

1979 March 17

[A. LOIZOU, J.]

LORIS SAVVIDES,

Petitioner,

v.

KORALIA SKOPELITOU,

Respondent.

(*Matrimonial Petition No. 7/78*).

Matrimonial Causes—Decree of Divorce—Recognition—Marriage at Registry office in England between Greek Cypriot members of the Greek Orthodox Church—Followed by religious ceremony of marriage according to the rites of the Greek Orthodox Church—
5 *Decree of Divorce given by Ecclesiastical tribunal of Greek Orthodox Church of Cyprus—Not only dissolves ceremony of wedding but also the status of marriage.*

10 The parties to this petition are Cypriots, members of the Greek Orthodox Church. Whilst residing in the United Kingdom for purposes of studies they went through a ceremony of marriage at the Register Office of the City of Westminster in London on the 18th December, 1969. A month later they were married in St. Sophia church in London, according to the rites and ceremonies of the Greek Orthodox Church. They lived
15 for some time as husband and wife, first in London, and from August 1971 until the Summer of 1977 in Nicosia where the respondent still lives, whereas the petitioner lives at Larnaca. They are both permanent residents of Cyprus.

20 On February 28, 1977 their marriage was dissolved by a decree of the Ecclesiastical tribunal of Larnaca on a ground recognised by the law of this Church namely, the insistent refusal of the respondent to follow her husband to the conjugal home he established at Larnaca after invitation to that effect sent to her through the Bishop.

25 *Upon a petition for a declaration that the marriage between the parties was validly dissolved by the said decree of divorce of the Ecclesiastical Tribunal of Larnaca:*

Held, 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; that 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; and that, accordingly, the decree of dissolution given by the Ecclesiastical Tribunal of the Greek Orthodox Church in Larnaca, did not only dissolve the ceremony of the wedding but also the status of marriage (*Michael v. Michael* (1971) 1 C.L.R. 211 and *Harakis v. Loizou* (1972) 1 C.L.R. 102 adopted and followed).

Declaration accordingly.

Cases referred to:

Michael v. Michael (1971) 1 C.L.R. 211; 15
Peters v. Peters "The Times", March 20, 1968;
Harakis v. Loizou (1972) 1 C.L.R. 102.

Matrimonial Petition.

Petition by the husband for a declaration that the marriage between the parties was validly dissolved by a decree of divorce given to the husband by the Ecclesiastical Tribunal of Larnaca. 20

E. Papadopoulou (Mrs.), for the petitioner.
 No appearance for the respondent.

A. LOIZOU J. gave the following judgment. This is a husband's undefended petition for a declaration and/or order that the marriage between the parties was validly dissolved by a decree of divorce given to the husband by the Ecclesiastical Tribunal of Larnaca on the 28th February, 1978. 25

The respondent-wife, although duly served, entered no appearance to the present petition nor was she represented at the hearing. 30

The facts of the case as they appear from the evidence adduced are as follows:-

The petitioner and the respondent are Cypriots, members of the Greek Orthodox Church. Whilst residing in the United Kingdom for the purpose of highest studies, they went through 35

a ceremony of marriage at the Register Office of the City of Westminster in London on the 18th December, 1969. A month later they were married in St. Sophia church in London, according to the rites and ceremonies of the Greek Orthodox Church.

5 They lived for some time as husband and wife, first in London, and from August 1971 until the summer of 1977 in Nicosia where the respondent still lives, whereas the petitioner lives and resides at Larnaca where he is engaged in trade. They are both permanent residents of Cyprus and they acquired two
10 children from the said marriage. Their marriage was dissolved on the 28th February, 1977, by a decree (*exhibit 2*) of the Ecclesiastical Tribunal of Larnaca on a ground recognized by the law of this Church namely, the insistent refusal of the respondent to follow her husband to the conjugal home he established
15 at Larnaca after invitation to that effect sent to her through the Bishop.

I have had the advantage of hearing expert evidence from Mr. Papachrysostomou, a lawyer, who has had academic training on the Ecclesiastical and Canon Laws with regard to the marriage of members of the Greek Orthodox Church and who has
20 been practising before the Ecclesiastical Tribunals of Cyprus for the last ten years. He stated that the jurisdiction of the Greek Orthodox Ecclesiastical Tribunals in Cyprus, in any cause relating to betrothal, nullity of marriage, divorce or
25 judicial separation, is governed by Articles 15, 16 and 17 of the Ecclesiastical Tribunals' Code of Procedure and that this jurisdiction applies to persons who had their marriage solemnized either in Cyprus or abroad by the Greek Orthodox Church.

30 There is apparently the one year residence qualification but that is obviously duly satisfied by the length of residence of the parties in Cyprus prior to the institution of the divorce proceedings before the Ecclesiastical Tribunal.

The legal issue for determination in this case, including that of the jurisdiction of the Court in such circumstances, has been
35 the subject of judicial pronouncement in two cases, the first one is *Michael v. Michael* (1971) 1 C.L.R., p. 211 where and by reference to the case of *Peters v. Peters* decided by Wrangham J., in the Probate Divorce and Admiralty Division in England on the 19th March, 1968, Josephides J., held that a decree of
40 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. It was further held, relying on the reasoning of Wrangham J., in Peters' case which was respectfully adopted, that "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" (p. 225).

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This reasoning was followed by L. Loizou, J., in the case of *Harakis v. Loizou* (1972) 1 C.L.R., 102. I fully agree with their approach on the matter and I hold that the decree of dissolution given by the Ecclesiastical Tribunal of the Greek Orthodox Church in Larnaca, did not only dissolve the ceremony of the wedding but also the status of marriage.

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In the result there will be a declaration that the marriage of the parties was validly dissolved by the decree of divorce given to the husband by the Ecclesiastical Tribunal of Larnaca.

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I make, however, no order as to costs as none was claimed.

Declaration accordingly.

No order as to costs.

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