

**IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
FAMILY AND CHILDREN'S DIVISION
HOLDEN AT LUSAKA**
(Divorce Jurisdiction)

2025/HPF/D156

BETWEEN:

VALENSIA MACWANI AONGOLA BONACCI

PETITIONER

AND

MARCO BONACCI

RESPONDENT



***Before the Honourable Mrs. Justice M. M. Bah-Matandala
Dated this 15th day of December, 2025.***

For the Petitioner: Mr. L. Mtonga Messrs. Cholt Legal Practitioners

*For the Respondent: Ms. M. M. Ng'onga Messrs. F. B. Nanguzgambo &
Associates*

J U D G M E N T

Legislation and other works referred to

1. *Matrimonial Causes Act No. 20 of 2007*
2. *Children's Code Act No. 12 of 2022*
3. *Rayden and Jackson on Divorce and Family Matters*
4. *Halsbury's Laws of England, Vol. 24*

Cases referred to

1. *Brighton Soko v Petronella Sakala Soko, SCZ-8-189-2015*
2. *Ash v Ash (1972) 1 All E.R. 582*
3. *Mahande v Mahande (1976) Z.R. 354 (S.C.)*
4. *Colange v Chikachi, (2014/HP/D/039) [2016] ZMHC 153*

1.0 INTRODUCTION

1.1 This is a Judgment in a Petition for dissolution of a statutory marriage between **Valensia Macwani Aongola**

Bonacci (the Petitioner) and **Marco Bonacci** (the Respondent).

- 1.2 The Petition was brought pursuant to **Sections 8 and 9(1)(b)** of the **Matrimonial Causes Act No. 20 of 2007** (“the Act”), on the ground that the marriage has broken down irretrievably by reason of the Respondent’s unreasonable behaviour such that the Petitioner cannot reasonably be expected to live with him.
- 1.3 The Respondent filed an Answer and Cross-Petition, likewise seeking dissolution of the marriage and custody of the children, while attributing responsibility for the breakdown to the Petitioner.
- 1.4 In determining this matter, the Court has discharged its statutory duty under **section 9(2) of the Act** to inquire, so far as reasonably possible, into the facts alleged by both parties.

2.0 BACKGROUND

- 2.1 It is common cause that the parties contracted a statutory marriage on **19th August, 2009** at Lusaka. The marriage certificate was produced and its validity was not disputed.

2.2 The parties are domiciled and resident in Zambia. This Court therefore has jurisdiction under the Act. There are **three children of the family**, namely: **Kayla Bonacci**, born 18th September, 2009; **Alessia Bonacci**, born 15th December, 2014 and **Diego Bonacci**, born 23rd January, 2016.

2.3 The marriage has been marked by serious conflict, culminating in separation and the commencement of these proceedings. The parties are agreed that the marriage has broken down; the dispute concerns the cause of the breakdown and the appropriate custody arrangements for the children.

3.0 THE PETITIONER'S CASE

3.1 The Petitioner relies on **section 9(1)(b)** of the Act and alleges that the Respondent has behaved in such a way that she cannot reasonably be expected to continue living with him.

3.2 In her Petition, affidavits, and oral testimony, the Petitioner outlined a pattern of conduct, which she contends cumulatively exhausted her endurance of the marriage. The particulars include;

- i) *Physical and emotional abuse, particularly an incident in October 2024 which resulted in medical treatment;*
- ii) *Coercive and controlling behaviour, including tracking her movements and restricting her access to the matrimonial home and the children;*
- iii) *Hostile and abusive communications, evidenced by WhatsApp messages placed before the Court;*
- iv) *Denial of access to the children, resulting in emotional distress to both the Petitioner and the children;*
- v) *Unilateral decisions regarding the children's schooling, medical care, and DNA testing without her consent;*
- vi) *Evidence of psychological harm to one of the children, supported by medical reports.*

3.3 The Petitioner testified that repeated reconciliation efforts failed, that trust and affection had completely broken down, and that she no longer saw any possibility of resuming marital cohabitation.

3.4 On custody, the Petitioner sought full custody, or alternatively arrangements prioritising the children's

emotional safety and stability, together with maintenance and educational support.

4.0 THE RESPONDENT'S CASE AND CROSS-PETITION

4.1 The Respondent admits the formal facts of the marriage and the existence of the children and also admits that the marriage has broken down irretrievably.

4.2 However, he denies the Petitioner's allegations of unreasonable behaviour and contends that it was the **Petitioner's conduct** that made continued cohabitation impossible. In summary, the Respondent alleges:

- i) That the Petitioner was aggressive during disputes;*
- ii) That the Petitioner acted irresponsibly during the police-related incident;*
- iii) That the Petitioner engaged in inappropriate relationships;*

4.3 That he acted in the children's best interests and was their primary caregiver.

4.4 By Cross-Petition, the Respondent prayed for:

- a) Dissolution of the marriage;

- b) Custody of the children with reasonable access to the Petitioner;
- c) Property settlement and maintenance orders;
- d) Each party to bear own costs.

5.0 THE HEARING

- 5.1 The matter proceeded by way of pleadings, affidavit evidence with exhibits, and **oral testimony** from both parties.
- 5.2 The Petitioner adopted her Petition, affidavits, and exhibits as her evidence-in-chief and was cross-examined. She maintained her position that the Respondent's conduct was unreasonable and that the marriage was beyond repair.
- 5.3 The Respondent adopted his Answer and Cross-Petition as his evidence-in-chief. Under cross-examination, he made **material admissions**, including:
 - i) *That he had installed and used a GPS tracker;*
 - ii) *That DNA testing of the children had been undertaken without the Petitioner's consent;*

iii) That his work schedule involved night shifts, leaving the children largely under the care of a house-helper.

5.4 The Court also heard submissions from counsel on both sides on divorce and custody.

5.5 Pursuant to the **Children's Code Act No. 12 of 2022**, the Court stood the matter down and **ascertained the views of the children**, taking into account their ages and maturity.

5.6 Later the matter was reserved for judgment.

6.0 ISSUES FOR DETERMINATION

6.1 Accordingly, the Court identified the following issues:

- iv) Whether the marriage has broken down irretrievably and whether a decree of divorce should be granted;
- v) Whether the fact of unreasonable behaviour under section 9(1)(b) has been established;
- vi) What custody and access arrangements serve the best interests of the children;
- iv. What consequential orders should be made.

7.0 ANALYSIS

- 7.1 Sections **8 and 9(1)(b)** of the Act require the Court to determine whether the marriage has broken down irretrievably by reason of unreasonable behaviour.
- 7.2 The authorities in **Brighton Soko v Soko, Mahande v Mahande**, and **Ash v Ash** establish that; the test is objective and the conduct must be assessed cumulatively, not in isolation. The law does not require heroic endurance. In the present case, the evidence shows sustained conflict, loss of trust, emotional harm to the parties and the children, and complete collapse of marital relations. Both parties ultimately seek dissolution.
- 7.3 On a balance of probabilities, I am satisfied that the marriage has **broken down irretrievably** and that the fact under **section 9(1)(b)** has been proved.
- 7.4 On the issue of custody, I must state that custody must be determined strictly in accordance with the **best interests of the child**, which are paramount under the **Children's Code Act No. 12 of 2022**.

7.5 The Court considered: the children's **ascertainable wishes**; stability and continuity of schooling; emotional and psychological welfare; the capacity of each parent to meet the children's needs and the need to shield the children from parental conflict.

7.6 The older children expressed a preference to remain with the Respondent during school terms, while maintaining meaningful contact with the Petitioner. Guided by **Colange v Chikachi**, the Court finds that shared parental responsibility with structured residence and access best serves the children's welfare.

8.0 ORDERS

8.1 The consequently herein are the orders of the Court;

a) A **Decree Nisi** dissolving the marriage between the Petitioner and the Respondent is hereby granted.

b) The Decree Nisi shall be made absolute after six (6) weeks, unless cause is shown to the contrary.

c) Custody and parental responsibility shall be shared between the Petitioner and the

Respondent. Primary residence during school terms shall be with the Respondent.

d) During school holidays, the children shall spend one half of each holiday with the Petitioner and one half with the Respondent, unless otherwise agreed.

e) The Petitioner shall have liberal access, including:

f) Alternate weekends from Friday after school to Sunday at 18:00 hours;

g) Reasonable telephone and video contact not less than three times per week;

h) Additional access by agreement, provided it does not disrupt schooling.

i) Each parent is restrained from demeaning the other in the presence of the children, using the children as messengers, or obstructing court-ordered access.

j) No change of school, curriculum, or major medical treatment shall be undertaken

*without consultation between the parents
or further order of the Court.*

*k) Recommended counselling or
psychosocial support for the children shall
be facilitated by both parents.*

*l) Pending any further ancillary
proceedings, the Respondent shall ensure
timely payment of school fees and
provision of appropriate medical cover for
the children.*

*m) Issues of property settlement or financial
provision, if unresolved, may be pursued
by appropriate application supported by
affidavit evidence.*

8.2 Each party shall bear their own costs.

8.3 Leave to appeal is granted.

9.0 CONCLUSION

9.1 This Judgment is delivered in discharge of the Court's statutory duty. The marriage is dissolved on the ground of irretrievable breakdown, and custody is determined

solely on the best interests of the children, having regard to their welfare, stability, and expressed wishes.

Dated at Lusaka this 15th day of December, 2025.

M. M. Bah-Matandala
HIGH COURT JUDGE

