

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

DIVORCE CAUSE NO. 99B OF 2012

N W MPETITIONER

VERSUS

J A VRESPONDENT

JUDGMENT

1. The Petitioner and the Respondent got married on 31st October 1998. After the said marriage they lived together as husband and wife in Tanzania. The marriage was not blessed with any children and they adopted 2 children since they lived in Tanzania, Uganda, UK, China, Cambodia, Kenya and Ethiopia and moved back to Kenya in 2010.
2. On 5th of January 2012 the petitioner filed the petition seeking that the marriage between the petitioner and respondent be dissolved and/or annulled. The said petition was amended on 31/08/2012. On 24th August 2012 the respondent filed an answer to the petition and cross petition. On 5th September 2012 the petitioner filed another amended petition which was further amended in court orally on the 4th of June 2015 withdrawing the grounds of adultery and cruelty and substituted the same with the ground of irreconcilable differences, particulars which are that the petitioner and the respondent have lived apart for the last 3 years for the reasons that they have been unable to sustain a cordial relationship between themselves and that the respondent resides in Indonesia and the UK and the petitioner resides in Kenya which circumstances have made it difficult for them to sustain a relationship. In his cross petition he seeks a dismissal of the petitioner's petition and that the marriage between him and the respondent be dissolves and seeks joint legal custody of M V. On the 4th of June 2015 the respondent's counsel withdrew the cross petition and it was agreed that there would be no orders as to costs for cross petition and petition.
3. The cause came for hearing on 4/6/2015. The petitioner testified that when they got married their marriage was not blessed with any children and they adopted 2 children both girls M V and L W V, hereinafter aged 7 years 4 months and 3 years `10 months respectively. That they completed the adoption of one child and were in the process of completing the other adoption when the marriage or relationship fell apart. They have lived in Uganda, the UK, China, Cambodia, Kenya, Ethiopia and Indonesia and in 2010 they were in the process of resettling back in Nairobi. The parties have lived separately since 2012. She seeks the marriage to be annulled so that they can live separately.
4. On cross examination by Mrs. Michuki for the respondent she testified that the marriage started having issues way back in and they had sought counseling in Indonesia but the events turned in 2012.
5. The Respondent did not testify, but his Counsel represented him in court.
6. The petitioner seeks divorce on grounds of irreconcilable differences. Under Section 66(2) of the Marriage Act 2014 a court can dissolve a marriage on grounds of irretrievably broken down. It is the petitioners evidence that attempts at reconciliation have not been fruitful and that they have lived apart from 2012. I find that there is irreconcilable difference between the parties and this court dissolves the marriage between the petitioner and the respondent celebrated on the 31st October 1998. A *decree nisi* to issue and to be made absolute within 30 days. No orders as to costs. It is so ordered.

Dated signed and delivered this **13th** Day of **July** 2015.

R. E. OUGO

JUDGE

In the presence of:

.....**Petitioner**

.....**Respondent**

Ms. Charity

Court Clerk