

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KERICHO

Divorce Cause 8 of 2007

LC.....PETITIONER

VERSUS

BWO.....RESPONDENT

JUDGMENT

The petitioner, LC was married to the respondent BWO on the 1st March 2002. The said marriage was celebrated at the Registrar's Office in Nairobi. In her petition for divorce, the petitioner averred that the said marriage was not blessed with any children. She averred that since the celebration of the said marriage, she had not lived or cohabited together with the respondent as husband and wife. The petitioner stated that the said marriage had irretrievably broken down due to reluctance by the respondent to nurture the said marriage. She therefore prayed for the said marriage to be dissolved. When the respondent was served, he entered appearance. He denied that he had failed to nurture the marriage. He averred that the petitioner had duped him into celebrating the said marriage for her own selfish purposes. He averred that the petitioner married him so as to obtain a marriage certificate which would enable her to travel and work in Saudi Arabia. He stated that the petitioner had treated him with cruelty when he visited her in Saudi Arabia. He cross-petitioned, to be divorced from the petitioner. He further prayed for costs of the petition.

At the hearing of the petition, the petitioner reiterated the contents of her petition for divorce. She testified that after celebrating the said marriage, she discovered that the respondent was married to a woman called Justine. She stated that the respondent had contributed to her sacking from employment when he wrote threatening letters to his employer. She denied that she had committed adultery with europeans when she was residing at Mombasa. She denied that she had mistreated the respondent when he visited her in Riyadh, Saudi Arabia. She reiterated that since she married the petitioner, they had not lived together as husband and wife. She therefore prayed for the court to grant her petition for divorce.

On his part, the respondent testified that he had been duped by the petitioner into marrying her. He testified that the petitioner married him for the purposes of obtaining a marriage certificate which enabled her to obtain employment. He testified that he was mistreated by the petitioner when he had visited her in Riyadh, Saudi Arabia. He recalled that the petitioner was so hostile to him, that he made a decision to return home to Kenya. He testified that when the petitioner returned to Kenya, she went to his house in his absence and took away all the household goods. He maintained that the reason why their marriage could not work was because the petitioner had adulterous relationships with europeans when she came back to Kenya. He urged the court to dismiss the petition for divorce and allow the cross-petition for divorce.

I have considered the evidence adduced by the parties to these divorce proceedings. It is clear from the evidence adduced that the relationship between the petitioner and the respondent had deteriorated to the level that it would only be fair and just to grant them their wish to have their separate lives. From the perspective of the petitioner, the marriage was doomed from the moment it was celebrated because the respondent was unwilling to nurture it. On his part, the respondent is of the view that the petitioner had celebrated the said marriage for the purposes of obtaining a marriage certificate to secure employment. The respondent was of the view that the petitioner had cheated him into accepting to marry her. The petitioner and the respondent accused each other of being unfaithful. Whereas the petitioner maintained

that the respondent was living with another woman called Justine, the respondent told the court that the petitioner had adulterous relationships with several men of European extraction.

It is evident from the foregoing that the marriage between the petitioner and respondent has irretrievably broken down. The petitioner and the respondent have been living apart for a period of over five years. The chance of the petitioner and the respondent being reconciled is remote. The petitioner and the respondent have lost trust of each other. Their marriage was not blessed with any children. I hereby declare that the marriage between the petitioner and the respondent which was celebrated on the 1st March 2002 at the Registrar's Office, Sheria House in Nairobi be and is hereby dissolved. I therefore grant the petitioner a *decree nisi* for divorce. The *decree nisi* shall be made absolute three months from today's date.

I make no orders as to costs.

DATED at KERICHO this 7th day of November 2007

L. KIMARU

JUDGE