

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

DIVORCE CAUSE NO. 100 OF 2013

R.G.N.....PETITIONER

VERSUS

J.K.N.....RESPONDENT

JUDGMENT

1. The Petitioner R.G.N. and the respondent J.K.N. got married in 1984, and have grown children. Their matrimonial home is at [particulars withheld] in Nairobi. They separated in 2000 or 2002, according to the petitioner, or 2003, according to the respondent, and have since lived apart. They had no conjugal relationship.

2. On 15th May 2013 the petitioner filed this petition seeking the dissolution of the marriage on grounds of cruelty, desertion and that the marriage had irretrievably broken down.

3. The respondent filed an answer to the petition and a cross-petition for the dissolution of the marriage. For the cross-petition, she alleged cruelty and adultery. Because the relationship had not been formalised, she asked for a declaration that there existed a marriage recognisable in law.

4. The petitioner testified and stated as follows:

“I seek divorce from the respondent. I married the respondent in 1984 and lived together until 2000 or 2002 when she left my home. We have two children who are 23 and 29....”.

5. In her testimony, the respondent referred to their relationship as a marriage in respect of which she wanted a divorce. I find that the parties were married for all purposes.

6. Under the **Marriage Act No. 4 of 2014**, the irretrievable breakdown of a marriage is a ground for divorce under any form of marriage. The petitioner and respondent have lived apart for over 14 years, and have had no conjugal relationship since. Each party acknowledged during the hearing that the marriage had broken down beyond repair.

7. On the ground that the marriage between the petitioner and the respondent has irretrievably broken down, I order its dissolution. I ask that each side bears own costs.

DATED and DELIVERED at NAIROBI this 15th day of JUNE 2017.

A.O. MUCHELULE

JUDGE