

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

2018/HPF/D293



BETWEEN:

TEDDY KABWE KABWE

PETITIONER

AND

IMMACULATE BANGWE KABWE

RESPONDENT

CORAM: HONORABLE MRS. JUSTICE C. LOMBE PHIRI

For the Petitioner:

Mr. E. E. Eyaa of Messrs KBF & Partners

For the Respondent:

In Person

JUDGMENT

Legislation referred to:

- (i) *The Marriage Act Chapter 50 of the Laws of Zambia*
- (ii) *Matrimonial Causes Act No.20 of 2007 of the Laws of Zambia*

This is a matrimonial Petition launched by the Petitioner **Teddy Kabwe Kabwe** against the Respondent **Immaculate Bangwe Kabwe** for the dissolution of marriage alleging that the marriage which was

lawfully celebrated on 9th August, 2013 at the office of the Registrar of Marriages under the Marriage Act has irretrievably broken down.

The ground is that the Petitioner and the Respondent have continuously lived apart as man and wife for a period of at least 2 years immediately preceding the presentation of the matrimonial petition and the Respondent consents.

At the hearing of the Petition, I was satisfied that the Respondent had been duly served with process as evidenced by the acknowledgement of service by the Respondent and also by the consent to the decree nisi filed into Court on 10th September, 2018

I was fortified in my view by the fact that the Respondent has approved on the hearing. I therefore signaled the Petitioner to present his matrimonial petition.

PW1 was Teddy Kabwe Kabwe the Petitioner himself. He gave sworn evidence. It was his testimony that the Petitioner was on 9th day of August, 2013 lawfully married to the Respondent under the Marriage Act¹ at the office of the Registrar of marriages at the Lusaka Civic Centre as evidenced by the marriage certificate admitted as exhibit P1.

After the celebration of marriage, the parties lived as husband and wife at Plot No. 196/04 Kabangwe Residential Area, Chibombo. The Petitioner is a Lecturer at Cavendish University whilst the Respondent is unemployed.

Both parties are domiciled in Zambia.

There are three children of the family namely:

- (i) Kelly Kabwe (male), born on 13th October, 2013;
- (ii) Immaculate Kabwe (female), born on 15th May, 2014 and;
- (iii) Chanda Kabwe (female), born on 19th December, 2016.

There are no other children born of the parties before or during the subsistence of the marriage.

There is one child born of the Respondent before the subsistence of the marriage namely:-

- (i) James aged 11 years.

There are no proceedings subsisting in Zambia or elsewhere in the world that might affect the validity of the marriage and property settlement.

It was his testimony that the marriage has broken down irretrievably on the ground that the parties have continuously lived apart as man and wife for a continuous period of at least 2 years immediately preceding the presentation of the petition and the Respondent consents to the dissolution of marriage as evidenced by the consent dated 10th September, 2018 admitted as exhibit P2.

The Petitioner concluded by praying for the dissolution marriage. The Petitioner was not cross examined. The Petitioner then rested his case.

The Respondent (Immaculate Bangwe Kabwe) gave sworn evidence.

She confirmed the evidence of the Petitioner in all material respects in respect of the celebration of the marriage and its subsequent irretrievable break down.

She confirmed she consents to the dissolution of marriage as evidenced by exhibit P2 and prayed for a decree nisi.

UPON reading the matrimonial Petition of the Petitioner and UPON hearing the evidence of both the Petitioner and the Respondent and UPON sight and perusal of the Marriage certificate being exhibit P1

AND UPON sight and perusal of the Respondents consent to the decree filed on 10th September, 2018 I am satisfied that the marriage which was lawfully celebrated on the 9th day of August, 2013 under the Marriage Act at Lusaka Civic Centre has irretrievably broken down on account of the fact that the parties have continuously lived apart as husband and wife for at least 2 years immediately preceding the presentation of the matrimonial petition pursuant to Section 8 and 9 (1) (d) of the Matrimonial Causes Act² as evidenced by exhibit P2.

I accordingly grant a decree nisi pursuant to Section 41 of the Matrimonial Causes Act and I make the following orders:-

- (i) The Decree nisi shall become absolute after 6 weeks unless cause is shown why the same cannot be made absolute.
- (ii) I refer the issue of the custody of the children of the family to myself for determination within 30 days from the date

hereof on application by either party in default of agreement.

(iii) I refer the following issues to the Learned Deputy Registrar for determination

(a) maintenance of the children of the family;

(b) maintenance of the parties;

(c) property settlement (if any);

The application should be made within 30 days from the date hereof on application by either party in default of agreement.

(iv) Each party to pay their own costs.

No appeal lies against a consented to decree nisi dissolving the marriage.

Delivered under my hand and seal this 29th day of December, 2018



**C. LOMBE PHIRI
JUDGE**