

1985 March 30

[A. LOIZOU, J.]

PANTELAKIS TELEVANTOS,

Petitioner.

v.

MARINA KYZA NEE TELEVANTOU,

Respondent.

(Matrimonial Petition No. 21/84).

Marriage—Civil Marriage—Validity—Civil marriage solemnized at a Register Office in England—Between Greek Cypriots, members of the Greek Orthodox Church, domiciled and resident in Cyprus—No religious ceremony in accordance with the rites of the Greek Orthodox Church—Said marriage invalid—Article 111 of the Constitution. 5

The petitioner and the respondent were both Cypriot Nationals, members of the Greek Community, domiciled and resident in Cyprus. Whilst in the United Kingdom for studies they went, on the 30th September, 1975, through a ceremony of civil marriage at a Register office but no marriage has been celebrated in accordance with the rites of the Greek Orthodox Church to which they both belonged. 10

Upon a petition by the husband for a decree of nullity: 15

Held, that the application of the provisions of Article 111.1 of the Constitution is confined to cases where both parties are members of the Greek Orthodox Church, Cypriot Nationals and members of the Community concerned; that since both parties come within the ambit of Article 111 of the Constitution the validity of their marital status has to be governed by it irrespective of where same was celebrated; that no doubt their marital status is invalid unless conducted in accordance with the rites of the 20

Greek Orthodox Church; and that, accordingly, a decree of nullity nisi will be granted.

Decree of nullity nisi granted.

Cases referred to:

- 5 *Metaxas v. Mitas* (1977) 1 C.L.R. 1;
 Neophytou v. Neophytou (1979) 1 C.L.R. 685;
 Platritis v. Platritis (1980) 1 C.L.R. 324;
 Tooley v. Tooley (1984) 1 C.L.R. 279;
 HjiJovani v. HjiJovani (1969) 1 C.L.R. 207;
- 10 *Bastadjian v. Bastadjian*, 1962 C.L.R. 308.

Matrimonial Petition.

Petition by the husband for a decree of nullity.

A. Markides with *G. Serghides*, for the petitioner.

Respondent absent.

- 15 A. LOIZOU J. gave the following judgment. This is an uncontested husband's petition for a decree of nullity. The respondent-wife, though duly served, failed to enter an appearance or contest the proceedings.

- 20 The petitioner and the respondent are both Cypriot Nationals, members of the Greek Community, domiciled and resident here. Whilst in the United Kingdom for studies they went on the 30th September 1975, through a ceremony of civil marriage at the Register office in the District of Surrey North West, in the County of Surrey, but no
- 25 marriage has been celebrated in accordance with the rites of the Greek Orthodox Church to which they both belong. After their said civil marriage they lived in the United Kingdom until September 1976, when the respondent returned to Cyprus and as from November 1977, the petitioner
- 30 also returned and they lived together until March, 1984.

It was asserted in the petition and confirmed on oath by

the petitioner himself that before their marriage the parties had an issue born in London on the 8th March, 1975, whom they named Nicola Andrea Telefantou. Furthermore the respondent was pregnant at the time of the filing of the petition and since then she gave birth on the 19th September 1984 to another child. Moreover it was stated by him that both children live with their mother and that both himself and the respondent mother look after them and that he intends to proceed with their legitimation and that in any event he was recognizing voluntarily, both of them as his children.

It may be said here that under Article 3 of the Convention on the Legal Status of Children Born out of Wedlock (Ratification) Law, 1979 (Law No. 50 of 1979) "paternal affiliation of every child born out of wedlock may be evidenced or established by voluntary recognition or by judicial decision".

I shall make no comment on the legal situation of either child as I am not asked to do so at this stage. It is to say the least for the petitioner and in the light of his solemn declaration before me on oath, to consider the proper steps, if any, that have to be taken for the benefit of all concerned now and in the future.

It is the case for the petitioner and in that respect evidence has been adduced that such civil marriage is not recognised by the Greek Orthodox Church and or the Canon Law of the Greek Orthodox Church and that in view of the provisions of Article 111 of the Constitution the said civil marriage is null and void.

This Court had on a number of occasions the opportunity to deal with such an issue. There has been established by numerous decided cases that the application of the provisions of Article 111.1 of the Constitution is confined to cases where both parties are members of the Greek Orthodox Church, Cypriot Nationals and members of the community concerned. (See, inter alia, *Metaxas v. Mitas* (1977) 1 C.L.R. p. 1, followed in *Neophytou v. Neophytou* (1979) 1 C.L.R. p. 685; in *Platritis v. Platritis* (1980) 1 C.L.R. 324; and more recently see *Tooley v. Tooley*, (1984) 1 C.L.R. 279, following *Papasavva v. Jonestone* and re-

ferring also to *Hadjijovanni v. Hadjijovanni*, (1969) 1 C.L.R. 207; *Bastadjian v. Bastadjian*, 1962 C.L.R. 308 and others.)

5 On the evidence before me I am satisfied that there exists the material upon which this Court can grant a decree of nullity nisi. Both parties come within the ambit of Article 111 of the Constitution the validity of their marital status has to be governed by it irrespective of where same was celebrated. No doubt their marital status
10 is invalid unless conducted in accordance with the rites of the Greek Orthodox Church.

In the circumstances a decree of nullity nisi is granted with no order as to costs as none are claimed.

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*Decree of nullity granted.
No order as to costs.*