

IN THE HIGH COURT OF MALAWI

PRINCIPAL REGISTRY

CIVIL CAUSE NO.165 OF 1985

BETWEEN:

ALICE NASANGWE.....PETITIONER

- and -

KENNETH NASANGWE.....RESPONDENT

- and -

MISS NAMBEWE.....CO-RESPONDENT

Coram: MAKUTA, C.J.

Mhone, Legal Aid Advocate, for the petitioner  
Respondent, absent, unrepresented  
Co-respondent, absent, unrepresented  
Longwe, Court Reporter  
Namvenya, Official Interpreter

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JUDGMENT

The petitioner, Alice Nasangwe, prays for dissolution of her marriage to the respondent on the ground of adultery.

On 22nd February, 1978 the parties married at the Office of the Registrar of Marriages at Mulanje Boma. After the celebration of the marriage they lived and cohabited at Likhubula Trading Centre in Mulanje District. The petitioner is a nurse working at Mulanje Hospital and the respondent is living at Zingwangwa Township in Blantyre. Both the petitioner and the respondent are Malawians. I am satisfied that both parties are domiciled in Malawi. This court, therefore, has jurisdiction to hear this petition which is not defended.

There are four children of the marriage, all females, namely, Nellie Nasangwe born on 8th December 1977, Margaret Nasangwe born on 20th August 1979, Irene Nasangwe born on 27th January 1981 and Agness Nasangwe born on 15th November 1982.

The petitioner told the court that since June, 1982 the respondent left the matrimonial home and went to live with the co-respondent at Zingwangwa Township in the City of Blantyre. The respondent and the co-respondent have since then lived and cohabited together and

have committed adultery. The law as regards proof of adultery is well settled. It is not necessary to prove adultery by direct evidence, as it is usually done in secret. Suffice it to say that the association, coupled with opportunity as evidence in this case, is enough to create an inference upon which the court can find adultery. In my judgment there is ample evidence to prove that the respondent has committed adultery since the celebration of the marriage.

I am satisfied that the petitioner has not condoned the adultery and there has been no collusion between the parties in the presentation of this petition. I see no bar in granting the petitioner's prayer. I therefore pronounce a decree nisi in her favour that the marriage be dissolved. I grant custody of the children to the petitioner but the respondent will have access to them. The respondent will pay the costs of this action.

PRONOUNCED in open Court this 13th day of July, 1987 at Blantyre.



*F.L. Makuta*  
F.L. Makuta  
CHIEF JUSTICE