

IN THE SUBORDINATE COURT OF THE FIRST 2016/CRMP/LCA/292
CLASS FOR THE LUSAKA DISTRICT
HOLDEN AT LUSAKA

(Civil Jurisdiction)



BETWEEN:

GLADYS PHIRI
AND

APPELLANT

JOSEPH BANDA

RESPONDENT

**Before the Hon. Magistrate Mr. Humphrey Matuta Chitalu, in open court
at 09:00 hours this 18th day of May, 2017.**

For the Appellant: In Person

For the Respondent: In Person

JUDGMENT

LEGISLATION REFERRED TO:

- 1. Local Court Act, Cap 29 of the Laws of Zambia, ss: 35, 56, 58**

CASES REFERRED:

- 1. Rosemary Chibwe v Austin Chibwe SCZ Judgment No. 38 of 2000**
- 2. Violet Kambole Tembo v David Lastone Tembo (2004) ZR. 79**

This matter was commenced by way of an appeal from the local court. On the 22nd September, 2015 the appellant sued the respondent in the local court for divorce on the ground of adultery. I will maintain the parties in this matter as they appeared in the court below. The appellant and respondent shall herein be referred to as plaintiff and defendant respectively.

The local court on the 6th October, 2015 dissolved the customary marriage. At the conclusion of the matter, the local court made the following pronouncements:-

1. Divorce granted;
2. No compensation awarded to either party;
3. Defendant to have custody of the three children and the Plaintiff to have custody of the youngest child and to be maintained by K100 monthly instalment with effect from 31st October, 2015 subject to yearly review;
4. All medicals, education and clothing are defendant's responsibilities; and
5. All properties and household goods acquired together whilst in marriage to be shared equally.

The Plaintiff aggrieved by the decision of the lower court appeals to this court in accordance with section 56 of the Local Court Act, Chapter 29 of the Laws of Zambia. The grounds of appeal advanced by the plaintiff are as follows:

1. The court erred by ordering that the defendant should not compensate plaintiff after staying together in marriage for 21 years with 4 children;
2. That on paper the judgment says all properties acquired together should be shared equally but verbally it was said that the house should remain for the children, and considering that the defendant was given custody of the three children of the family he is the one to occupy the house.
3. The defendant also informed court that he acquired a loan for him to build the house, it is not true because the loan was obtained recently after the house was already built; and
4. More to be heard in appeal court.

