REPUBLIC OF KENYA

High Court at Nairobi (Nairobi Law Courts)

Divorce Cause 129 of 2011

B. M. G.....….PETITIONER

VERSUS

Y. O….....RESPONDENT

JUDGEMENT

1. The delay in delivery this judgement which was caused by my preparation for and attendances before the Judges & Magistrates Vetting Board is regretted.

2. The petitioner in the Divorce Cause No. 129 of 2011 married the respondent under the Marriage Act (Chapter 150 of the Laws of Kenya) on 28th March 2008. The marriage was formalized at the office of the District Commissioner's Office as proved by the Marriage Certificate No: [....] produced before court as an exhibit.

3. The petitioner prays that this court issues a decree for nullity of the said marriage on the ground that the same is null and void for reason of the respondent's unexplained desertion and abandonment. Particulars of the said desertion by the respondent are set out in paragraph 7 of the Petition as supported by the petitioners' verifying affidavit of 19th July 2011. The respondent is said to have abandoned the petitioner few months after the marriage and relocated to the United Kingdom where she has resided since, without showing any intention of either returning to Kenya or facilitating the petitioner's travel thereto for possible cohabitation.

4. Despite being served with the petition on 1st December, 2011 the respondent neither appeared in the Cause nor filed any papers in response thereto. The petition therefore proceeded ex parte, with a hearing notice having been served on the respondent but equally ignored.

5. In his sworn testimony, the petitioner told the court that there were no issues of the marriage. He considers the marriage to be irredeemable since the respondent has taken up her previous domicile and has no intention to either return to Kenya or to have the petitioner join her in the United Kingdom.

6. I have considered the petitioner's evidence which is unchallenged. He has good cause to complain about the marriage to the respondent, which appears to have been a ploy by the respondent who appears to have had no real intention of becoming a wife.

7. I find that, in the desertion and the apparent lack of interest on the part of the respondent in the said marriage the same is no marriage at all. I see no evidence that the petitioner has condoned the actions of the respondent.

8. I am satisfied that the facts, as presented before me clearly and show that the marriage of 28th March

2008 between the petitioner and the respondent has irretrievably broken down. I see no evidence that the petition was presented in collusion between the parties.

9. Accordingly, I decree that the said marriage between the petitioner and the respondent be dissolved. A decree nisi shall issue forthwith in that respect, to become absolute after one month.

DATED, SIGNED and DELIVERED at NAIROBI this 20th DAY OF December, 2012.

M.G. MUGO
JUDGE

In the presence of :

Mr. Ngechu for the petitioner.

No appearance for the respondent**.**