

**IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA**
(Divorce Jurisdiction)

2017/HPF/D285



BETWEEN:

GRACE BINA GONDWE KABWE

PETITIONER

AND

MATHIAS MWAYA KABWE

RESPONDENT

For the Petitioner: In person

For the Respondent: In Person

J U D G M E N T

Legislation Referred to:

- (i) The Marriage Act Chapter 50 of the Laws of Zambia*
- (ii) Matrimonial Causes Act No.20 of 2007*

The Petitioner herein this matter launched a matrimonial petition **Grace Bina Gondwe** on 13th November, 2017 against the Respondent **Mathias Mwaya Kabwe** for a decree nisi.

At the hearing the Respondent appeared and there was consent signed on 15th November, 2017. I was therefore satisfied that the Respondent had been duly served with the matrimonial petition and

the accompanying documents and I allowed the presentation of the petition.

The Respondent gave sworn testimony.

She testified the parties were lawfully married under the **Marriage Act**¹ on 28th July, 2012 as evidenced by exhibit P1 the Marriage certificate. The parties then cohabited as man and wife at house No. 02-45 Kalonga Street, Kabwata up to January, 2014. Both parties are domiciled in Zambia.

The Petitioner is a Senior Administration Officer with Discover Health Project whilst the Respondent is a Business analyst with Zambia Development Agency. There are no children of the family nor are there any children born to the parties outside wedlock.

There are no proceedings in Zambia or elsewhere in the world that might affect the validity of their marriage nor matrimonial property.

It was her evidence that the marriage has broken on the ground that the marriage has irretrievably broken down on the situational fact that the parties have lived apart as man and wife for a period of over 2 years immediately preceding the presentation of the petition and that Respondent consents to the decree nisi as evidenced by exhibit P2.

She therefore prayed for a decree nisi. She was not cross examined and she rested her case.

The Respondent gave affirmed evidence. He confirmed the evidence of the Petitioner indicating that he had not withdrawn his consent and he also wished the Court to grant the decree nisi for the dissolution of marriage.

Upon reading the petition and scrutinizing the exhibits P1 and P2 and upon hearing the evidence of both parties, I am satisfied that the marriage which was lawfully celebrated on 28th July, 2018 by the parties at the Anglican Cathedral of the Holy Cross Church in Lusaka under the Marriage Act¹ has irretrievably broken down pursuant to Section 9 (1) (d) of the Matrimonial Causes Act² and that the Respondent consents to the decree nisi as aforesaid on the situational fact that the parties have lived apart for a continuous period of atleast 2 years immediately preceding the presentation of the petition.

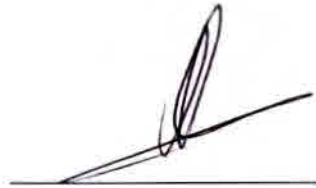
I accordingly grant the **decree nisi** pursuant to Section 41 of the Matrimonial Causes Act² and I make the following orders:-

- (1)The decree nisi shall become absolute after six days from the date hereof unless cause is shown why the same should not be made absolute.

- (2)I refer the issues of maintenance of the parties and property settlement to the Learned Deputy Registrar for determination on application by either party within 30 days from the date hereof in default of agreement.

(3) Each party shall bear its own costs.

Delivered under my hand and seal this 5th day of March, 2018

A handwritten signature in black ink, consisting of a stylized, cursive 'M' followed by a horizontal line extending to the right.

Mwila Chitabo, SC
Judge