

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

2020/HPF/D0340



BETWEEN:

CAROLINE CHINYAMA HAAZELA

PETITIONER

AND

CHRISTOPHER MUKKULI

RESPONDENT

Before the Honorable Lady Justice C. Lombe Phiri in Chambers

For the Petitioner:

In Person

For the Respondent:

N/A

J U D G M E N T

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 **CAROLINE CHINYAMA HAAZELA** against the Respondent **CHRISTOPHER MUKKULI** for the dissolution of marriage alleging that the marriage which

was lawfully celebrated on 20th October, 2020 at the office of the Registrar of Marriages 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 at least 5 years immediately preceding the presentation of the matrimonial petition.

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.

I therefore signaled the Petitioner to present her matrimonial petition.

PW1 was **CAROLINE CHINYAMA HAAZELA** the Petitioner herself. She gave sworn evidence. It was her testimony that the Petitioner was on 20th day of October, 2000 lawfully married to the Respondent under the Marriage Act¹ at the office of the Registrar of marriages at the Lusaka Civic Center 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. 7579, Off Buluwe Road, Woodlands Extension, Lusaka.

The Petitioner is a Broadcaster whilst the Respondent is a Businessman.

Both parties are domiciled in Zambia.

There are two (2) children of the family namely:

- (i) Mulube Mukkuli (male), born on 23rd April, 2001; and
- (ii) Kasamba Milimo Mukkuli (female), born on 23rd March, 2003.

There is one child born of the Petitioner during the subsistence of the marriage namely:-

- (i) Dalitso Phiri (male) born on 31st July, 2009.

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 5 years immediately preceding the presentation of the petition.

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

The Respondent was not present.

UPON reading the matrimonial Petition of the Petitioner and the Respondent's acknowledgment of service and UPON hearing the evidence of the Petitioner and UPON sight and perusal of the Marriage certificate being exhibit P1

I am satisfied that the marriage which was lawfully celebrated on the 20th day of October, 2000 under the Marriage Act at Lusaka Civic Center has irretrievably broken down on account of the fact that the parties have continuously lived apart as husband and wife for at least 5 years immediately preceding the presentation of the matrimonial petition pursuant to Section 8 and 9 (1) (e) of the Matrimonial Causes Act².

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 child/children of the family namely Mulube and Kasamba 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) 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 his or her own costs.

Delivered under my hand and seal this 25th day of August, 2020.

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C. LOMBE PHIRI
JUDGE