

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 174 OF 2014

BETWEEN

JDT.....PETITIONER****

AND

PDT.....RESPONDENT****

JUDGEMENT

1. Marriage was celebrated between the parties herein on 20th May 1997 at the United Reformed Church, [Particulars Withheld] County of Surrey in the United Kingdom. A certificate of marriage serial number [Particulars Withheld] was issued to them in accordance with the Marriage Act, 1949. The couple thereafter cohabited at various addresses in Nairobi, Kenya, as husband and wife. They were blessed with issue, two children, SPT (born 8th December 1974) and NZ (born 7th March 1979).
2. The petition in this matter was filed in court on 27th August 2014. The petitioner accuses the respondent of adultery. He is accused of committing adultery with various women unknown to the petitioner, but he is said to be currently living with a known woman, GWN.
3. The petition was served on the respondent on 2th October 2014, as per the affidavit of service filed in the matter on 6th October 2014, sworn by counsel for the petitioner, Bernadette Quadros. There is also on record an acknowledgement of service, dated 2nd October 2014, duly signed by the respondent and filed in court on 4th October 2014.
4. The respondent entered appearance on 6th October 2014, he did not file answer to the petition nor a cross-petition.
5. On 4th December 2014 the Deputy Registrar certified that the matter proceeds for hearing as an undefended cause. As there is no reply to the petition, the petitioner's allegations, as made in the petition, remain uncontroverted.
6. The petitioner testified on 5th February 2015 and gave vent to the allegations made in her petition. She told the court that she and the respondent had entered into an agreement on division of matrimonial property, which was filed in court on 19th November 2014. She asked the court to incorporate the agreement in the order that it ultimately make no counter evidence was given by the respondent, and therefore the petitioner's story was not controverted.
7. I am satisfied from the recorded evidence that the respondent committed adultery.
8. It would appear to me that the marriage between the parties herein has irretrievably broken down. It would also appear to me that there has been no collusion between the petitioner and the respondent in the bringing of these proceedings. There is also no evidence that the petitioner has condoned the adultery proved in the matter.

9. I hereby dissolve the marriage celebrated between the petitioner and respondent on 21st May 1997. Decree *nisi* shall issue forthwith and shall be made absolute after thirty (30) days. The property acquired by the parties during marriage shall be dealt with in terms of the agreement between the parties executed on 17th November 2014 and filed herein on 19th November, 2014. Maintenance of the petitioner to be subject to the terms of the said agreement. Costs to follow the event.

DATED, SIGNED and DELIVERED at NAIROBI this 25TH DAY OF SEPTEMBER, 2015.

W. MUSYOKA

JUDGE

In the presence of for the petitioner.

In the presence offor the respondent.