

IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA

(Divorce Jurisdiction)

BETWEEN:

EDSON BENJAMIN TEMBO

Petitioner

AND

SOKA NYAU TEMBO

Respondent

Before the Hon. Mrs. Justice N.A. Sharpe-Phiri on the 24th January 2018

For the Petitioner: Mr. W. Mubanga of Messrs Chilupe & Permanent
Chambers

For the Respondent: Mrs. Soka Nyau Tembo, in person

J U D G M E N T

Authority referred to:

Matrimonial Causes Act, Number 20 of 2007 of the Laws of Zambia.

This is an undefended Petition for dissolution of marriage filed by the Petitioner, Edson Benjamin Tembo on 28th November 2017. The Petitioner seeks to dissolve his marriage to the Respondent, Soka Nyau Tembo contracted on 30th April 2005 at Abundant Life Church in Kabulonga, Lusaka Province of the Republic of Zambia.



The Petitioner contends that his marriage to the Respondent has broken down irretrievably on account of the fact that they have lived apart for a continuous period of five years immediately preceding the presentation of the Petition. He prayed that the marriage be dissolved, and that costs be borne by each party.

The matter was scheduled for hearing on 24th January 2018. On this date, the Petitioner, his Counsel and the Respondent were before Court.

The Petitioner of Stand Number 10177, Nelson Zimba Close, Nyumba Yanga, Lusaka, testified in support of his Petition that he was lawfully married to the Respondent on 30th April 2005 at Abundant Life Church in Kabulonga, Lusaka Province of the Republic of Zambia; that the parties last lived together as husband and wife at Stand Number 10177 Nelson Zimba Close, Nyumba Yanga, Lusaka. That both him and the Respondent are domiciled in Zambia; that he is currently unemployed and the Respondent is employed as a postal supervisor at Zambia Postal Service and resides at Plot Number D396 Mtendere, Lusaka; that there are no children of the family born to either of them; that there have been no previous proceedings in any Court in Zambia between him and the Respondent with reference to marriage or with reference to any property or both of them and that there are no proceedings continuing in any Court outside Zambia in respect of the said marriage capable of affecting its validity or subsistence. He states further that no arrangement has been made or proposed to be made between the parties for their support in the event of the decree nisi being granted. He also stated that his marriage to the Respondent had broken down irretrievably on account that the parties have not lived together for a continuous period of at least

five years immediately preceding the presentation of this Petition namely from July 2007 to date. He went on to confirm that there is no possibility of the parties reconciling or resuming cohabitation and prayed that the marriage be dissolved.

The Respondent confirmed that she did not have any objection to the dissolution of the marriage.

I have carefully considered the contents of the Petition as well as the evidence of the Petitioner. This Petition for dissolution of the marriage has been brought pursuant to **Section 8 and 9(1)(e) of the Matrimonial Causes Act 20 of 2007**. **Section 8** of the said Act sets irretrievable breakdown of the marriage as a sole ground of divorce. In order to establish that a marriage has broken down irretrievably, a party must prove to the satisfaction of the Court one of the facts specified in Section 9 thereof. **Section 9(1)(e)** provides that a Court shall not hold a party to have broken down unless the Petitioner satisfies it that the parties have lived apart for a continuous period of at least 5 years immediately preceding the presentation of the Petition. The Petitioner has presented his Petition on this basis that his marriage to the Respondent has broken down irretrievably by reason of the fact that they have been separated from July 2007 to date. This evidence was confirmed by the Respondent, who intimated that she has no objection to the dissolution of the marriage. I therefore accept the evidence of the Petitioner and find that he has proved the Petition.

I am satisfied that the marriage solemnized under the provisions of the Marriage Act between Edson Benjamin Tembo and Soka Nyau Tembo on

the 30th April 2005 at the Abundant Life Church in Lusaka has broken down irretrievably in terms of **Section 9(1)(e) of the Matrimonial Causes Act.**

I accordingly decree that the said marriage be dissolved and a decree *nisi* is hereby granted dissolving the marriage. The said decree is to be made absolute after six (6) weeks from the date of this judgment.

I make no orders as to maintenance or property settlement.

I order that each party shall bear their respective costs of this suit.

DELIVERED AT LUSAKA THIS 24TH DAY OF JANUARY 2018.


N.A. Sharpe-Phiri
HIGH COURT JUDGE