

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

DIVORCE CAUSE NO. 98 OF 2010

NCK.....PETITIONER

V E R S U S

GVK RESPONDENT

RULING

1. The petitioner and the respondent got married on 3rd June 1989 and at the P.C.E.A [particulars withheld] Church in Nyeri under the **African Christian Marriage and Divorce Act (Cap. 151)** (now repealed). They lived in various places in Nairobi. The marriage was blessed with three (3) children.
2. On 20th July 2010 the petitioner filed this petition seeking the dissolution of the marriage on grounds of adultery and cruelty.
3. On 10th August 2011 the respondent filed an answer to the petition denying the material in the petition whose dismissal he sought. He cross-petitioned for the dissolution of the marriage on grounds of adultery and cruelty.
4. When the petition came for hearing today, the petitioner was present but the respondent was not. The petitioner amended the petition to include the ground that the marriage has irretrievably broken down because the parties have been living apart since July, 2010.
5. The petitioner adopted the petition and testified that since July 2010 the couple has been separated with little or no contact. They have had no sexual interaction since 2009. According to her, the marriage has broken down beyond repair.
6. The **African Christian Marriage and Divorce Act (Cap. 151)** was repealed by the **Marriage Act, No. 4 of 2014**. Under **Section 98 of the Marriage Act**, these proceedings are now guided by the new **Act**. **Section 65** of the **Act** provides that the irretrievable breakdown of the marriage is a ground for the dissolution of a christian marriage.
7. The petitioner's evidence was not challenged. I accept that since July 2010 the parties have lived apart, and have not related sexually since 2009. I accept that the marriage between them has irretrievably broken down. On this ground, I order the dissolution of this marriage which was celebrated on 3rd June 1989 between the petitioner and the respondent.
8. *Decree nisi* shall issue, and shall become absolute after thirty (30) days.
9. I dismiss the cross-petition by the respondent.
10. I make no order as to costs.

DATED and DELIVERED at NAIROBI this 27TH day of JUNE, 2019.

A.O. MUCHELULE

JUDGE