

# CASES

DECIDED BY

## THE SUPREME COURT OF CYPRUS

IN ITS ORIGINAL JURISDICTION AND ON APPEAL  
FROM THE DISTRICT COURTS.

[STAVRINIDES, J.]

MAROULLA SAVVA DEMETRIOU,

*Petitioner,*

v.

GHALEB ALI MALAWANI,

*Respondent.*

(Matrimonial Petition No. 3/70).

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MAROULLA  
SAVVA  
DEMETRIOU

v.

GHALEB  
ALI  
MALAWANI

*Matrimonial Causes—Nullity of marriage—Petitioner going through ceremony of marriage in the belief, induced by express statements of the respondent, that the latter was single—Consent to marry induced by fraud—Void on this ground—Decree nisi of nullity granted.*

*Matrimonial Causes—Nullity of marriage—Decree nisi of nullity on ground that consent to marry was induced by fraud—Whether a claim for damages for such fraudulent conduct and for admitting respondent to have sexual relations with petitioner can be included in the petition.*

*Matrimonial Causes—Practice—Maintenance—Decree of nullity of marriage—Application for maintenance—Mode and time of making—Rule 69 of the Matrimonial Causes Rules.*

On the 1st November, 1969, the applicant who is quite an ignorant person, went through a ceremony of marriage with the respondent, a goldsmith of Amman, Jordan, at the District Office, Limassol, in the belief, based on express statements by the respondent, that he was single. After the

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marriage had taken place they went together to Amman. There she discovered that he was married and had five children.

Along with the prayer for a decree of nullity of marriage petitioner included a claim for damages in respect of the respondent's fraudulent conduct in persuading her to undergo the said ceremony of marriage and in admitting him to have sexual relations with her and also a claim for maintenance.

Held, (1) On the evidence I find that the petitioner went through the marriage ceremony in the belief, induced by express statements by the respondent, that he was single. Thus the petitioner's consent to marry him was induced by fraud and for that reason is void.

(2) The claim for damages cannot be granted as there is no precedent for the inclusion in a matrimonial petition of a claim for damages other than damages against a co-respondent for adultery.

(3) The claim for maintenance is refused because r. 69 of the Matrimonial Causes Rules expressly provides that "application for maintenance..... on a decree for dissolution or nullity of marriage shall be made in a separate petition which may be filed at any time after decree nisi.....".

*Decree nisi of nullity.*

#### **Matrimonial Petition.**

Petition for a decree of nullity of marriage on the ground that petitioner's consent to marry was induced by fraud.

*A. Emilianides*, for the Petitioner.

Respondent absent; no appearance for him.

The facts sufficiently appear in the judgment of the Court delivered by:

STAVRINIDES, J.: In this undefended petition for a decree of nullity of marriage the facts are simple. On November 1, 1969, the applicant, a seamstress who obviously is quite an ignorant person, went through a

ceremony of marriage with the respondent, a goldsmith of Amman, Jordan, at the District Office, Limassol, in the belief, based on express statements by the respondent, that he was single. She had met him three months earlier, but they had been associating for only a week, after which he left the island. He returned shortly before the ceremony. After it had taken place and on the same day, they went together to Amman. There she discovered that he was married and had five children. She decided to leave him but was unable to do so because her passport was kept by him and he would not let her go, and, further, she had no money. She wrote to her relations in Limassol and in about a month's time one N. Eracleous, a restaurateur in Limassol, for whom a brother of hers was working, went to Amman to bring her back. He and the petitioner made out to the respondent that her mother was ill and thus he was persuaded to let her come to the island, but he came with her, as did also Eracleous. On reaching Limassol the three of them went to the office of Mr. Michel Houry, the advocate, where for the first time she told the respondent that she did not want to have anything to do with him.

Down to her arrival in Amman she had had no sexual relations with anyone. In the course of cohabitation with him there she submitted to sexual relations with him out of fear.

She called one witness—Mr. Houry. He testified that some time after the marriage ceremony the parties called together at his office. There was friction between the parties because “the petitioner had learned that the respondent at the time of the marriage ceremony was already married with several children”. He (Mr. Houry) questioned the respondent in Arabic about the matter and he admitted that before the ceremony he had been married in Jordan and that that marriage was subsisting.

On the above evidence I find that the petitioner went through the marriage ceremony in the belief, induced by express statements by the respondent, that he was single. Thus the petitioner's consent to marry him was induced by fraud and for that reason is void.

The petition includes a claim for damages “in respect

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of (the respondent's) fraudulent conduct in persuading the petitioner to undergo the said ceremony of marriage and in admitting him to have sexual relations with her" and also a claim for maintenance. The latter claim cannot be granted because r. 69 of the Matrimonial Causes Rules expressly provides that

"Application for maintenance..... on a decree for dissolution or nullity of marriage *shall be made in a separate petition which may be filed at any time after decree nisi.....*".

As to the former claim it is enough to say that there is no precedent for the inclusion in a matrimonial petition of a claim for damages other than damages against a co-respondent for adultery.

For the reasons given I grant the petitioner a decree nisi of nullity, not to be made absolute for three months from today, with costs against the respondent.

*Decree nisi of nullity with costs against respondent.*