

1980 December 2

[A. LOIZOU, J.]

THEODOROS NICOU PANAYIOTOU,

Petitioner,

v.

ELENI CONSTANTINOY,

Respondent.

(*Matrimonial Petition No. 13/80*).

5 *Marriage—Civil Marriage—Validity—Marriage solemnized in Registrar Office in Canada between Greek Cypriots, members of the Greek Orthodox Church, resident and domiciled in Cyprus—No religious ceremony in accordance with rites of Greek Orthodox Church—Though held in accordance with formalities of lex loci celebrationis said marriage null and void ab initio because it was contracted in disregard of Article 111 of the Constitution.*

10 The parties in this petition were both nationals of the Republic of Cyprus, Greek Cypriots, members of the Greek Orthodox Church and of the Greek Community of Cyprus and they were both resident and domiciled in Cyprus. In 1977 they went through a ceremony of civil marriage at a Registry Office at the City Hall of Toronto in the Province of Ontario, Canada, in accordance with the formalities of the law of that Province.
15 Their marriage, however, has not been celebrated in accordance with the rites of the Greek Orthodox Church.

Upon a petition by the husband for a declaration that the said ceremony of marriage was null and void and of no effect as being contrary to the Law and the Constitution:

20 *Held,* that the ceremony to which the parties went through although held in accordance with the formalities of the lex loci celebrationis cannot be recognized as a valid one as it is a marriage contracted in disregard of the provisions of Article 111 of the Constitution by Cypriots to whom same applies

as it does in the case of the parties to these proceedings; accordingly this marriage will be declared as null and void ab initio.

Marriage declared null and void ab initio.

Cases referred to:

5

Platritis v. Platritis (1980) 1 C.L.R. 324.

Matrimonial Petition.

Petition by the husband for a declaration that the civil ceremony of marriage performed between the parties at a Registry Office at the City Hall of Toronto in the Province of Ontario, Canada, is null and void. 10

G. Arestis, for the petitioner.

Ch. Panayides, for the respondent.

A. LOIZOU J. gave the following judgment. The parties in these proceedings are both nationals of the Republic of Cyprus, Greek Cypriots and members of the Greek Orthodox Church and of the Greek Community of Cyprus, resident and domiciled here. 15

They met in Canada in October 1977 where the petitioner, husband was staying at the time. They went through a ceremony of civil marriage at a Registry Office at the City Hall of Toronto in the Province of Ontario, Canada, in accordance with the formalities of the law of that Province. 20

The respondent, wife, returned to Cyprus in February, 1979, whilst the petitioner, husband, returned in April of that year. There is no issue of the said marriage and their marriage has not been celebrated in accordance with the rites of the Greek Orthodox Church, to which they both belong. 25

The petitioner, husband, by the present petition prays for a declaration that the ceremony of marriage performed between the parties, as above set out is null and void and of no effect, as being contrary to the Law and the Constitution. Though this petition was defended by the respondent, wife, there does not appear to be any disagreement on the facts nor is there really any difference of approach on behalf of her counsel on the legal issues raised herein. 30 35

I have had the opportunity of pronouncing recently in the

case of *Platritis v. Platritis* (1980) 1 C.L.R. p. 324 on the legal issues raised in the present petition. In the *Platritis case (supra)* I referred to the previous decisions of this Court on the same subject. I need not therefore elaborate on this matter that
5 has come up before me once more with respect to the validity of a marriage of Greek Cypriot members of the Greek community of Cyprus, who are also both members of the Greek Orthodox Church and which has been celebrated otherwise than in accordance with the provisions of Article 111 of the Constitution.

10 On this line of authorities I cannot but conclude that the ceremony to which the parties went through on the 31st October 1977, although held in accordance with the formalities of the *lex loci celebrationis* cannot be recognized as a valid one as it is a marriage contracted in disregard of the provisions of the
15 aforesaid Article of the Constitution by Cypriots to whom same applies as it does in the case of the parties to these proceedings. Consequently this marriage is hereby declared as null and void *ab initio*, but in the circumstances I make no order as to costs.

20 *Marriage declared null and void
ab initio. No order as to costs.*