

1984 June 15

[PIKIS, J.]

MARCOS IACOVOU

Petitioner.

v.

CARMEN GLORIA LORENZO DE IACOVOU

Respondent.

(Matrimonial Petition No. 2/84).

Matrimonial Causes—Divorce—Cruelty—Legal cruelty—Wife attacking husband by throwing objects at him and freely insulting him in the presence of others—Her conduct cruel—It had direct adverse repercussions upon the physical and mental health of her husband—Petition proved—Decree nisi granted.

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This was a husband's petition for divorce on the ground of the wife's cruelty. According to the petitioner's evidence which was corroborated by two witnesses the respondent on little or no pretext would attack him by throwing at him objects within her reach while she kept freely insulting him in the presence of whoever might happen to be there.

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Held, that legal cruelty connotes conduct causing or giving rise to a reasonable apprehension of danger to life, limb or health, bodily or mental of a kind that a spouse should not reasonably be required to endure notwithstanding his commitment to marriage; that applying this definition to the facts of the case, subject always to the heavy onus cast on the petitioner to prove his case this Court finds the petition proven; that the conduct of the respondent was cruel; that it had direct adverse repercussions upon the physical and mental state of health of the respondent; and that, therefore, a decree nisi will be issued.

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Decree nisi granted.

Cases referred to:

Bastadjian v. Bastadjian, 1962 C.L.R. 308;

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Morphi v. Mashini (1981) 1 C.L.R. 253;

Jabbour v. Jabbour (1981) 1 C.L.R. 315.

Matrimonial Petition.

5 Husband's petition for the dissolution of marriage on the ground of cruelty by the wife.

P. Demetriades, for the petitioner.

Respondent absent.

10 PIKIS J. gave the following judgment. The petitioner prays the dissolution of his marriage to Carmen Gloria Lorenzo D' Iacovou registered before the District Officer, Limassol, in 1972. Following the civil marriage the petitioner, a Cypriot, a member of the Greek Orthodox Church, and the respondent, an Argentinian national of the Catholic faith, married ecclesiastically at a Greek Orthodox church in Limassol. Disso-
15 lution of the marriage is sought on grounds of cruelty of the wife towards the husband.

20 The association of the parties began in 1969. They met in Poland where they were studying, the petitioner medicine and the respondent sociology. In 1972 they came to Cyprus for the specific purpose of getting married, for, as it was evident, they contemplated to set up the matrimonial home in Cyprus. While still abroad, in 1974, a son was born to them. Having completed their studies they returned to Cyprus in 1978. The petitioner set up his surgery at Limassol while the respondent
25 found employment at an hotel.

30 It is the case for the petitioner that the conduct of respondent towards him was such that he should not be required to suffer further marital association with her. Not that respondent wishes the continuance of the marriage or the up-keep of the matrimonial home. Since September, 1981 she left the petitioner as well as Cyprus and moved back to her native country Argentina, taking their son with her. Since, she returned to Cyprus only once for a brief visit in January, 1984, but co-habitation was not resumed. She went back to Argentina
35 in February. The present proceedings were instituted while she was still in the country; she did not defend the proceedings.

In evidence the petitioner gave an account of the conduct of the respondent objected to, detailing in the process specific incidents in support of the contention that respondent repeatedly assaulted him and treated him in a most humiliating manner. From 1980 onwards her behaviour and attitude towards the marriage and petitioner was altogether negative. On little or no pretext she would attack him by throwing at him objects within her reach while she kept freely insulting him in the presence of whoever might happen to be there. She kept complaining of the inability of the petitioner to satisfy her financial demands. The petitioner singled out one incident that was particularly aggravating. In the middle of his birthday party she became angry with him and in the presence of his friends she picked up the birthday cake and threw it at his face. To his entreaties to see reason and make an effort to save the marriage, her reaction was that there was nothing to save.

The evidence of the petitioner is corroborated by two witnesses who impressed me as truthful and accurate in the narration of events past. They are Mr. Costas Papadopoulos, a socio-criminologist previously an assistant Professor of criminology at Stockholm University and Mr. Elias Nicolaides, a psychiatrist-neurologist at Limassol hospital, both friends of the family. Mr. Papadopoulos who has known the couple for years, testified that the respondent kept humiliating the applicant in almost every way. Not only she insulted him without inhibition in the presence of his friends but she was ever so ready to attack him physically as well. He witnessed her throwing ashtrays at him, pulling his hair and kicking him at several parts of the body. She was a person of strong physical physique, as tall as the applicant and of stout bearing.

On the initiative of the petitioner, the couple visited Mr. Nicolaides in his capacity as a psychiatrist-neurologist in a desperate attempt on the part of the petitioner to save the marriage. It proved of no avail. The response of the petitioner was negative. Like Mr. Papadopoulos he bore witness to the humiliating way respondent was treating her husband. The doctor was impressed by the lack of reaction on the part of the husband to the atrocious conduct of his wife. The conduct of the respondent took a toll upon his health. He became depressed and melancholic necessitating prescription of anti-depressants and tranquilizers for a period of time.

The Supreme Court was repeatedly concerned with the definition of legal cruelty and its application to the differing facts of individual cases. In *Angeliki Bastadjian*, then *Angeliki Rigou v. Krikon Bastadjian*, 1962 C.L.R. 308, Vassiliades J.,
5 as he then was, adopted the definition of legal cruelty supplied in the 5th edn. of Rayden on Divorce. It has been consistently followed since. See inter alia *Morphi v. Mashini*, (1981) 1 C.L.R. 253 and *Jabbour v. Jabbour*, (1981) 1 C.L.R. 315.

Cruelty in this context connotes conduct causing or giving
10 rise to a reasonable apprehension of danger to life, limb or health, bodily or mental. Of a kind one might say that a spouse should not reasonably be required to endure notwithstanding his commitment to marriage. Applying this definition to the facts of the case, subject always to the heavy onus cast on the
15 petitioner to prove his case, I find the petition proven. The conduct of the respondent was cruel; it had direct adverse repercussions upon the physical and mental state of health of the respondent. Despite the gravity of her conduct, he persisted for some time in his endeavours to save the marriage.
20 He came to Court when no other option had been left to him.

In the result, the petition succeeds. I hereby direct the issue of a decree nisi.

Decree nisi granted.