



**IN THE HIGH COURT OF MALAWI
LILONGWE DISTRICT REGISTRY
ADOPTION CAUSE NUMBER 1 OF 2021**

**IN THE MATTER OF THE ADOPTION OF CHILDREN ACT
IN THE MATTER OF DF (FEMALE MINOR) OF C/O NICOLE JACOBA ANNA
CORNELIA VAN ELTEREN, AFRIANA FOUNDATION, P.O BOX 48 NKHOMA,
LILONGWE**

AND

**IN THE MATTER OF A PETITION FOR THE ADOPTION OF DF (A FEMALE
INFANT BY ROBERTO ARDUINI GOMES TEIXEIRA AND MARCIA CILENE
LOPES ARDUINI BOTH OR RUA COELHO LISBOA, NO. 573, APT.62-TAUAPE-CEP
(ZIP CODE) 03323-040, STATE OF SAO PAULO BRAZIL.**

CORUM: JUSTICE R. M CHINANGWA
Ottober Counsel for the Petitioners
Bonongwe Guardian Ad Litem
Chitao Court Clerk

JUDGEMENT

1. This court had pronounced an oral order authorizing the petitioners to adopt DF but had reserved its written judgement. This judgement serves the purpose of providing reasons for the said oral order and confirming the oral order.
2. The petition for the adoption of DF was presented by Roberto Arduini Gomes Teixeira and Marcia Cilene Lopes Arduini both of Rua Coelho Lisboa, No., 579, Apt. 62-Tatuape-CEP (Zip Code) 03323-040, State of Sao Paulo, Brazil.

3. The petitioners are married having entered into marriage on 4th October 1997 as shown in Exhibit RMA 3; Brazilian nationals (holders of Passport numbers FP 160126 and FP160127) as shown in Exhibits RMA 1 and RMA 2; by occupation a Superintendent and Operational Manager and shareholders of Acerty Holding Participacoes LTDA as shown on Exhibit RMA 8.
4. The petitioner Roberto Arduini Gomes Teixeira is 43 years of age having been born on 18th June 1977 and Marcia Cilene Lopes Arduini is 44 years of age having been born on 15th November 1976.
5. The petitioners have two children Kaique Lopes Arduine Teixeira aged 22 having been born on 7th March 1998 and Kauha Lopes Arduini Teixeira aged 15 having been born on 17th June 2005 as shown in Exhibits RMA 4 and RMA 5.
6. DF is of the female sex; unmarried; a Malawian citizen; aged 1 year 7 months having been born on 26th June 2019 as shown on Exhibit RMA 6; a resident of Afriana Foundation at Nkhoma Lilongwe and is entitled to no property.
7. It is said of DF that no person is liable to contribute to the support of DF; she has not been a subject of an adoption order or an application or petition for an adoption order.
8. The petitioners commit to provide for her as a dependant.
9. It is said of DF that her biological father Fred Zande; maternal grandmother Maliyana Yosiki and maternal aunt Lodiya Perekeza gave their consent that DF can be adopted as her biological mother is deceased as shown on the death certificate Exhibit RMA 7. They confirmed to the court that they have not received or agreed to receive and no person has made or given or agreed to make or to give the petitioners any payment or reward in consideration for the adoption of DF.

10. The Guardian Ad Litem recommended to the court that the adoption of DF by the petitioners would be in her best interest.

Issue for Determination

11. This court has to determine whether the petition for adoption should be granted or not.

Analysis of Law and Evidence

12. The **Adoption of Children Act** has in sections 2 to 4 set out the considerations that the court should take into account in matters of adoption of children. This court finds that the petitioners have met the conditions as discussed below.

- a) DF is under the age of 21 and thus qualifies to be adopted.
- b) The petitioners are husband and wife having been married in the year 1997. Both are in agreement to adopt FW. In addition, they are both above the age of 25 years.
- c) The petitioners have received consent from the biological parent; maternal grandparent and aunt to adopt DF. The family members of DF did confirm to the court that they could not manage to take care of DF because she has a peculiar health condition which had similarly led to the death of DF's mother.
- d) DF is resident in Malawi as she lives at an orphanage in Nkhoma. The same has been confirmed by the Guardian ad Litem. The Petitioners specifically came into Malawi to adopt and they met DF at the orphanage called Afriana Foundation. The residency requirement has been met as they came into the country for this purpose.
- e) The adoption of DF would be in her best interest as the petitioners have committed to take her into their family and raise her as their own together with their two teenage

children who were present during the proceedings. The court notes that with DF health condition, she would have a second chance in life being raised in a family that is able to meet her medical costs among other needs.

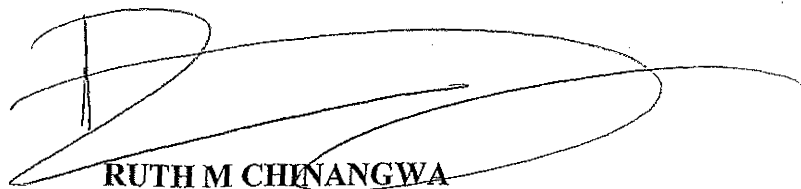
f) The petitioners have confirmed that they have not received or agreed to receive any consideration of the adoption. This court has no cause to doubt the same, as the family members confirmed the same.

13. The Guardian Ad Litem appointed in this matter, Mr. Enock Bonongwe did confirm with the court the suitability of the petitioners to adopt DF.

Finding

14. It is ordered that the petitioners Roberto Arduini Gomes Teixeira and Marcia Cilene Lopes Arduini both of Rua Coelho Lisboa be and are by this order authorized to adopt DF. The Registrar General of Births and Deaths is to make an entry recording this adoption in the Adopted Children register.

Pronounced this 14th day of June 2021 at LILONGWE



RUTH M CHINANGWA

JUDGE