

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

2020/HPF/D070



BETWEEN:

MIRRIAM NAMANGOLWA KUFANGA LILENJE

PETITIONER

AND

ANTHONY CHUNGA LILENJE

RESPONDENT

Before the Hon. Lady Justice C. Lombe Phiri in Chambers

For the Petitioner : *Ms Chileshe - Legal Aid Board*

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 **Miriam Namangolwa Kufanga Lilenje** against the Respondent **Anthony Chunga Lilenje** for the dissolution of marriage alleging that the marriage which was

lawfully celebrated on the 6th October, 2012 at Mary Immaculate Parish, Lusaka under the Marriage Act had irretrievably broken down.

The ground is that the Petitioner and the Respondent have continuously lived apart as man and wife for a period of atleast 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 5th February, 2020.

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

PW1 was **Mirriam Namangolwa Kufanga Lilenje** the Petitioner herself. She gave sworn evidence. It was her testimony that the Petitioner was on 6th day of October, 2012 lawfully married to the Respondent under the Marriage Act¹ at the office of the Registrar of Marriages at Mary Immaculate Parish, Lusaka as evidenced by the marriage certificate admitted as exhibit P1.

After the celebration of marriage, the parties lived as husband and wife at Chinkuli Primary School in Chongwe. The Petitioner and Respondent are both teachers.

Both parties are domiciled in Zambia.

There are no children of the family.

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

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 her 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 5th February, 2020 admitted as exhibit P2.

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

The Respondent **Anthony Chunga Lilenje** gave sworn evidence.

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

He confirmed he 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 5th February, 2020, I am satisfied that the marriage which was lawfully celebrated on the 6th day of October, 2020, under the Marriage Act at Mary Immaculate Parish, Lusaka 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) Each party to pay his or her own costs.

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

Delivered under my hand and seal this 6th day of August, 2020.



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C. LOMBE PHIRI
JUDGE