

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

Divorce Cause 94 of 2003

J C P PETITIONER

AND

A M P ... RESPONDENT

JUDGMENT

The petitioner in this divorce cause sought for an order of dissolution of the marriage that was solemnized with the respondent on 26th November, 1988 at the Residence of Netherlands Ambassador, Matundu Road Nairobi. However, the petitioner did not attend court on the day of the hearing and the petition was dismissed for want of prosecution.

The respondent who had filed an answer to the petition and similarly cross petitioned for the dissolution of marriage proceeded to give evidence in support of the cross petition.

According to the respondent, both parties are domiciled in the Republic of Kenya and there are no issue of the said marriage. According to the respondent, she met the petitioner when she was a teenager at the age of 16 years. There was no other meeting until after 20 years when she met the petitioner in 1985 in Holland and the respondent organized for the petitioner to visit Kenya in 1986. They cohabited as man and wife and eventually they got married in 1988 and moved in their own house within Ridgeways Estate Nairobi.

The respondent is a shareholder and Director of Jet Travel Ltd. And in that capacity she organized to have the petitioner employed in the said company. Problems started to arise in their relationship when the respondent realized that the petitioner was having an affair with the office staff. The respondent came across information that the respondent had ordered to purchase jewellery for a member of staff called E.

Upon further investigations, the respondent realized that the petitioner was also involved in another member of staff called J who confirmed to the respondent that she indeed used to have extra marital affair with the petitioner even in the matrimonial home of the respondent. This revelation caused the respondent tremendous anxiety and humiliation especially between members of staff who preferred to take instructions from the petitioner instead of the respondent who was the Director of the company. The petitioner was forced to resign from the company and in order for him to claim his terminal dues and pension he wrote a resignation letter dated 31/7/1997 whereby he admitted that the reason for the resignation was because of his involvement with a member of staff which relationship affected the operation of the company. The said letter was produced as an exhibit. The petitioner further testified and reiterated the incidence of cruelty contained in the cross petition. She gave a detailed account of how she suffered emotional trauma as the petitioner neglected her emotional needs and denied her conjugal rights while pretending to be sick which neglect and abandonment nearly caused the respondent mental breakdown. Besides the psychological violence, the petitioner failed to provide any financial support or to contribute in any way or to maintain the respondent. Due to all these incidences, the respondent testified that the marriage is irretrievably broken down and she therefore sought for its dissolution.

I have carefully considered the respondent's evidence and the cross petition which were not at all challenged. I am satisfied that this petition was not brought through collusion but for reasons that the marriage herein has irretrievably broken down due to the petitioner's adulterous relationship, his cruelty and neglect of the respondent.

Accordingly I am satisfied that the respondent has been able to prove her case to the required standard

and I accordingly pronounce the decree of divorce and dissolve the marriage that was solemnized on 26th November 1988. The decree nisi shall issue for the statutory period of 3 months.

Costs of this cross petition to the respondent.

It is so ordered.

Judgment read and signed on 15th July 2005.

M. KOOME

JUDGE