

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

DIVORCE CAUSE NO. 93 OF 2013

R M.....PETITIONER

VERSUS

C O.....RESPONDENT

JUDGMENT

1. The uncontroverted evidence of the respondent C O was that on 16th November 2011 he married the petitioner R M at the office of the Registrar of Marriages at Nairobi. The petitioner is an American national and was working there. The couple stayed together for about a month. She returned to the U.S.A. on 9th December 2011, promising to go and arrange for him to join her. She did not return. He communicated with her for a while, but later she stopped responding to his mails.

2. On 30th April 2014 she filed this petition for divorce on grounds of cruelty and that the marriage has broken down beyond repair. The respondent filed an answer and a cross-petition for divorce on grounds of cruelty, desertion and that the marriage had broken down beyond repair. He gave evidence during this hearing.

3. The petitioner did not testify. She instead filed an affidavit. Directions were given that this matter be heard as a defended cause. Parties were to testify. No leave was granted, or direction given, that any party would proceed by affidavit evidence. However, the value of affidavit was the averment therein that the marriage between the two had irretrievably broken down.

4. The couple has lived apart for about five years, without communication. There is nothing left of the marriage. On the ground that the marriage has irretrievably broken down, I grant the order for its dissolution. *Decree nisi* shall issue and shall become absolute after 30 days. Each party shall bear own costs.

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

A.O. MUCHELULE

JUDGE