

1967
Dec. 4, 18

[JOSEPHIDES, J.]

GARBIS
MEGERDISH
TELLALIAN
v.
AYDA GARBIS
MEGERDISH
TELLALIAN
(OTHERWISE
CHINOZ)

GARBIS MEGERDISH TELLALIAN,
Petitioner,

v.

AYDA GARBIS MEGERDISH TELLALIAN,
(OTHERWISE CHINOZ)

Respondent.

(*Matrimonial Petition No. 11/67*).

Matrimonial Causes—Divorce—Jurisdiction—Domicil—Husband's undefended petition for divorce on the ground of desertion—Civil marriage celebrated in Nicosia under the provisions of the Marriage Law Cap. 116, in 1954—No religious ceremony—Petitioner an Armenian Roman Catholic—Respondent wife an Armenian and a member of the Armenian Church—Petitioner husband domiciled in Cyprus—Case of desertion without cause, for a period exceeding six years immediately preceding presentation of the petition, established—Decree nisi granted.

Matrimonial Causes—Divorce—Domicil of the petitioner husband—Proof—Desertion by the respondent wife—Evidence—Proof.

Desertion—See above.

Civil Marriage—Dissolution—See above.

Marriage—Dissolution—See above.

Divorce—See above.

This is an undefended husband's petition for divorce on the ground of desertion. The parties were married in the Commissioner's office in Nicosia on the 7th September, 1954, under the provisions of the Marriage Law, Cap. 116. There was no religious ceremony. The petitioner husband is Armenian Roman Catholic and the respondent wife an Armenian and a member of the Armenian Church.

On the question of jurisdiction, the Court, on the evidence, held that the petitioner husband is domiciled in Cyprus and that, consequently, it had jurisdiction to entertain the petition.

As to the merits the Court found that the respondent wife had deserted the petitioner without cause since May, 1961, *i.e.* for a period exceeding six years immediately preceding the presentation of the petition, and granted a decree nisi.

The facts sufficiently appear in the judgment of the Court.

Matrimonial Petition.

Petition by husband for dissolution of marriage on the ground of desertion.

A. Emilianides, for the petitioner.

Respondent absent—duly served.

The following Judgment was delivered by :

JOSEPHIDES, J. : This is an undefended husband's petition for divorce on the ground of desertion. The parties were married in the Commissioner's Office in Nicosia on the 7th September, 1954 under the provisions of the Marriage Law, Cap. 116. There was no religious ceremony. The petitioner husband is an Armenian Roman Catholic and the respondent wife an Armenian and a member of the Armenian Church.

On the question of domicile the husband was born in 1923 in Istanbul, Turkey, and he came to Cyprus with his parents in 1930 where the parents settled in Larnaca. The husband went to school in Larnaca and Nicosia and he subsequently worked and lived all his life in Cyprus up to the present time, except for short absences on business or when he used to go to see his wife in Turkey after their marriage in 1954. On his evidence, which I accept, I am satisfied that he is domiciled in Cyprus and that, consequently, this Court has jurisdiction to hear and determine the present petition.

On the question of desertion, I have the evidence of the husband (petitioner) and his close friend Kegham Bedrossian, which I accept. The petitioner first met his wife (respondent) while on a trip in Istanbul in October, 1953. They became engaged in December, 1953 when they both came to Cyprus accompanied by the fiancée's mother; and they went back to Istanbul in January, 1954 where the petitioner stayed for about 2 months. He returned to Cyprus in May, 1954 and the respondent joined him in Cyprus with her mother in June of the same year but the mother died here at the end of July 1954, and the respondent had to go back to Turkey in connection

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with the administration of her mother's estate. She returned to Cyprus and they eventually married on the 7th September, 1954.

From the husband's evidence I am satisfied that this marriage was never a success. Over a period of five years they changed five residences and, meantime, the respondent wife used to leave to go to Istanbul to look after her own affairs, managing her immovable property. She did so from the 24th June, 1955 to the 22nd September, 1955 when the husband accompanied her. Then they lived together from September, 1955 to March, 1956; then she went to Turkey again from March, 1956 to June, 1956. She came back and they lived together from 30th June, 1956 to February, 1957. She left and went to Turkey and she stayed there from February, 1957 to the end of May, 1957, and in 1958 she again went to Istanbul in July, 1958.

They began having differences. The petitioner was trying very hard to persuade her to live in Cyprus but she would not be persuaded. She stayed away in Istanbul for nearly three years (July 1958 to April 1961) and she would not come to Cyprus—she did not like Cyprus. The petitioner was with her twice in Istanbul in 1958 (4 months) and in 1959 (2 months), but she refused to come to Cyprus saying that she had not finished her work. Eventually she came to Cyprus for the last time in April 1961, and this was after the petitioner had taken up a new flat and furnished it and had done his best to persuade her to live with him in Cyprus. She stayed for about a month. They had long arguments and in the end she said that she could not live with him and that it was a mistake that they had married. She left the matrimonial home for the last time on or about the 14th May, 1961, and she has not returned since to the matrimonial home. The petitioner wrote to her repeatedly asking her to return but she refused. They had no children and, apparently, there was no affection between the parties.

On the husband's evidence, as supported by that of his close friend, I find that the respondent wife has deserted the petitioner without cause since May 1961, that is, for a period exceeding six years immediately preceding the presentation of the petition.

For these reasons I grant a decree *nisi* to the petitioner. No order as to costs.

Decree nisi granted. No order as to costs.