

1980 November 29

[A. LOIZOU, J.]

GEORGE MERHEB,

*Petitioner,*

v.

IONE ZOLI MERHEB,

*Respondent.*

(*Matrimonial Petition No. 14/80*).

*Matrimonial Causes—Desertion—Law applicable—Three years' separation with intention of deserting spouse of bringing cohabitation permanently to an end with no reasonable cause and without consent of the other spouse—Desertion proved—Decree nisi granted.*

5

This was an undefended petition for divorce on the ground of desertion. The parties were married in 1972, they lived together in many countries and came and settled in Cyprus in 1976. Evidence was adduced on behalf of the petitioner, which remained uncontradicted and was accepted by the Court as true and reliable, that the respondent wife left Cyprus without the husband's consent in 1976 went and lived in Italy and has not returned to the conjugal home in spite of the efforts made by the petitioner-husband to bring her back.

10

15

*Held*, that the desertion by the respondent wife which has lasted for a period of more than three years immediately preceding the presentation of this petition has been proved beyond reasonable doubt; that there exists in law desertion when there is separation of one spouse from the other with the intention on the part of the deserting spouse of bringing cohabitation permanently to an end and with no reasonable cause and naturally without the consent of the other spouse; that, therefore, the case has been proved; and, accordingly, a decree nisi will be granted in favour of the petitioner.

20

25

*Decree nisi granted.*

Cases referred to:

*Hadjiyiannis v. Hadjiyiannis* (1979) 1 C.L.R. 227;

*Avraam v. Avraam* (1979) 1 C.L.R. 661.

**Matrimonial Petition.**

Husband's petition for divorce on the ground of the wife's desertion

*G. Rafael*, for the petitioner.

Respondent absent, duly served.

5

A. LOIZOU J. gave the following judgment. This is an undefended husband's petition for divorce on the ground of desertion. The respondent wife was duly served but she failed to enter an appearance or contest the proceedings.

The petitioner is a Lebanese national and a christian belonging to the Greek Orthodox faith and the respondent wife is an Italian, belonging to the Roman Catholic religion. They were married at the District Office, Nicosia, on the 25th July, 1972, under the provisions of the Marriage Law, Cap. 279. After their said marriage, the parties lived together at Beirut, Bagdad, Teheran and they came to Cyprus and settled here in 1976 when the respondent deserted the petitioner without reasonable cause and without his consent. She left Cyprus and went and lived in Italy and she has not returned to the conjugal home in spite of the efforts made by the petitioner-husband to bring her back nor has she shown any intention to do so. There is no issue of the marriage.

10

15

20

These facts have been established by the evidence adduced for the petitioner which has remained uncontradicted and which I accept as true and reliable. I find that desertion by the respondent wife which has lasted for a period of more than three years immediately preceding the presentation of this petition has been proved beyond reasonable doubt. I need not deal at length with the law on the point which is too well settled and has been repeatedly stated in a number of cases, the most recent ones being *Hadjiyannis v. Hadjiyannis* (1979) 1 C.L.R., 227; *Evgenios Avraam v. Lilian Avraam* (1979) 1 C.L.R., 661. Suffice it to say that there exists in law desertion where there is separation of one spouse from the other with the intention on the part of the deserting spouse of bringing cohabitation permanently to an end and with no reasonable cause and naturally without the consent of the other spouse.

25

30

35

For all the above reasons I find the case proved and I grant a decree nisi in favour of the petitioner. There will be, however, no order as to costs as none have been claimed.

40

*Decree nisi granted. No order as to costs.*