

[JOSEPHIDES, J.]

1969  
Jan. 23

ION CHR. CHARALAMBOUS,

*Petitioner,*

v.

DENISE ION CHARALAMBOUS,  
THEN DENISE ANN SHEPHERD,

*Respondent.*

ION CHR.  
CHARALAMBOUS  
v.  
DENISE ION  
CHARALAMBOUS  
THEN  
DENISE ANN  
SHEPHERD

(*Matrimonial Petition No. 9/66*).

*Matrimonial Causes—Decree absolute—Rule 60 of the Matrimonial Causes Rules—Custody of the children of the marriage—Whether custody of the children may be given to the mother in the absence of a formal or informal application on her behalf—In the circumstances of this case a provisional order was made allowing the children to live with the mother in England until further order of the Court.*

*Children—Custody—See above.*

*Custody of Children—See above.*

*Decree Absolute—See above.*

The facts of the case sufficiently appear in the judgment of the Court.—

### **Application.**

Application for a decree *nisi* to be made absolute and for a custody order.

*C. Myrianthis*, for the petitioner.

*No appearance* for the respondent.

COURT: What is the position with regard to the children?

*Mr. Myrianthis*: The children are with the mother and as we understand and it has been affirmed by the report of the welfare officer of the Cyprus Government in London, the future husband of the mother is welcoming to have these children with him when he marries the respondent. He is a well off

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man and the welfare of the children will be safeguarded if they are allowed to stay with the mother and the future husband.

COURT: Are you asking the court to make a custody order in favour of the mother?

*Mr. Myrianthis:* Yes.

COURT: Has she asked for that order? How do we know that?

*Mr. Myrianthis:* It may not appear expressly that she has asked but by her conduct she has been asking for her children.

COURT: Did she express her wish to the welfare officer?

*Mr. Myrianthis:* I suppose she has.

COURT: I have to determine two questions —

- (1) Whether to grant a decree absolute; and
- (2) Regarding the custody of the two children of the marriage.

The decree *nisi* was granted on the 3rd October, 1968, in favour of the husband, petitioner. As the welfare officer's report, which was filed on the 24th June, 1968, did not appear to me to be adequate I directed that a supplementary report be prepared and filed in Court at the end of three months from the date of the decree *nisi*. This has now been done and the welfare officer's supplementary report, dated the 20th December, 1968, has been put in and marked "B".

First, with regard to the decree absolute: An affidavit pursuant to the provisions of rule 60 of the Matrimonial Causes Rules has been filed. No caveat has been entered by the Attorney-General of the Republic or by or on behalf of any other person. The decree *nisi* is made absolute.

Secondly, with regard to the custody of the children: The welfare officer's supplementary report shows that the children are well looked after by the mother, respondent, in England, who lives at 176, Peregrine Road, Sunbury-on-Thames, Middlesex. Christofer Lee was born on the 2nd December, 1959 and the second child, Leigh, was born on the 8th December, 1961. It further appears that the mother intends to be married to a certain Bernard, who is well reported on by the welfare officer;

and that the future husband is prepared to accept the children in their new home when they get married. The children were taken to England, according to the evidence at the hearing of the petition, by the paternal grandmother and the father (petitioner) has expressed through his advocate today, and previously, his wish and consent that the children be given to the mother.

There is, however, one point of difficulty about which I am undecided, and that is the question that I have no formal or informal application on behalf of the mother for the custody of the children. In the circumstances, I shall make a provisional order allowing the children to live with the mother in England until further order of this Court.

*Order accordingly.*  
*No order as to costs.*

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