPONDENT

and

JOYCE NYIRENDA ..... CO-RESPONDENT

Coram: Villiera J.

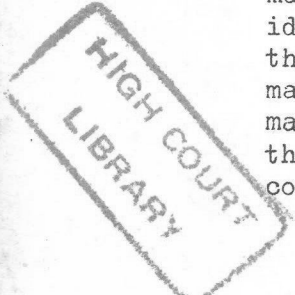
For the Petitioner:	Mbalame, Principal Legal Aid Advocate
Respondent present:	unrepresented
Co-respondent present:	unrepresented
Official Interpreter:	Mpalika
Court Reporter:	Hiddleston/Brown

JUDGMENT

The petitioner prays for the dissolution of her marriage to the respondent on the ground of his adultery with the co-respondent. She was married to the respondent at the office of the Registrar of Marriages at Mangochi on 15th March 1975. There is a marriage certificate of that date (Exhibit 1) in proof of the marriage.

The respondent denies the charge of adultery and claims that both the petitioner and the co-respondent are his wives and that the co-respondent is the senior wife. He told the court that he married the co-respondent in October 1969 and that in January 1972 their marriage was solemnized in church under the African Marriages (Christian Rites) Registration Act (Cap. 25:02 of the Laws of Malawi). The respondent stated further that in 1974 he was stationed at Ntakataka and that he visited Mangochi regularly where he met the petitioner who was a teacher at Mangochi Secondary School. They fell in love and had sexual relations regularly as a result of which the petitioner became pregnant. The respondent says he was obliged to marry the petitioner because she would have been dismissed from her post as a teacher if he had not. They then went through the ceremony of marriage at the Registrar's office. The respondent admits that he lied to the Registrar when he declared that he was a single person.

The co-respondent produced the certificate issued after her marriage to the respondent was solemnized. The certificate has been identified by the Reverend Chilinda, the clergyman who officiated at the ceremony. It seems clear therefore that the petitioner's marriage to the respondent is invalid because at the time of that marriage the respondent was already married to another woman and that the earlier marriage was subsisting. The petitioner's counsel concedes the point. In terms of section 34(1) of the Marriage Act



(Cap. 25:01 of the Laws of Malawi) I declare the marriage in fact celebrated between the petitioner and the respondent at the office of the Registrar of Marriages at Mangochi on 15th March 1975 to be null and void.

It was submitted on behalf of the petitioner that the respondent should nevertheless be condemned to pay the costs of these proceedings because he lied to the petitioner and to the Registrar of Marriages as to his marital status. I am satisfied from the respondent's evidence that the petitioner was quite aware of the respondent's existing marriage. She probably induced him to marry her in order to safeguard her post as a teacher.

I dismiss the petitioner's prayers and order that each party pay his or her own costs.

Pronounced in open court this 11th day of April, 1980, at Blantyre.

  
J.B. VILLIERA  
JUDGE