

ANDROULLA ANTONIOU MICHAEL THEN
ANDROULLA ACHILLEA CHRYSOSTOMOU,
Petitioner,

v.

ANTONIOS MICHAEL,
Respondent.

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(*Matrimonial Petition No. 8/67*).

Matrimonial Causes—Petition for divorce—Jurisdiction—Matter not cognizable by this Court—Petitioner wife a Greek Cypriot and a member of the Greek Orthodox Church—Husband a Cypriot and a member of the Maronite Church—They were both born in Cyprus of Cypriot parents and had always lived in Cyprus—They are both citizens of the Republic of Cyprus and the husband is domiciled in Cyprus—Parties went through a ceremony of marriage at the District Office in Limassol on the 29th May, 1965, under the provisions of the Marriage Law, Cap. 279—On the following day, the 30th May, 1965, they went through a religious ceremony of marriage in the Greek Orthodox Church of Ayios Antonios, in Limassol (Cyprus) in accordance with the rites and ceremonies of that Church—The matrimonial cause between the parties is, therefore, under Article 22, paragraph 2(a) and Article 111, paragraph 1, of the Constitution, cognizable by the Ecclesiastical Tribunal of the Greek Orthodox Church of Cyprus—Consequently, the jurisdiction of this Court to hear and determine the present petition is ousted by the express provisions of section 19 (b) of the Courts of Justice Law, 1960 (Law of the Republic No. 14 of 1960)—Cf. Articles 15 and 16 of the Ecclesiastical Tribunals' Code of Procedure and Articles 75 and 76 of the Charter of the Greek Orthodox Church of Cyprus.

Matrimonial Causes—Civil marriage—Followed by a religious marriage solemnized under the rites and ceremonies of the Greek Orthodox Church—Decree of divorce which may be given as stated above by the Ecclesiastical Tribunal of the Greek Orthodox Church of Cyprus—Will not only dissolve the religious ceremony of wedding, but it will also dissolve the status of marriage—Assuming, without deciding, that the civil marriage in 1965 (supra) which as aforesaid preceded the religious ceremony, was also valid.

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Mixed marriages—Election—Article 22, paragraph 2 (a) of the Constitution applies to mixed marriages—It provides that if the law relating to marriage applicable to the parties as provided under Article 111 of the Constitution is not the same, the parties may elect to have their marriage governed by the law applicable to either of them under such Article—It would seem that in the present case, although they went through a civil marriage, they have elected to have their marriage governed by the canon law applicable to the wife—That is, the canon law of the Greek Orthodox Church—And they went through a religious ceremony in that Church.

*Jurisdiction of the Supreme Court—In matrimonial causes—Jurisdiction *ratione materiae*—Article 111, paragraph 1, of the Constitution—Article 22, paragraph 2 (a) of the Constitution—Section 19 (b) of the Courts of Justice Law, 1960—Cf. Articles 15 and 16 of the Ecclesiastical Tribunals' Code of Procedure (of the Greek Orthodox Church of Cyprus) and Articles 75 and 76 of the Charter of the Greek Orthodox Church of Cyprus—See supra.*

The main point raised in this case is whether or not this matrimonial cause is cognizable by this Court *i.e.* whether or not the Court has jurisdiction *ratione materiae* to entertain the suit ; and the Court held that in the circumstances of the case it has not such jurisdiction.

The facts of the case are briefly as follows :

This is an undefended wife's petition for divorce on the ground of cruelty. The respondent husband, although duly served, did not put in an appearance nor was he represented at the hearing of the case.

The parties went through a ceremony of marriage in the District Office in Limassol (Cyprus) on the 29th May, 1965, under the provisions of the Marriage Law, Cap. 279. On the following day, the 30th May, 1965, they went through a religious ceremony of marriage in the Greek Orthodox Church of Ayios Antonios, Limassol, in accordance with the rites and ceremonies of that Church.

The wife, then aged 25, is a Greek Cypriot and a member of the Greek Orthodox Church, while the husband, then aged 21, is a Cypriot and a member of the Maronite Church. They were both born in Cyprus of Cypriot parents and had always lived in Cyprus. They are both citizens of the Republic and the husband is domiciled in Cyprus.

The first question which falls for determination is whether on those facts this Court has jurisdiction to hear and determine the present case.

The relevant statutory and constitutional provisions are the following :

(1) *The (Cyprus) Courts of Justice Law, 1960 (Law of the Republic No. 14 of 1960)*, section 19 (b) which reads as follows :
“ 19. The High Court (now the Supreme Court) shall, in addition to the powers and jurisdiction conferred upon it by the Constitution, have exclusive original jurisdiction—

(a)

(b) save where a matrimonial cause is, under Article 111 of the Constitution, cognizable by a tribunal of a Church or by a Court established by a Communal Law under Article 160 of the Constitution, in relation to matrimonial causes and matters including power to make orders for alimony whether *pendente lite* or after judicial separation, maintenance upon a decree of dissolution or of nullity, maintenance of children and periodical payments in suits for restitution of conjugal rights and such other powers as were before Independence Day (*viz.* August 16, 1960) vested in or exercisable by the Supreme Court of Cyprus under the Law repealed by this Law.”

Note : The Law repealed by this Law No. 14 of 1960 (*supra*) is the Courts of Justice Law, Cap. 8.

(2) *Article 22, paragraphs 1 and 2, of the Constitution*, which reads as follows :

ARTICLE 22

“ 1. Any person reaching nubile age is free to marry and to found a family according to the law relating to marriage, applicable to such person under the provisions of this Constitution.

2. The provisions of paragraph 1 of this Article shall, in the following cases, be applied as follows :—

(a) if the law relating to marriage applicable to the parties as provided under Article 111 is not the same, the parties may elect to have their marriage governed by the law applicable to either of them under such Article ;

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- (b) if the provisions of Article 111 are not applicable to any of the parties to the marriage and neither of such parties is a member of the Turkish Community, the marriage shall be governed by a law of the Republic which the House of Representatives shall make and which shall not contain any restrictions other than those relating to age, health, proximity of relationship and prohibition of polygamy ;
- (c) if the provisions of Article 111 are applicable only to one of the parties to the marriage and the other party is not a member of the Turkish Community, the marriage shall be governed by the law of the Republic as in sub-paragraph (b) of this paragraph provided :

Provided that the parties may elect to have their marriage governed by the law applicable, under Article 111, to one of such parties in so far as such law allows such marriage.”

(3) *Article 111, paragraph 1, of the Constitution*, which reads as follows :

“ 1. Subject to the provisions of this Constitution any matter relating to betrothal, marriage, divorce, nullity of marriage, judicial separation or restitution of conjugal rights or to family relations other than legitimation by order of the Court or adoption of members of the Greek Orthodox Church or of a religious group to which the provisions of paragraph 3 of Article 2 shall apply shall, on and after the date of the coming into operation of this Constitution, be governed by the law of the Greek Orthodox Church or of the Church of such religious group, as the case may be, and shall be cognizable by a tribunal of such Church and no Communal Chamber shall act inconsistently with the provisions of such law.”

It will be observed that section 19 (b) of the Courts of Justice Law, 1960 (*supra*) provides that the jurisdiction of this Court is excluded where a matrimonial cause is, under Article 111 of the Constitution, cognizable by a tribunal of a Church. Consequently, the question to be determined first is whether the instant matrimonial cause between the parties is cognizable by a tribunal of a Church, in this case a tribunal of the Greek Orthodox Church.

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The Court held that the answer to this last question is in the affirmative ; and that, therefore, it has no jurisdiction to entertain the suit. Dismissing the petition for the above reason, the Court :—

Held, (1). The wife is a citizen of the Republic and a member of the Greek Orthodox Church and the husband is likewise a citizen of the Republic and a member of the Maronite Church, that is, of a religious group to which the provisions of paragraph 3 of Article 2 of the Constitution* apply, as well as the provisions of Article 111 (*supra*).

(2) (a) Article 111 of the Constitution (*supra*) provides, *inter alia*, that matters relating to marriage and divorce of members of the Greek Orthodox Church, as of a religious group as defined above, shall be governed by the law of the Greek Orthodox Church or of the Church of such religious group, as the case may be, and shall be cognizable by a tribunal of such Church.

(b) The other relevant article of the Constitution is Article 22, paragraph 1 (*supra*), which provides that any person reaching nubile age is free to marry and to found a family

*Note : Article 2, paragraph 3, of the Constitution reads as follows :—

“ 3. Citizens of the Republic who do not come within the provisions of paragraph (1) or (2) of this Article shall, within three months of the date of the coming into operation of this Constitution, opt to belong to either the Greek or the Turkish Community as individuals, but, if they belong to a religious group, shall so opt as a religious group and upon such option they shall be deemed to be members of such Community :

Provided that any citizen of the Republic who belongs to such a religious group may choose not to abide by the option of such group and by a written and signed declaration submitted within one month of the date of such option to the appropriate officer of the Republic and to the Presidents of the Greek and the Turkish Communal Chambers opt to belong to the Community other than that to which such group shall be deemed to belong :

Provided further that if an option of such religious group is not accepted on the ground that its members are below the requisite number any member of such group may within one month of the date of the refusal of acceptance of such option opt in the aforesaid manner as an individual to which Community he would like to belong.

For the purposes of this paragraph a ‘religious group’ means a group of persons ordinarily resident in Cyprus professing the same religion and either belonging to the same rite or being subject to the same jurisdiction thereof the number of whom, on the date of the coming into operation of this Constitution, exceeds one thousand out of which at least five hundred become on such date citizens of the Republic.”

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according to the law relating to marriage, applicable to such person under the provisions of the Constitution. This provision, it will be noted, is modelled on Article 12 of the European Convention on Human Rights (1950) which followed the provisions of Article 16 of the Universal Declaration of Human Rights.

(c) On the other hand, paragraph 2 (a) of our Article 22 of the Constitution (*supra*), which applies to mixed marriages, provides that if the law relating to marriage applicable to the parties as provided under Article 111 (*supra*) is not the same, the parties may elect to have their marriage governed by the law applicable to either of them under such Article.

(d) And it would seem that in the present case although the parties went through a civil marriage, they elected to have their marriage governed by the canon law applicable to the wife, that is, the canon law of the Greek Orthodox Church, and they went through a religious ceremony in accordance with the rites and ceremonies of that Church.

(3) In order to decide whether the matrimonial cause between the parties is cognizable by a tribunal of the Greek Orthodox Church, I received the expert evidence of a lawyer who is conversant with the canon law of that Church and who has been practising before the Ecclesiastical Tribunal of the Greek Orthodox Church in Cyprus for the past 40 years. I have also tried to form my own conclusions by scrutinizing the canon law and procedure referred to by the said expert witness (see Halsbury's Laws of England, 3rd ed., Vol. 15, pp. 329–330, paragraph 600 ; and *Qureshi v. Qureshi* (P.D.A.) [1971] 2 W.L.R. 518, at 536, per Sir Jocelyn Simon, P.), particularly as their language is Greek and I am in a position to construe them myself in accordance with our rules of construction. Having done so I have formed my own conclusion thereon and I am satisfied that the expert's evidence is correct and I accept it *i.e.* I accept his evidence which is to the following effect, that is to say :—

(a) The jurisdiction of the Greek Orthodox Ecclesiastical Tribunal in Cyprus is governed by Articles 15 and 16 of the Ecclesiastical Tribunals' Code of Procedure. (Those Articles are quoted in full and in Greek *post* in the judgment of the Court).

- (b) Under Article 15 any cause relating to betrothal, nullity of marriage, divorce or judicial separation, is within the jurisdiction of the Ecclesiastical Tribunals.
- (c) Article 16 provides that the provisions of Article 15 apply to persons who had their marriage solemnized either in Cyprus or abroad by the Greek Orthodox Church and who reside in Cyprus for one year prior to the commencement of the proceedings before such tribunal.

Note : On the evidence before me I am satisfied that both parties are resident in Cyprus.

- (d) The Ecclesiastical Tribunal of the Greek Orthodox Church is competent to hear the present matrimonial cause between the parties and grant a decree of divorce if either spouse is able to prove one of the grounds of divorce provided under Articles 75 and 76 of the Charter of the Greek Orthodox Church of Cyprus ; and the ground of cruelty is one of the grounds provided in those Articles.

(4) It follows that, in my judgment, as the matrimonial cause between the parties is, under Article 111 of the Constitution, cognizable by the Ecclesiastical Tribunal of the Greek Orthodox Church, the jurisdiction of this Court is ousted under the express provisions of section 19 (b) of the Courts of Justice Law, 1960 (*supra*), and I cannot, therefore, hear and determine the present petition.

(5) There is, however, a further point for consideration and it is this:—

Will the decree of divorce of the Ecclesiastical Tribunal dissolve the status of marriage considering that a civil marriage was solemnized between the parties the day prior to the religious marriage? I think that the answer is in the affirmative. (See *Peters v. Peters* which was decided by Wrangham, J. in the Probate, Divorce and Admiralty Division in England on the 19th March, 1968 ; see "The Times" of the 20th March, 1968 ; see also the Solicitors' Journal (1968) Volume 112, p. 311). I respectfully adopt the reasoning of the learned Judge (see the relevant passages quoted *post* in the judgment of the Court) and I hold that a decree of dissolution that may be given by the Ecclesiastical Tribunal of the Greek Orthodox Church of Cyprus

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will not only dissolve the ceremony of the wedding but it will also dissolve the status of marriage, assuming, without deciding, that the Civil Marriage in 1965, which preceded the religious ceremony, was also valid. Whatever it was that gave the status its origin, it is the status itself that will be ended by the decree of divorce which may be issued by the Ecclesiastical Tribunal which has jurisdiction to dissolve the marriage.

I would leave the question open whether the Civil Marriage solemnized at the Limassol District Office in 1965 (*supra*) was a valid one in view of the provisions of Articles 111 and 22 of the Constitution (*supra*).

(6) In these circumstances, I hold that this Court has no jurisdiction to hear and determine the present petition.

Petition dismissed. No order as to costs.

Cases referred to :

Qureshi v. Qureshi [1971] 2 W.L.R. 518, at p. 536, per Sir Jocelyn Simon, P. (P.D.A.).

Peters v. Peters "The Times", March 20, 1968 ; Solicitors' Journal [1968] Vol. 112 p. 311.

Note : This case was decided on March 19, 1968, by Wrangham J. in the Probate, Divorce and Admiralty Division in England.

Matrimonial Petition.

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

A. Paikkos, for the petitioner.

The respondent was not represented.

The following judgment was delivered by :—

JOSEPHIDES, J. : This case raises once more the interpretation of Articles 22 and 111 of the Constitution which have in the past given rise to complicated questions affecting personal status of citizens of the Republic.

This is an undefended wife's petition for divorce on the ground of cruelty. The respondent husband, although duly served, did not put in an appearance nor was he represented at the hearing of the case.

The parties went through a ceremony of marriage at the District Office in Limassol on the 29th May, 1965, under the provisions of the Marriage Law, Cap. 279. On the following day, the 30th May, 1965, they went through a religious ceremony of marriage in the Greek Orthodox Church of Ayios Antonios in Limassol, in accordance with the rites and ceremonies of that Church.

At the time of the marriage the wife, who was a seamstress, was aged 25, and the husband was a mechanic aged 21. The wife is a Greek Cypriot and a member of the Greek Orthodox Church, while the husband is a Cypriot and a member of the Maronite Church. They were both born in Cyprus of Cypriot parents and had always lived in Cyprus. They are both citizens of the Republic and the husband is domiciled in Cyprus.

The first question which I have to decide in the present case is whether this Court has jurisdiction to hear and determine the present case.

The relevant statutory provisions are the following :

(1) *The Cyprus Courts of Justice Law*, 1960, section 19 (b) which reads as follows :

“ 19. The High Court shall, in addition to the powers and jurisdiction conferred upon it by the Constitution, have exclusive original jurisdiction—

(a)

(b) save where a matrimonial cause is, under Article 111 of the Constitution, cognizable by a tribunal of a Church or by a Court established by a Communal Law under Article 160 of the Constitution, in relation to matrimonial causes and matters including power to make orders for alimony whether *pendente lite* or after judicial separation, maintenance upon a decree of dissolution or of nullity, maintenance of children and periodical payments in suits for restitution of conjugal rights and such other powers as were before Independence Day, vested in or exercisable by the Supreme Court of Cyprus under the Law repealed by this Law :”

(2) *Article 22, paragraphs 1 and 2, of the Constitution*, which read as follows :

“ *Article 22*

1. Any person reaching nubile age is free to marry and to found a family according to the law relating

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to marriage, applicable to such person under the provisions of this Constitution.

2. The provisions of paragraph 1 of this Article shall, in the following cases, be applied as follows :—

- (a) If the law relating to marriage applicable to the parties as provided under Article 111 is not the same, the parties may elect to have their marriage governed by the law applicable to either of them under such Article ;
- (b) if the provisions of Article 111 are not applicable to any of the parties to the marriage and neither of such parties is a member of the Turkish Community, the marriage shall be governed by a law of the Republic which the House of Representatives shall make and which shall not contain any restrictions other than those relating to age, health, proximity of relationship and prohibition of polygamy ;
- (c) if the provisions of Article 111 are applicable only to one of the parties to the marriage and the other party is not a member of the Turkish Community, the marriage shall be governed by the law of the Republic as in sub-paragraph (b) of this paragraph provided :

Provided that the parties may elect to have their marriage governed by the law applicable, under Article 111, to one of such parties in so far as such law allows such marriage."

(3) *Article 111, paragraph 1, of the Constitution*, which reads as follows :

"1. Subject to the provisions of this Constitution any matter relating to betrothal, marriage, divorce, nullity of marriage, judicial separation or restitution of conjugal rights or to family relations other than legitimation by order of the Court or adoption of members of the Greek Orthodox Church or of a religious group to which the provisions of paragraph 3 of Article 2 shall apply shall, on and after the date of the coming into operation of this Constitution, be governed by the law of the Greek Orthodox Church or of the Church of such religious group, as the case may be, and shall be cognizable by a tribunal of such Church and no Communal Chamber shall act inconsistently with the provisions of such law."

It will be observed that section 19 (h) of the Courts of Justice Law, 1960, provides that the jurisdiction of this Court is excluded where a matrimonial cause is, under Article 111 of the Constitution, cognizable by a tribunal of a Church. Consequently, the question which falls for determination is whether this matrimonial cause between the parties is cognizable by a tribunal of a Church, in this case a tribunal of the Greek Orthodox Church.

As already stated, the wife is a citizen of the Republic and a member of the Greek Orthodox Church and the husband is likewise a citizen of the Republic and a member of the Maronite Church, that is, of a religious group to which the provisions of paragraph 3 of Article 2 of the Constitution apply, as well as the provisions of Article 111.

Article 111 provides, *inter alia*, that matters relating to marriage and divorce of members of the Greek Orthodox Church, or of a religious group as defined above, shall be governed by the law of the Greek Orthodox Church or of the Church of such religious group, as the case may be, and shall be cognizable by a tribunal of such Church. The other relevant article of the Constitution is Article 22, paragraph 1, which provides that any person reaching nubile age is free to marry and to found a family according to the law relating to marriage, applicable to such person under the provisions of the Constitution. This provision, it will be noted, is modelled on Article 12 of the European Convention on Human Rights (1950) which followed the provisions of Article 16 of the Universal Declaration of Human Rights.

Paragraph 2 (a) of our Article 22, which applies to mixed marriages, provides that if the law relating to marriage applicable to the parties as provided under Article 111 is not the same, the parties may elect to have their marriage governed by the law applicable to either of them under such Article. It would seem that in the present case although the parties went through a civil marriage, they elected to have their marriage governed by the canon law applicable to the wife, that is, the canon law of the Greek Orthodox Church, and they went through a religious ceremony in that Church.

In order to decide whether the matrimonial cause between the parties is cognizable by a tribunal of the Greek Orthodox Church, I received the expert evidence of a lawyer who is conversant with the canon law of that Church and who has been practising before the Ecclesiastical Tribunals of the Greek Orthodox Church in Cyprus for the past 40

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years. That is, the evidence of Mr. Georghios Haji Minas, advocate, of Nicosia, who has been practising since 1929. He expressed the view that the jurisdiction of the Greek Orthodox Ecclesiastical Tribunals in Cyprus is governed by Articles 15 and 16 of the Ecclesiastical Tribunals' Code of Procedure, which read as follows :

«15. Εἰς τὴν δικαιοδοσίαν τῶν Δικαστηρίων ὑπάγονται πᾶσαι αἱ ὑποθέσεις μνηστείας, κύρους τοῦ γάμου, λύσεως τοῦ γάμου ἢ προσωρινοῦ χωρισμοῦ τῶν συζύγων καὶ πασῶν τῶν νομίμων τούτων συνεπειῶν.

16. Τὰ Δικαστήρια θεωροῦνται ἀρμόδια ἐπὶ τῶν ἐν τῷ ἄρθρῳ 15 ὑποθέσεων προσώπων, ἅτινα ἐτέλεσαν τὸν γάμον αὐτῶν ἐν Κύπρῳ διὰ τῆς Ὁρθοδόξου Ἑλληνικῆς Ἐκκλησίας ἢ ἐν τῇ ἀλλοδαπῇ ὁμοίως, κατοικοῦσι δ' ἐν Κύπρῳ τὸ τελευταῖον πρὸ τῆς ἐνάρξεως τῆς διαδικασίας ἔτος.»

It will thus be seen that under Article 15 any cause relating to betrothal, nullity of marriage, divorce or judicial separation, is within the jurisdiction of the Ecclesiastical Tribunals. Article 16 provides that the provisions of Article 15 apply to persons who had their marriage solemnized either in Cyprus or abroad by the Greek Orthodox Church and who reside in Cyprus for one year prior to the commencement of the proceedings before such tribunal. On the evidence before me I am satisfied that both parties are resident in Cyprus.

Mr. Haji Minas was further of the view that the Ecclesiastical Tribunal of the Greek Orthodox Church is competent to hear the present matrimonial cause between the parties and grant a decree of divorce if either spouse is able to prove one of the grounds of divorce provided under Article 75 and 76 of the Charter of the Greek Orthodox Church of Cyprus ; and the ground of cruelty is one of the grounds provided in those articles.

I have also tried to form my own conclusion by scrutinizing the canon law and procedure referred to by Mr. Haji Minas (see Halsbury's Laws of England, third edition, volume 15, pages 329-330, paragraph 600 ; and *Qureshi v. Qureshi* (P.D.A.) [1971] 2 W.L.R. 518, at page 536, per Sir Jocelyn Simon, P.), particularly as their language is Greek and I am in a position to construe them myself in accordance with our rules of construction. Having done so I have formed my own conclusion thereon and I am satisfied that the expert's evidence is correct and I accept it.

It follows that, in my judgment, as the matrimonial cause between the parties is, under Article 111 of the Constitution, cognizable by the Ecclesiastical Tribunal of the Greek Orthodox Church, the jurisdiction of this Court is ousted under the express provisions of section 19 (b) of the Courts of Justice Law, 1960, and I cannot, therefore, hear and determine the present petition.

There is, however, a further point for consideration and it is this : Will the decree of divorce of the Ecclesiastical Tribunal dissolve the status of marriage considering that a civil marriage was solemnized between the parties one day prior to the religious marriage? I think that the answer is in the affirmative. There is a case on the point which I have found very helpful in deciding this matter and that is the case of *Peters v. Peters* which was decided by Wrangham, J. in the Probate, Divorce and Admiralty Division in England on the 19th March, 1968. I could not trace this case in the Law Reports or any other series of law reports but, having enquired from the Rt. Hon. President of that Division, I am assured that the report in "*The Times*" of the 20th March, 1968 (which I have before me), reproduces substantially the judgment of Wrangham, J. I also had occasion to refer to a brief report of this case in the *Solicitors' Journal* (1968), volume 112, page 311.

In the *Peters'* case the parties were Greek Cypriots and they were married first at St. Pancras register office in March 1960, and at the Greek Orthodox Church, Bayswater, in June, 1960. The wife was born and had always lived in London, the husband was born in Cyprus, and they were both members of the Greek Orthodox Church. At all material times the husband was domiciled in Cyprus, where he lived at the time of the hearing of the case. The marriage was a failure and the parties separated in April, 1961. In September, 1962, the parties went to Cyprus together in an unsuccessful attempt to save their marriage, the wife returning to England in November, 1962. The husband petitioned for divorce in the Ecclesiastical Court of the Archbishopric of Cyprus, that being according to Cypriot law, the only Court with jurisdiction over the parties' marriage. A decree of divorce was given to the husband by the Ecclesiastical Court in Cyprus in November, 1964, and the wife sought a declaration from the English Court that such decree had validly dissolved her marriage which was celebrated first at St. Pancras register office and later at the Greek Orthodox Church, Bayswater.

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According to "*The Times*" law report, *supra*, Wrangham, J. is reported to have said :

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" A judgment of that Court (the Ecclesiastical Court) in November, 1964, declared the marriage dissolved. That could only mean that the status of husband and wife that had previously existed between the parties had come to an end.

Some confusion could be created if it was forgotten that the word 'marriage' concealed ambiguity and might be used to mean the ceremony of wedding and also the status which began on the conclusion of the ceremony. As used in the judgment of the Ecclesiastical Court, 'marriage' meant the status of husband and wife which was derived in the view of that Court from the religious ceremony.

But whichever ceremony gave origin to the status, it was the status itself that was terminated by the decree. As the Cyprus Court had jurisdiction to terminate the status, its judgment ought to be recognized as valid. Accordingly, there would be a declaration that Mrs. Peters' marriage had been validly dissolved."

'The report in the *Solicitors' Journal* (1968), volume 112, page 311, referred to earlier, reads as follows :

" WRANGHAM, J. said that, by declaring the marriage of the parties dissolved, the judgment of the Ecclesiastical Court could only mean that it terminated the status of husband and wife which had previously existed between the parties. Some confusion could be created if it was forgotten that the word 'marriage' could conceal ambiguity ; it might be used to mean the ceremony of wedding or the status which began on the conclusion of that ceremony. 'Marriage', as used in the judgment of the Ecclesiastical Court, meant the status of husband and wife which, in the view of that Court, derived from the church ceremony ; but, whatever it was that gave the status its origin, it was the status itself that was ended by the decree. As the Ecclesiastical Court had jurisdiction to dissolve the marriage, the Court should recognise its decree as validly determining the petitioner's marriage. Declaration accordingly." (Reported by Miss Clare Noon, barrister).

I respectfully adopt the reasoning of the learned judge and I hold that a decree of dissolution that may be given by the Ecclesiastical Tribunal of the Greek Orthodox Church of Cyprus will not only dissolve the ceremony of the wedding but it will also dissolve the status of marriage, assuming, without deciding, that the civil marriage in 1965, which preceded the religious ceremony, was also valid. Whatever it was that gave the status its origin, it is the status itself that will be ended by the decree of divorce which may be issued by the Ecclesiastical Tribunal which has jurisdiction to dissolve the marriage. I would leave the question open whether the *civil* marriage solemnized at the Limassol District Office in 1965 was a valid one in view of the provisions of Articles 111 and 22 of the Constitution:

In these circumstances I hold that this Court has no jurisdiction to hear and determine the present petition.

Before concluding, however, I ought perhaps to state that, on the evidence adduced by the wife in the present case, including medical evidence, I am satisfied that the charge of cruelty against the husband has been proved and, if I had jurisdiction, I would have granted her a decree. The marriage was a failure right from the beginning. The husband ill-treated the wife. He broke the wife's crockery and furniture in the house. He refused to work and sponged on her, and he never contributed anything towards her maintenance. He ceased sleeping with her and he was behaving peculiarly with a man friend of his. As a result of the husband's horrible conduct towards her the wife suffered from anxiety neurosis and she had to undergo medical treatment.

In the result, as this Court has no jurisdiction in the matter, the petition is dismissed. No order as to costs.

*Petition dismissed. No order
as to costs.*

1971
May 31

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ANDROULLA
ANTONIOU
MICHAEL
THEN
ANDROULLA
ACHILLEA
CHRYSOSTOMOU
v.
ANTONIOS
MICHAEL