

IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(DIVORCE JURISDICTION)

2017/HPF/D/149

BETWEEN:

KALINDA SIACHILUBI

AND

BEENE P. M. SIACHILUBI



PETITIONER

RESPONDENT

BEFORE THE HONOURABLE MR. JUSTICE M. L. ZULU
ON THE DAY OF NOVEMBER, 2017

For the Petitioner:	In Person
For the Respondent:	In Person

J U D G M E N T

Legislation referred to:

1. *Matrimonial Causes Act, No. 20 of 2007.*

This Petition for dissolution of marriage between the Petitioner, **Kalinda Siachilubi** and the Respondent, **Beene Priscilla Madyenkuku Siachilubi** shows that the parties were lawfully

married on the 25th day of April, 2009 at the office of the Registrar in the city and Province of Lusaka of the Republic of Zambia.

At the hearing of this Petition, the Petitioner, testified that he is a Banker employed by First National Bank and that the Respondent is also a Banker at Zanaco. The Petition states that there are two children of the marriage namely:

- Mizinga Siachilubi, born on 15th May, 2009; and
- Nathan Siachilubi, born on 20th April, 2012.

It is contained in the Petition that there are no proceedings continuing in any court in Zambia or outside in respect of the marriage that are capable of affecting its validity or substance.

The Petitioner testified that his marriage to the Respondent has broken down irretrievably citing the fact that the parties have lived apart for over five years and there's no possibility of reconciliation.

The Respondent agreed that the marriage had broken down irretrievably and there's no chance of cohabitation. She added that she seeks joint custody of the children of the family.

The sole ground upon which this court can dissolve a marriage is to find that the marriage has broken down irretrievably (Section 8, Matrimonial Causes Act, 2007).

There is evidence that the parties have lived apart for a continuous period of at least two years immediately preceding the filing of the Petition.

Section 9(1) (d) of the Matrimonial Causes Act provides

“For the purposes of Section eight, the court hearing a petition for divorce shall not hold the marriage to have broken down irretrievably unless the Petitioner satisfies the court of one or more of the following facts:

(d) that the parties to the marriage have lived apart for a continuous period of at least two years immediately preceding the presentation of the petition and the respondent consents to a decree being granted.”

The Respondent in her testimony admitted that the marriage has broken down irretrievably. She further prayed for the marriage to be dissolved.

On the totality of the evidence before me, I am satisfied that the marriage solemnized under the Marriage Act at the Office of the Registrar of Lusaka on 25th April, 2009 between the Petitioner **Kalinda Siachilubi** and the Respondent **Beene Priscilla Madyenkuku Siachilubi** has broken down irretrievably by reason of the fact that the parties have lived apart for a continuous period of at least two years and the Respondent consents to a Decree being granted.

I accordingly find that the provisions of the law under **Section 9(1) (d) of the Matrimonial Causes Act, 2007** have been satisfied.

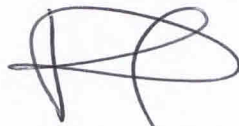
In the Circumstance, I hereby grant the Petitioner a **DECREE NISI** of divorce. I direct that the said decree shall be made absolute at the expiration of six (6) weeks from the date of this judgment upon application by either party, unless sufficient cause be shown to the court why it should not be made so.

I grant joint custody of the children of the marriage to the parties as prayed.

I hereby refer all issues pertaining to the assessment of maintenance that may arise to the Learned Registrar of the High Court for determination. Each party is at liberty to apply.

I order that each party bears their own legal costs.

Dated this 15th day of November, 2017.



M. L. ZULU
HIGH COURT JUDGE