

IN THE HIGH COURT OF MALAWI

PRINCIPAL REGISTRY

CIVIL CAUSE NO. 504 OF 1979

BETWEEN:

JOYCE J. CHILINKHOLI .....

PETITIONER

- and -

CELSO A. CHILINKHOLI .....

RESPONDENT

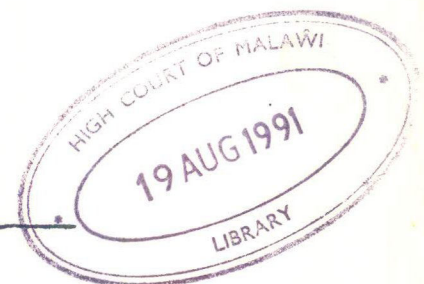
- and -

FLORA SALIFU .....

CO-RESPONDENT

CORAM: MTEGHA, J.

Kondowe, Counsel for the Petitioner  
Respondent, absent, unrepresented  
Manda, Court Reporter  
Chigaru, Official Interpreter



J U D G M E N T

The petitioner in this case Joyce Chilinkholi is seeking the dissolution of her marriage to Celso Chilinkholi, the respondent, on the grounds of adultery with the co-respondent, Flora Salifu. The petitioner, who comes from Mdoka Village, T.A. Chikowi in Zomba District is a nurse/midwife at Queen Elizabeth Central Hospital. The respondent is working for Malaŵi Railways and comes from Kasungu District.

This petition is undefended, and as much I must guard against collusion. However, there appears to be no evidence of such a collusion. I also note that both the petitioner and respondent are Malaŵians domiciled here in Malaŵi. This court has, therefore, jurisdiction to hear this petition.

The only witness was the petitioner herself. She told the court that on 6th July, 1971, she got married to the respondent at the Registrar General's Office. A certificate to this effect was issued Exh.P1. Thereafter they lived in Blantyre, Thyolo, Nsanje and Lilongwe. There are no issues of the marriage. In the course of living together a dispute arose and respondent chased her away from the matrimonial home. On 2nd October, 1982, she went to her parents in Zomba and when she came back she was told to go back because the respondent

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had another wife. She knows the woman as Flora Salifu, the co-respondent. The respondent and co-respondent are living together and have two children while she is living alone at Chilomoni. As such, she wants a divorce.

Now, as it has been stated on several occasions, it is not easy to prove adultery by direct evidence since it is committed in private. In the present case there is evidence that the respondent and co-respondent are living together and have two children from this adulterous association. In my judgment, the petitioner has proved adultery. I grant her a decree nisi that her marriage to the respondent be dissolved on grounds of adultery. I also condemn the respondent to pay costs for these proceedings.

PRONOUNCED in open Court this 21st day of March, 1988, at Blantyre.

  
H.M. Mtogha  
JUDGE