

1980 December 9

[A. LOIZOU, J.]

STELLA ELEFThERIOU,

Petitioner,

v.

ELEFThERIOS M. CHARALAMBOUS,

Respondent.

(*Matrimonial Petition No. 17/80*).

Matrimonial Causes—Divorce—Desertion—Separation of one spouse from the other with intention on the part of deserting spouse of bringing cohabitation permanently to an end without any reasonable cause—Separation lasting for a period of more than three years—Decree nisi granted.

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This was an undefended petition for divorce on the ground of desertion. The parties who were both Jehovah Witnesses were married on the 10th January, 1976, in the Kingdom Hall of Jehovah's Witnesses in Nicosia, in accordance with the rites and ceremonies of the Marriage Law, Cap. 279. After some brief period of smooth relations the respondent husband started showing a dislike for the petitioner and was using cruel and abusive language; and on October 14, 1977, he left the conjugal home and went and lived in Limassol. He has shown no intention to return to the conjugal home in spite of repeated efforts by the petitioner to bring him back.

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Held, that there has been a 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 without any reasonable cause, which has lasted for a period of more than three years immediately preceding the presentation of this petition; that the abandonment of the petitioner by the respondent was without her consent; that, therefore, there exists in law desertion; and accordingly a decree nisi will be granted in favour of the petitioner.

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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.

Wife's petition for divorce on the ground of desertion.

Sp. Efstathiou, for the petitioner.

Respondent absent, duly served.

- 5 A. LOIZOU J. gave the following judgment. The petitioner-wife seeks hereby a divorce on the ground of desertion. The respondent-husband, though duly served, failed to enter an appearance or contest the proceedings.

10 The parties, who are both Jehovah Witnesses, were married on the 10th January, 1976, in the Kingdom Hall of Jehovah's Witnesses, in Nicosia, according to the rites and ceremonies of the Marriage Law, Cap. 279. After their marriage they lived at Eracliou Street, No. 13, Acropolis, Nicosia, until the
15 14th October, 1977. After some brief period of smooth relations, the respondent started showing a dislike for the petitioner and was using cruel and abusive language. He then, on the 14th October, 1977, left the conjugal home and went and lived in Limassol. In spite of the repeated efforts by the petitioner to bring him back, he has shown no intention to do so. There
20 is no issue of the marriage.

These facts appear in the testimony of the petitioner herself as corroborated by that of Mr. Stavros Kairis, who was their landlord during the period that the parties to these proceedings were living together. He had, on several occasions, witnessed
25 the improper behaviour of the respondent towards the petitioner and he made several efforts to advise the respondent to change his attitude towards her but unsuccessfully. He was also with the petitioner at one of their religious meetings when on returning home they discovered that the respondent had left the conjugal home taking all his belongings with him.
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On this evidence I am satisfied that there exists in law desertion as there has been a 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 without any reasonable
35 cause, which has lasted for a period of more than three years immediately preceding the presentation of this petition. It also goes without saying that the abandonment of the petitioner by the respondent was without her consent who, on the contrary, made repeated efforts to secure his return to the conjugal home.

I need not refer to any authorities on the legal aspect of the case as the law is well settled and has been reiterated in a number of cases. If any authority is necessary, reference may be made to the two recent ones, namely, *Hadjiyiannis v. Hadjiyiannis* (1979) 1 C.L.R. p. 227; *Evgenios Avraam v. Lilian Evgeniou Avraam* (1979) 1 C.L.R. p. 661. 5

For all the above reasons I have come to the conclusion that the petitioner has proved her case and I grant a decree nisi in her favour.

There will be, however, no order as to costs as none have been claimed. 10

Decree nisi granted. No order as to costs.