



JUDICIARY

**IN THE HIGH COURT OF MALAWI
PRINCIPAL REGISTRY
CIVIL CAUSE NUMBER 1 OF 2009**

BETWEEN:

ENOSI PASIYANO.....PLAINTIFF

-AND -

NELLIE PASIYANO.....DEFENDANT

CORAM: THE HONOURABLE JUSTICE E. B. TWEA

The Plaintiff in person

The Defendant in person

Mrs Matekenya – Official Interpreter

R U L I N G

Twea, J

The parties appeared before the Second Grade Magistrate court on a petition for divorce. The court granted the divorce and referred the case to this court for distribution of property.

The parties confirmed the property that was disclosed in the lower court. There controversy was on cattle. The plaintiff maintained that he gave the defendant one cow which was in calf twice. The defendant does not dispute this. She conceded that she gave a calf to her son. However, she contended that she did not move the cow to her home. Further that the cow was one of the two heads that they had when they moved to the land that she and the plaintiff had acquired. What is clear however, is that the defendant had her share of cattle. It does not appear true to me that the defendant would receive the cow and keep it in the plaintiffs village. I find the

evidence of the plaintiff more credible on this point that she took her cow to her village. I therefore find that the cattle was already distributed by the time of the divorce.

There was no dispute about the beds. The plaintiff said that of the five beds, one was acquired by him before the marriage. I therefore find that there are only four beds. I order that each gets two beds.

There are two mattresses. I order that each gets one. There are two milk churns I order that each gets one. There were two bicycles and it is agreed that they were distributed before the divorce.

There are two cupboards. I order that each gets one. There are two wall clocks. I order that each gets one. There are three radios I order that the plaintiff gets two and the defendant gets one.

There are thirty plates. I order that they share 15 each.

There are 8 tumblers – I order that they share 4 each.

There are two blankets. I order that they share one each.

The plaintiff gets the turkey and the defendant gets the two chickens.

The bath tin will go to the defendant.

The land that they acquired and built a house on being in Mmambo village which is the home of the plaintiff, will go to the plaintiff together with all the trees and crops on it.

The maize mill will go to the defendant. She has the liberty to decide where to plant it.

The drum, it was agreed belongs to the mother of the plaintiff. It is not part of the matrimonial property of the parties. It will not be distributed.

The lower court shall be responsible for the distribution of the property. Each party will bear its own costs.

Pronounced in Chambers this 23rd day of March 2009 at Blantyre.

E. B. Twea
JUDGE