

**IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA**
(Divorce Jurisdiction)



2017/HP/D.0046

B E T W E E N :

NII LANTE WALLACE BRUCE

PETITIONER

AND

AUDREY CHIPI MBULO WALLACE BRUCE

RESPONDENT

Before Honorable Mrs. Justice M. Mapani-Kawimbe in Chambers on the 8th day of June, 2017

For the Petitioner : *In Person*
For the Respondent : *Mr. P. Matimba, Messrs Lisitu Chambers*

J U D G M E N T

Legislation Referred To:

1. *Matrimonial Causes Act, No. 20 of 2007*

The Amended Petition for dissolution of marriage was filed on 25th April, 2017, by **Nii Lante Wallace Bruce**, the **Petitioner**. The Petition is presented pursuant to sections 8 and 9 (1) (d) of the Matrimonial Causes Act.

It is common cause that the Petitioner, Nii Lante Wallace Bruce, then a Divorcee and the Respondent, Audrey Chipi Mbulo were lawfully married on 24th November, 2010, by the Registrar of Marriages at Lusaka Civic Centre. The Petitioner and Respondent last lived as husband and wife at House No. 8, Foxdale Estates, Lusaka in January, 2015.

The Petitioner is a retiree and resides at Plot No. 361, Silverest Gardens, Lusaka, while the Respondent is a House wife and resides at House No. 3621, Buckley, Makeni, Lusaka. There is no child born to the Petitioner and Respondent during the subsistence of their marriage.

There are no other proceedings in any Court in Zambia or elsewhere regarding the marriage or between the Petitioner and the Respondent regarding any property of either or both of them and there is no proceedings continuing in any Court outside Zambia which are in respect of the marriage or are capable of affecting its validity or subsistence.

It is the Petitioner's testimony that the marriage has broken down irretrievably by reason of the fact that the parties have lived separate and apart for a continuous period of at least two years immediately preceding the presentation of this Petition, from January, 2015, to date.

At trial, the Petitioner confirmed the contents of his Petition. The Respondent was present and confirmed that she was not contesting the Petition and she consents to the dissolution of the marriage.

I have seriously considered the Petition filed in this matter. The only ground upon which a petition for divorce may be presented to the Court is provided in section 8 of the Matrimonial Causes Act which states thus:

"A Petition for divorce may be presented to the Court by either party to the marriage on the ground that the marriage has broken down irretrievably."

In order to prove that the marriage has broken down irretrievably, the Petitioner should satisfy the Court of one or more of the facts set out in section 9 (1) (a) to (e) of the Act. Section 9 (1) (d) which is relevant to the Petition under consideration provides as follows:

“9 (1) For the purposes of section eight, the Court hearing a petition for divorce shall not hold the marriage to have broken down irretrievably unless the Petitioner satisfies the Court of one or more of the following facts:

(d) that the parties to the marriage have lived apart for a continuous period of at least two years immediately preceding the presentation of the of the petition and the Respondent consents to a decree being granted.”

This being an undefended Petition, I find that it is not necessary to give a lengthy judgment. Suffice it to state that upon the facts stated in the Petition and confirmed by the Petitioner in his oral testimony, I am satisfied that the marriage has broken down irretrievably on the ground that the Petitioner and the Respondent have lived separate and apart for a continuous period of at least two years immediately preceding the presentation of this Petition, that is from January, 2015, to date. They are not willing to reconcile.

I am satisfied that the Respondent does not oppose the granting of a decree nisi.

I therefore dissolve the marriage between the Petitioner and Respondent celebrated on 24th November, 2010, as prayed by the Petitioner and accordingly grant a decree nisi. The decree nisi will be made absolute six weeks from the date of this judgment.

The question of property settlement will be determined by the Learned Deputy Registrar upon application by either party.

Each party will bear their own costs.

Dated this 8th day of June, 2017



M. Mapani-Kawimbe
HIGH COURT JUDGE