

ELENI A. LUNN THEN ELENI KYRIACOU SARANTA,
Petitioner,
v.

ANTONY EDWARD LUNN,
Respondent.

ELENI A. LUNN
THEN ELENI
KYRIACOU
SARANTA
v.
ANTONY
EDWARD
LUNN

(Matrimonial Petition No. 19/67).

Matrimonial Causes—Divorce—Jurisdiction—Domicil—Wife's undefended petition for divorce on the ground of desertion—Wife's residence—Wife a resident in Cyprus and ordinarily residing here for a period exceeding three years immediately preceding the commencement of these proceedings—Consequently, the Court has jurisdiction to entertain the petition under section 18(1)(b) of the English Matrimonial Causes Act 1950, which is the law applicable under the provisions of section 29(2)(b) of the Courts of Justice Law, 1960 (Law of the Republic No. 14 of 1960)—Wife, a Greek Cypriot and a member of the Greek Orthodox Church of Cyprus—Husband is a British National a member of the Church of England and he is domiciled in England—Civil marriage—No religious ceremony—Decree nisi granted to the wife—See, also, herebelow.

Matrimonial Causes—Divorce—Desertion without cause—Evidence—Husband deserting wife without cause for a period of more than three years immediately preceding the presentation of this petition — Decree nisi granted to the wife.

Divorce—See above.

Desertion—See above.

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

This is a wife's petition for divorce on the ground of desertion. The wife is a Greek Cypriot and a member of the Greek Orthodox Church of Cyprus. She has lived all her life in Cyprus except five years when she lived in England between 1955 and 1960. The husband is a British National, a member of the Church of England and he is domiciled in England. The parties were married at the

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Register Office in the District of Aldershot, County of Southampton (U.K.) on the 23rd February 1957. There was no religious ceremony.

Held, (1) The husband is undoubtedly domiciled in England but as the wife is a Cypriot who had lived all her life here, except the period between 1955 and 1960, when she was in England, I am satisfied that she is resident in Cyprus and that she has been ordinarily resident here for a period exceeding three years immediately preceding the commencement of these proceedings. Consequently, this Court has jurisdiction to entertain the present case under section 18(1)(b) of the English Matrimonial Causes Act 1950, which is the law applicable in this respect under the provisions of section 29(2)(b) of the Courts of Justice Law, 1960 (Law of the Republic No. 14 of 1960).

(2)(a) With regard to the question of desertion, on the evidence adduced I find that the husband deserted his wife at the end of January 1961 without cause and that, consequently, a period of more than three years elapsed between such desertion and the presentation of this petition.

(b) I accordingly find the case proved and grant a *decree nisi* to the wife.

(3) With regard to the custody of the child, on the evidence before me and the Welfare Officer's report, I am satisfied that the petitioner (mother) is a fit and proper person to have the custody of the child and I, accordingly, make a Custody Order in her favour.

Decree nisi granted.
Custody Order as above.
No order as to costs.

Matrimonial Petition.

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

P. Michaelides, for the petitioner.

Respondent, absent. Not represented.

The following judgment was delivered by :-

JOSEPHIDES, J. : In this petition solicitors acting on behalf of the respondent originally informed the Registrar that they intended defending the petition but eventually they sent a letter on the 7th February, 1968, informing him that the respondent had decided not to defend the proceedings. The wife is complaining that the husband deserted her in January, 1961. She is a Greek Cypriot and a member of the Greek Orthodox Church of Cyprus. She has lived all her life in Cyprus except five years when she lived in England, between 1955 and 1960. The husband is a British National, a member of the Church of England and he is domiciled in England. In the year 1955 when he was doing his National Service and he was stationed with the British Army in Cyprus, he became engaged to the wife who, in October, 1955, went to England, lived with his sister and worked until January 1957, when he was posted back to England and demobilised.

The parties were married at the Register Office in the District of Aldershot, County of Southampton (U.K.) on the 23rd February, 1957. There was no religious ceremony. At the time he was aged 21 and she was aged 23. They lived together at an address in South Fleet for five months, and at 136, Sussex Gardens, Paddington, London W.2., between 1957 and August 1960, when the wife returned to Cyprus. Meantime, the wife gave birth to a child, named Geraldine Natasha, on the 26th August, 1958, at St. Mary's Hospital, Paddington, London.

It is the petitioner's case that in August 1960, her husband, who had been working as a chauffeur-handyman, suggested that she should come to Cyprus with the child and that he would join them later so that he would set up a restaurant business in Cyprus. When the wife came here at the end of August 1960 she wrote several letters to the husband advising him not to come to Cyprus as working conditions were unfavourable and it would be inadvisable to start a business here. In October 1960 she wrote asking him to make arrangements to take her and the child back to the United Kingdom, but eventually he arrived unannounced shortly before Christmas 1960, and he stayed in Cyprus for about a month. He could not secure work and he then realised that it was not possible for him to work in Cyprus. Towards the end of January 1961 he returned to the United Kingdom and he wrote to the wife promising to arrange for her early return

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there with the child. As he did not make any arrangements the wife wrote to him three or four letters (including two registered ones), which were not returned, asking him to get her back but she received no reply from him. In fact, he did not reply to her letters and he never contributed towards the maintenance of the wife or child.

The wife at first lived in Famagusta and she moved to Nicosia in 1962 where she has been running a small cafe business ever since. In January or February 1961, with the help of the Welfare Office, she placed the child with a respectable family, that of Sotiris Hji Sterkoti and his wife, at Famagusta. Hji Sterkotis is a chainman employed in the Government Survey Department in Famagusta, and both he and his wife are well recommended by the Welfare Office. The petitioner pays the sum of £10 per month to this family for the maintenance of her child.

These are the facts as I find them on the evidence before me, the petitioner's evidence being corroborated by that of Hji Sterkotis.

With regard to the child, the report of the Welfare Officer is very favourable with regard to the mother who sees the child regularly. The child, whom I saw in Chambers, appears to be a healthy, intelligent and well-behaved girl. This to some extent shows that the girl is well looked after and that there are no problems with regard to her upbringing.

On the question of jurisdiction, the husband is undoubtedly domiciled in England but as the wife is a Cypriot who has lived all her life here, except the period between 1955 and 1960, when she was in England, I am satisfied that she is resident in Cyprus and that she has been ordinarily resident here for a period exceeding three years immediately preceding the commencement of these proceedings. Consequently this Court has jurisdiction to entertain the present case.

With regard to the question of desertion, on the facts I find that the husband deserted the wife at the end of January 1961 without cause and that, consequently, a period of more than three years elapsed between such desertion and the presentation of this petition. I accordingly find the case proved.

With regard to the custody of the child, on the evidence before me and the Welfare Officer's report, I am satisfied

that the petitioner (mother) is a fit and proper person to have the custody of the child and I, accordingly, make a Custody Order in her favour.

Decree nisi granted.

Custody Order as above.

No order as to costs.

Orders in terms.

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