

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

**2019/HPF/D269**

**BETWEEN:**

**CHIKO SIMBALA**

**AND**

**NGELA MUNALULA LIAYO SIMBALA**



**PETITIONER**

**RESPONDENT**

**CORAM: HONORABLE MR. JUSTICE MWILA CHITABO, SC**

*For the Petitioner: In Person*

*For the Respondent: Mrs. B.M Mulenga of Messrs National  
Legal Aid Clinic for Women*

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**J U D G M E N T**

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**Legislation referred to:**

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

This is a matrimonial Petition launched by the Petitioner **Chiko Simbala** against the Respondent **Ngela Munalula Simbala** for the dissolution of marriage alleging that the marriage which was

lawfully celebrated on the 7<sup>th</sup> day of July, 2008 at the office of the Registrar of Marriages under the Marriage Act had irretrievably broken down.

The ground is that the Petitioner and the Respondent have continuously lived apart as man and wife for a period of at least 2 years immediately preceding the presentation of the matrimonial petition and the Respondent consents.

At the hearing of the petition, I was satisfied that the Respondent had been duly served with process as evidenced by the acknowledgement of service by the Respondent and also by the consent to the decree nisi filed into Court on 10<sup>th</sup> October, 2019.

I was fortified in my view by the fact that the Respondent's Advocate appeared at the hearing. I therefore signaled the Petitioner to present his matrimonial petition.

PW1 was **Chiko Simbala** the Petitioner himself. He gave sworn evidence. It was his testimony that the Petitioner was on 7<sup>th</sup> day of July, 2008 lawfully married to the Respondent under the Marriage Act<sup>1</sup> at the UCZ Church, Northmead, Lusaka as evidenced by the marriage certificate admitted as exhibit P1.

After the celebration of marriage, the parties lived as husband and wife at Flat No. 12306, Kiyola Road, Roma Lusaka.

The Petitioner is self-employed whilst the Respondent is a Librarian.

Both parties are domiciled in Zambia.

There are two children of the family namely

- (i) Mizinga Chiko Ngandu (female), born on 26<sup>th</sup> April, 2009,  
and
- (ii) Chiko Ngandu (male), born on 1<sup>st</sup> February, 2013.

There are no other children born of the parties before or during the subsistence of the marriage.

There are no proceedings subsisting in Zambia or elsewhere in the world that might affect the validity of the marriage and property settlement.

It was his testimony that the marriage has broken down irretrievably on the ground that the parties have continuously lived apart as man and wife for a continuous period of at least 2 years immediately preceding the presentation of the petition and the Respondent consents to the dissolution of marriage as evidenced by the consent dated 10<sup>th</sup> October, 2019 admitted as exhibit P2.

The Petitioner concluded by praying for the dissolution marriage. The Petitioner was not cross examined. The Petitioner then rested his case.

The Respondent's Advocate indicated that the Petition was not contested as confirmed by the consent to the dissolution of marriage as evidenced by exhibit P2 and prayed for a decree nisi.

UPON reading the matrimonial Petition of the Petitioner and UPON hearing the evidence of the Petitioner and upon hearing the

Respondent's Advocate and UPON sight and perusal of the Marriage certificate being exhibit P1

AND UPON further sight and perusal of the Respondents consent to the decree nisi filed on 10<sup>th</sup> October, 2019, I am satisfied that the marriage which was lawfully celebrated on the 7<sup>th</sup> day of July, 2008 under the Marriage Act at Lusaka has irretrievably broken down on account of the fact that the parties have continuously lived apart as husband and wife for at least 2 years immediately preceding the presentation of the matrimonial petition pursuant to Section 8 and 9 (1) (d) of the Matrimonial Causes Act<sup>2</sup> as evidenced by exhibit P2.

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

- (i) The Decree nisi shall become absolute after 6 weeks unless cause is shown why the same cannot be made absolute.
- (ii) I refer the issue of
  - (a) Custody of the children of the family namely Mizinga Chiko Ngandu and Malambo Chiko Ngandu
  - (b) maintenance of the parties;
  - (c) property settlement (if any) to mediation. In default of agreement the issues aforesaid are referred to me on application within 30 days from the date of failure of mediation by either party in default of agreement.

(d) Each party to pay his or her own costs.

No appeal lies against a consented to decree nisi dissolving the marriage.

**Delivered under my hand and seal this 9<sup>th</sup> day of September,  
2020**



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**Mwila Chitabo, SC**

**Judge**