



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (MILIMANI LAW COURTS)
DIVORCE CAUSE NUMBER 115

S.P.A PETITIONER

VERSUS

R.M.O. RESPONDENT

JUDGMENT

The Petitioner S.P.A and the Respondent R.M.O entered into a statutory Marriage at a P.A.G Church on 5th July, 2003. They obtained a marriage certificate of the same date. They soon thereafter consummated the marriage in Nairobi. Soon after, however, serious and irreconcilable differences pervaded the marriage. Although evidence shows that most of the differences occurred due to the mode of sharing their incomes and how they each used the money, clearly their philosophies differed markedly. They soon started quarrels and lost respect for each other. Each partner began to operate recklessly to the other, thus aggravating their marital relationship. There is suggestion that they began being unfaithful to each other to the point where infection of sexually transmitted diseases occurred. There is evidence further that their joint bank account was so improperly used that their savings therein was misused by one or the other, until they could not even pay their monthly domestic house rent.

By 15th June 2004, the marriage had become abhorrent. They no longer wanted to see each other let alone talk and co-operate with each other.

On 7th July, 2005 they agreed to part ways. They agreed that the Respondent leave the matrimonial home while the petitioner was to continue living there. They have never since gone back to each other. They now want their marriage to be dissolved.

The Petition was not answered but instead the Respondent who did not want to oppose the dissolution, filed an affidavit saying that the marriage is broken and cannot be reconciled.

I have considered the Petition and the evidence supporting it. Although the evidence to prove adultery and cruelty is very weak, it is not opposed and therefore stands. But most importantly, the marriage itself is dead. Indeed it never really took off from the start, apart from being lawfully entered. Quarrels started almost immediately it was entered. The parties later voluntarily separated. They do not appear to wish to talk to each other. It therefore appears to the court that the best thing to do is to dissolve a marriage that exist in name only. In other words, it has irretrievably broken down and public interest policy would require that it be terminated, to set the two parties free to chart a fresh course in life.

ORDERS

1. The marriage entered by S.P.A and R.M.O on 5th July 2003 is hereby declared dissolved.
2. A decree Nisi shall issue for six months with liberty to either party to apply to make it absolute.
3. No order as to costs.

Dated and delivered at Nairobi this 29th of May 2008.

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D A ONYANCHA

JUDGE