

IN THE HIGH COURT OF MALAWI

PRINCIPAL REGISTRY

CIVIL CAUSE NO.75 OF 1985

BETWEEN:

GRACE KANYIMBILI.....PETITIONER

- and -

PETER C. KANYIMBILI.....RESPONDENT

Coram: UNYOLO, J.

Nampota, Legal Aid Advocate, for the petitioner
Respondent, absent, unrepresented
Longwe, Court Reporter
Namvenya, Official Interpreter

JUDGMENT

The petitioner, Grace Kanyimbili, prays for the dissolution of her marriage to the respondent, Peter Kanyimbili, on the ground of desertion.

The proceedings are undefended. The danger of possible collusion in such cases has engaged my attention. Having however seen and heard the petitioner and having considered the total evidence tendered in this case I am satisfied that there was no collusion whatever in the presentation of the petition herein.

The pertinent facts are few. The petitioner and the respondent were lawfully married at the Registrar General's office in Blantyre on 10th October, 1981. The petitioner tendered in evidence exhibit 1, a marriage certificate, in proof of the marriage. After the celebration of the marriage the couple lived and cohabited at Chilobwe in the City of Blantyre. There is one issue of the marriage, a boy, Mabvuto Kanyimbili by name, born on 5th June, 1982. The facts show clearly that both the petitioner and the respondent are domiciled in Malawi.

The story about the marriage here is something of an oddity. I have indicated that the marriage was celebrated on 10th October, 1981. Barely three weeks later, on 1st November, 1981 to be precise, the respondent left the matrimonial home saying that he was going to Lilongwe for business.

That was the last the petitioner saw him. Her efforts to try and reunite with him or to try and find out what went wrong have been to no avail all these long years. When the child was born the petitioner sent a message but the respondent did not care to respond. He does not give her or the child any kind of support. One can only feel pity for the couple, and the child too, at what happened.

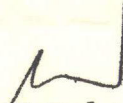
All in all I am satisfied on the evidence presented that both the factum of separation and the animus deserendi on the part of the respondent have been proved. I find the respondent to be the guilty party. In a word, I am satisfied that the petitioner has proved the charge of desertion against the respondent.

I can find no bar to granting a decree in this case. Accordingly I pronounce a decree nisi that the marriage between the petitioner and the respondent be dissolved.

The question of custody of the child and all other ancillary matters is adjourned to Chambers.

The respondent is condemned in costs of these proceedings.

PRONOUNCED in open Court this 11th day of March, 1988
at Blantyre.


L.E. Unyolo
JUDGE