

**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)**

Divorce Cause 24 of 2009

**C.L. A.O.....PETITIONER
VERSUS
H. C. H.....RESPONDENT**

JUDGMENT

C.L.A.O (the petitioner) was married to H. C.H (the respondent) on 11th November 2005 at the Registrar's Office in Nairobi. Upon their marriage, the petitioner and the respondent cohabited together as husband and wife in Kenya and in Germany. The marriage was not blessed with any children. According to the petitioner, sometime in 2006, the respondent deserted from their matrimonial home in Kenya and went to Germany. She averred that, since then, the respondent had not returned to the matrimonial home. She stated that from that time they have been living separately. In her view, the marriage had irretrievably broken down to the extent that there was no chance that it would be salvaged. She asked the court to grant her petition for divorce. The respondent was served with the petition but chose not to enter appearance in these proceedings. This petition was therefore heard in the absence of the respondent.

In her testimony before court, the petitioner reiterated the contents of her petition. She testified that since 2006 when the petitioner left Kenya, they had not had an amicable communication communicated with each other. She further testified that although the respondent had notified her that he would make arrangements to have her relocate to Germany, up to the date of her testimony in court, the respondent has made no such arrangement. It is on that basis that the respondent formed the opinion that the respondent had abandoned her. I have carefully considered the facts of this case. The evidence adduced by the petitioner is uncontroverted. It is clear that the petitioner has established that indeed the respondent deserted from the matrimonial home over four (4) years ago. Although the petitioner did not adduce any evidence in regard to any effort that was made to reconcile the parties, it was clear to the court that the marriage between the petitioner and the respondent had irretrievably broken down with no possibility of salvage. A separation of four (4) years is sufficient proof of the fact that the petitioner and the respondent have grown apart. I will allow the petition for divorce.

The marriage celebrated between the petitioner and the respondent on 11th November 2005 is hereby annulled. Decree nisi is hereby issued allowing the said petition for divorce. The decree nisi shall be made absolute within thirty (30) days of today's date. There shall be no orders as to costs.

DATED AT NAIROBI THIS 13TH DAY OF MAY 2010

**L. KIMARU
JUDGE**