

CLARA MAKRIDES THEN CLARA SPECCIO,

*Petitioner,*

*v.*

STEPHANOS RALLI MAKRIDES,

*Respondent.*

(*Matrimonial Petition No. 2/68*).

CLARA MAKRIDES  
THEN CLARA  
SPECCIO  
*v.*  
STEPHANOS RALLI  
MAKRIDES

*Matrimonial Causes—Divorce—Jurisdiction—Domicil—Husband domiciled in Cyprus—Wife's petition for divorce on the ground of desertion—Civil marriage—No religious ceremony—Husband, a Greek from Egypt, a National of the United Kingdom and a member of the Greek Orthodox Church—Wife, an Italian National till the marriage and a Roman Catholic—She acquired the husband's nationality by virtue of the marriage—Provisions of Article 111 of the Constitution not applicable—Therefore, the case is not cognizable by a tribunal of a Church under the provisions of that Article—And the Court has jurisdiction to entertain the present proceedings in view of the Cyprus domicil of the husband—See, also, herebelow.*

*Matrimonial Causes—Divorce—Desertion—Evidence—Continued desertion of wife by husband without any cause—Decree nisi granted to the wife—Custody of child granted to the petitioner (mother) and access allowed to father—Maintenance of child—Consent order for the maintenance of the child in a sum which the Court considers a fair amount.*

*Divorce—See above.*

*Desertion—See above.*

*Jurisdiction—Jurisdiction of the Court in matrimonial causes—See above.*

*Domicil—Husband's domicil—See above.*

*Custody—Custody of the child—Order in a petition for divorce—See above.*

*Maintenance—Maintenance of the child—Order in a petition for divorce—See above.*

*Constitutional Law—Article 111 of the Constitution—Jurisdiction of a tribunal of a Church in matrimonial causes—See above.*

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This is a wife's petition for divorce on the ground of desertion. The parties were married at the Register Office in Nottingham (U.K.) on the 28th January, 1961. There was no religious ceremony. At the time the wife was an Italian National living with her parents in Italy. She is a Roman Catholic. The husband is a Greek from Egypt, a National of the United Kingdom and a member of the Greek Orthodox Church. He was brought here by his parents when he was about 6 months old and he has lived here ever since. A child was born to the parties on the 8th September, 1964.

The wife alleged that her husband deserted her on or about the 24th November, 1964, without any cause and that this desertion continued until the presentation of the petition (early in 1968) and until the present day.

*Held, I. On the question of jurisdiction :*

(1) On the evidence before me, I am satisfied that the husband is domiciled in Cyprus and, consequently, this Court has jurisdiction to entertain the present proceedings.

(2) It would appear that, with regard to the provisions of Article 111 of the Constitution, a matrimonial cause between the parties would not be cognizable by a tribunal of a Church under the provisions of that Article. There is evidence that the husband is a National of the United Kingdom and the wife has acquired that nationality by virtue of the marriage.

*Held, II. On the question of desertion :*

(1) On the evidence of the petitioner, which is corroborated in material particulars by the evidence of the petitioner's sister, I am satisfied that the husband deserted the wife on or about the 24th November, 1964, without any cause and that this desertion continued until the presentation of the petition and until the present day.

(2) For these reasons I grant a *decree nisi* to the wife.

*Held, III. As regards custody and maintenance of the child.*

(1) On the welfare report, which is full and comprehensive, I am satisfied that the petitioner (mother) is a fit

and proper person to have custody of her child and today respondent's counsel consented to an order.

(2) I, therefore, grant the custody of the child to the mother and I also allow access to the father at all reasonable times.

(3) On the question of *maintenance* of the child, it seems that the father has been contributing towards the maintenance of the child and that there is no real or substantial complaint for his conduct in the past. Counsel on his behalf, has today consented to the making of an order in the sum of £20 per month for the maintenance of the child as from the 1st June, 1968. I consider this a fair amount and I make an order accordingly.

*Decree nisi granted.  
Orders as to custody and maintenance in terms. Respondent to pay the costs of these proceedings.*

### **Matrimonial Petition.**

Petition for dissolution of marriage because of the husband's desertion.

*C. Myrianthis*, for the petitioner.

*X. Clerides*, in respect of custody and maintenance only for the respondent.

The following judgment was delivered by:-

JOSEPHIDES, J.: This is a wife's petition for divorce on the ground of desertion. The wife first met the husband in 1959 at Famagusta while she was staying with her sister there. According to the wife's evidence they fell in love and after she had returned to Rome the husband went there and took her to England where he was studying at the time, and they were eventually married at the Register Office in Nottingham (U.K.) on the 28th January, 1961. There was no religious ceremony. At the time he was aged 22 and she was aged 21. She was an Italian National and until then she had lived in Italy with her parents. She is a Roman Catholic.

The husband is a Greek from Egypt and a member of the Greek Orthodox Church. He was brought here by his

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parents when he was about 6 months old and he has lived here ever since. He went to school in Cyprus and he subsequently studied in England, and he eventually returned to Cyprus where he is now a partner in his father's firm in Nicosia. The father has settled here over 30 years' ago and he is a merchant and importer of goods.

A child, named Eleni, was born to the parties in Rome on the 8th September, 1964.

The first question which I have to determine is whether this court has jurisdiction to entertain the present proceedings. On the evidence adduced I am satisfied that the husband is domiciled in Cyprus and, consequently, this court has jurisdiction to deal with the present petition. It would appear that, with regard to the provisions of Article 111 of the Constitution, a matrimonial cause between the parties would not be cognizable by a tribunal of a Church under the provisions of that Article. There is evidence that the husband is a National of the United Kingdom and the wife has acquired that nationality by virtue of the marriage.

On the question of desertion, I have the evidence of the petitioner and that of her sister, who is married to a Greek Cypriot and has been living in Famagusta for many years now. The petitioner's (wife's) evidence is corroborated in material particulars with regard to the attitude of the husband and his refusal to return to the matrimonial home. The wife has impressed me as a witness of truth and on her evidence and that of her sister I find the facts as follows:

The parties were married in January, 1961, in Nottingham, and they lived at four different addresses there.

The husband was still studying. For about a year this was a happy marriage but then it appears that the husband began absenting himself over the weekends and on other nights. At times he returned home drunk and he was indifferent to the wife. The wife began working as a sales assistant, with his consent, in about March or April, 1961, and soon after the marriage began to founder. In December 1963 the wife informed the husband that she was in the family way. He reacted badly and he started shouting. The wife worked until her fourth month of pregnancy and, with the husband's consent, in July, 1964, she went to her parents in Rome to give birth to the child, which she eventually did on the 8th

September, 1964. She stayed in Rome about 2 1/2 months and she returned to her husband in Nottingham on the 23rd November, 1964, after informing him of the date of her return. She went home but there was nobody in and she had to spend the night at a friend's house, Mrs. Audrey Moon, in Nottingham. On the following day, the 24th November, 1964, the wife traced the husband in a cafe in Nottingham where she requested him to return to the matrimonial home. She told him that she wanted him to live with her but he refused. He said that he did not want to have any responsibilities. Faced with that situation the wife wrote to her mother who came to Nottingham from Italy in about January 1965, so that the wife should be able to work for her living. She started working in January, 1965.

As the husband failed to maintain either the wife or the child, she made a complaint to the Magistrates' Court sitting at the Guildhall, Nottingham, which was heard on the 11th March, 1965. In the Court Order (in case No. 23/65), which was produced in evidence before me, it is stated that, owing to unhappy domestic differences, the complainant and the defendant were living separate and apart, and that on hearing the complainant the Court was satisfied that the facts were duly proved and it made an Order giving the legal custody of the child to the wife. The Magistrates' Court further directed the husband to pay the sum of £2 weekly for the maintenance of the child whilst under the age of sixteen years, pursuant to the provisions of section 52(1) of the Magistrates' Courts Act, 1952. Following that Order, as the wife could not go on living by herself in Nottingham, she went back to her parents in Rome on the 31st March, 1965. She lived there until March 1967 when she came to Cyprus alone. In July 1966, the child was brought to Cyprus by her sister and it remained here until September 1966, when it was taken back to Rome. Meantime, the husband having completed his studies, he returned to Cyprus in January, 1966. The wife repeatedly requested the husband to return to the matrimonial home, but he was adamant. The child was again brought to Cyprus in August, 1967. In September 1967, she tried again to get her husband to return to her but she was unsuccessful.

The sister who gave evidence in this case corroborates the wife's evidence that at least on three different occasions, in September 1966, in March 1967 and in September 1967, she

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spoke to the husband trying to persuade him to return to the wife but he persistently refused.

On this evidence I am satisfied that the husband deserted the wife on or about the 24th November, 1964, without any cause and that this desertion continued until the presentation of the petition and until the present day. For these reasons I grant a DECREE *nisi* to the wife.

As regards the question of the *custody* of the child, on the welfare report, which is full and comprehensive, I am satisfied that the petitioner (mother) is a fit and proper person to have custody of her child and today Mr. Clerides, on behalf of the respondent (father), has consented to an order. I, therefore, grant the CUSTODY of the child to the mother and I also allow access to the father at all reasonable times.

On the question of *maintenance* of the child, it seems that the father has been contributing towards the maintenance of the child and that there is no real or substantial complaint for his conduct in the past. Mr. Clerides, on his behalf, has today consented to the making of an Order in the sum of £20 per month for the maintenance of the child as from the 1st June, 1968. I consider this a fair amount in the circumstances and I accordingly make a MAINTENANCE Order in the sum of £20 per month as from the 1st June, 1968, until further order of this Court.

In the circumstances, there will be a *decree nisi* in favour of the wife.

Custody and maintenance Orders in terms as above. The respondent is to pay the costs of these proceedings.

*Decree nisi granted. Orders as to custody, maintenance and costs, in terms.*