

[JOSEPHIDES, J.]

ION CHR. CHARALAMBOUS,

Petitioner,

v.

DENISE ION CHARALAMBOUS THEN DENISE
ANN SHEPHERD,

Respondent.

(Matrimonial Petition No. 9/66).

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v.

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ANN SHEPHERD,

Matrimonial Causes—Divorce—Jurisdiction—Husband domiciled in Cyprus—Husband's petition for divorce—Civil marriage on the 28th October, 1959, at the register office in the District of Lewisham in the U.K.—No religious ceremony—Husband, a Greek Cypriot and a member of the Greek Orthodox Church—Wife, a British National and a Roman Catholic.

Divorce—Cruelty by wife—Wife's conduct of such a character as to give rise to reasonable apprehension of danger to husband's health—Decree nisi granted.

Cruelty—Divorce—Wife's cruelty—See above.

Custody of children—No final custody order pending a supplementary report by the Welfare officer.

The facts sufficiently appear in the judgment of the Court granting a *decree nisi* to the husband on the ground of the wife's cruelty.

Matrimonial Petition.

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

C. Myrianthis for the petitioner.

The respondent was not represented.

The following judgment was delivered by:

JOSEPHIDES, J.: This is a husband's petition for divorce on the ground of cruelty. The wife originally entered an appearance and filed an answer and cross-petition on the ground of cruelty; but on the first day of the hearing counsel appearing on her behalf stated that he had been instructed to with-

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draw and not to defend the proceedings.

Before I deal with the main facts of this case I should state that I have found considerable difficulty in reaching my decision in the present case, due mainly to the immaturity of both parties who, according to the evidence, were married when they were both 16 years of age and the wife gave birth to their first child only five weeks after the marriage, which means that they decided to marry after she had been in an advanced stage of pregnancy. This has been a wholly unhappy marriage which, in normal circumstances, should never have taken place and to which the parents should never have consented.

The parties were married on the 28th of October, 1959, at the register office in the District of Lewisham in the United Kingdom. As already stated they were both 16 years of age, the husband being at the time an architect's tracer and the wife a shop-assistant. There was no religious ceremony. The husband is a Greek Cypriot and a member of the Greek Orthodox Church. The wife is a Roman Catholic and a British national. Their first child Christopher Lee was born on the 2nd December, 1959, at Stone Park, Beckenham, U.K. and the second child, Leigh, was born in Nicosia on the 8th December, 1961.

The parties moved to Cyprus, where they lived in Nicosia and Ayios Dhometios, between January, 1961 and December, 1964. The wife then left the matrimonial home having quarrelled with the husband and went to the United Kingdom with the children where she lived by herself until October, 1965. Meantime the husband left Cyprus and went to the United Kingdom in March, 1965 where he lived until June, 1966, apart from the wife. I shall revert later to the facts with regard to cruelty. In October, 1965, the wife returned to Cyprus where she lived until April, 1966 when she was deported by the Government of the Republic of Cyprus. She took the children with her again to the United Kingdom and she kept them with her until September, 1966, when she sent them back to Cyprus. The husband had in the meantime returned to Cyprus and between September, 1966, and 18th April, 1968, the husband lived with his children in his parents' home. On the 18th April, 1968, the children were taken by the paternal grandmother to the wife in England. This was done at the wife's request and with the consent of

the husband who stated in his evidence to Court that he considered this to be in the welfare of the children.

Having now given the material dates, the first question which I have to determine is the question of *jurisdiction*, and on the evidence I am satisfied that the husband is domiciled in Cyprus and this court has jurisdiction to entertain the present proceedings.

On the question of *cruelty*, this Court heard the evidence of the husband and of his friend Phoebus Christou Imisos and Dr. Takis Evdokas. The husband in his evidence stated that from the very beginning when the parties came to Cyprus trouble started. The wife did not like the people in Cyprus and she wanted to go back to England. It should, however, be stated that the husband who appeared to be below the average normal person, was rather vague in his evidence with regard to dates. The period during which they lived in Nicosia and Ayios Dhometios is about three years from January, 1961 to December, 1964. He did not give any definite dates but, fortunately for him, his evidence is corroborated, especially with regard to the crucial period, which was the summer of 1964. The wife left for England in December 1964. The husband stated that the wife used to go almost every night to a bar, ("Churchill's bar"); that she locked him out on eight or nine occasions in the evening and that he was forced to go and sleep at a friend's house on five or six occasions; that she used very insulting language against him, words like "bloody Greek, bastard Greek, f.....c."; that she used to spit at him, that she slapped him and tore his shirts; that she would not talk to him for three or four days and would not cook for him; that she used to tie the children on the bed when she went out; that she used to help the barman at the bar behind the counter and that she used to return home very heavily drunk. The result of all this, the husband stated, was that he felt depressed and he had to consult a doctor, and that he was prescribed tranquilizers on several occasions. She made his life miserable. He consulted Dr. Evdokas and he followed his treatment.

The husband's evidence is very clearly corroborated by the evidence of his friend Phoebus Imisos, who has impressed me as a witness of truth, and whose evidence I have accepted in toto. This witness testified to the following incidents which he witnessed during the summer of 1964. On one

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occasion he had been visiting a neighbour of the parties when he heard the wife shouting. He knocked at the door to ask what was the matter and the wife immediately told him "get out bastard Cypriot, f.....Cypriot". On hearing this he did not go in and he left. He actually saw the wife rushing at the husband and tearing up his shirt and he heard the wife shouting at him "you are good for nothing; you bastard Cypriot". On another occasion, one evening, this witness invited the parties to go out to the cinema with him but the wife declined the invitation but she allowed the husband to go. They returned at about 10 p.m. The husband knocked at the door and the wife's voice was heard from inside, "It does not matter, get out, I am not opening the door". They waited for more than ten minutes and as the wife did not open the door they left and the husband was put up by this witness for that night. The latter also put him up on two or three other occasions. Three or four weeks after the first incident the husband went to this witness's house at about 10.45 p.m. and the witness noticed that the husband had scratches on the left cheek and a light scratch on the left shoulder; his shirt was slightly torn; he was very pale and when he (the husband) saw the witness he started crying. On that occasion the husband spent the night at the house of this witness. About a week or ten days later there was a similar incident and this witness allowed the husband to spend the night in his house again. On another occasion, during the same summer of 1964, when the witness went to visit another friend in the same block of flats he heard children crying in the flat of the parties. The door was open. He went to see what was the matter and he saw the wife throwing kitchen utensils at the husband who was trying to take cover. On several occasions he witnessed scenes in which the wife insulted in very bad language the husband and ran into hysterics.

The last witness to give evidence on behalf of the husband was Dr. Takis Evdokas, a neuropsychiatrist practising in Nicosia since 1961. He first examined the husband on the 8th March, 1964, and during that period he saw him on three or four occasions and occasionally ever since. The doctor stated that the husband had periodical attacks of depression and anxiety. These attacks of depression were related basically to his relationship with his wife. The doctor prescribed tranquilizers and anti-depressants. It is his opinion that

medication is not the only treatment necessary for these attacks of depression, and that there can be no favourable results unless both parties cooperate and the cause of the patient's anxiety is removed. In this case he only treated the husband and he had no occasion to see the wife. According to the doctor, the husband's resistances were rather low, and the mixed feelings which he had towards his wife contributed to a great extent to his depression. He is below the average normal person.

After due consideration I am satisfied with the evidence adduced on behalf of the husband and I find the facts accordingly.

The question which I have now to consider is whether on the facts as found by me the conduct of the wife is of such a character as to have caused danger to the husband's life, limb or health, bodily or mental; or her conduct is such as to give rise to a reasonable apprehension of such danger. I have to deal with the actual parties before the court and not with hypothetical persons. It is not without considerable difficulty and hesitation that I have reached the conclusion that the conduct of the wife was of such a character as to give rise to a reasonable apprehension of danger to the health of the husband. For these reasons I find the petition proved.

With regard to the question of the custody of the children, the welfare officer's report filed on the 24th June, 1968, does not appear to me to be adequate. I have already expressed my views with regard to this report earlier today in the course of the argument in this case, and I would accordingly require a supplementary report before I make a final custody order. Such report to be filed one week before the close of three months from today.

In the result, I grant a *decree nisi* to the petitioner and I dismiss the cross-petition.

No order as to costs.
Decree nisi granted.
Cross-petition dismissed.

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