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THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
DIVORCE CAUSE NO.3 OF 1998

MAYAMBALA E. } : : : : : PLAINTIFF

VERSUS

W.N. MAYAMBALA } : : : : : DEFENDANT

BEFORE: THE HONOURABLE MR. JUSTICE I. MUKANZA

JUDGMENT

The Petitioner filed this petition against her husband hereinafter referred to as the Respondent seeking for Orders for the dissolution of their marriage under the Divorce Act Cap 215; custody of the children of their marriage; payment of
5 debts owed to the Petitioner by the Respondent; her contribution to the Matrimonial house Plot 43A Block A off Martyrs Way Ntinda jointly constructed by the Petitioner and the Respondent; and expenses for the education and maintenance of children of the family.

10 The Petition shows that the Petitioner professes the Christian religion whereas the Respondent currently resides at Ntinda. That the said Petitioner was on the 5th of October, 1993 lawfully married to the Respondent.

After the said marriage the Petitioner lived with the
15 Respondent at Bugolobi, Makindye, Kamwokya, Kibuye, Kansanga and later settled at Ntinda. That the Petitioner and the Respondent have two children. From their marriage Ezra Michael Kigwanya was born 1st November, 1984 and Anne Winfred Nalubwama 20 was born on 3rd December, 1996.

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The Petitioner prayed for dissolution of the marriage with Respondent on grounds of adultery and cruelty. In his reply to the petition, the Respondent denied the main grounds which are being contested namely the said adultery and cruelty on
5 diverse dates to the prejudice of the petitioner. In fact there are admitted facts as spelt out in the reply. These are clearly laid down.

At the commencement of the hearing of this Petition, the Respondent was neither present nor represented by the Counsel
10 though the hearing date had been fixed by consent by both parties' Counsels and a consent form was filed in the record of this court. I allowed the Petition to proceed ex-parte pursuant to order 9 rule 17 of the Civil Procedure Rules. The Petitioner called two witnesses in support of her version
15 namely Sekimpi PW2 and one Harriet Bogere Musoke.

In her evidence, the Petitioner, PW1 testified that she is an Advocate of this Court and a Lecturer with the Faculty of Law, Makerere University. She was alleging adultery and cruelty against the Respondent. Around March, 1995, as she was going
20 through the papers which were in the bedroom, (this was at Ntinda), she discovered a photograph of her husband with her daughter Nalubwama, Barbara, her step-daughter, and another girl. Prior to that discovery, she had been away for training in the United States. This was from July, 1993 to early
25 December, 1994. After returning from abroad, her daughter Anna started asking her to take her to Maria's place. On inquiry, she found that in the photograph there was one Maria, the girl

who used to stay with her children when she was away in United States. She received information that Maria used to stay with her children and Barbara when she was away in the United States.

5 On discovering the photograph of her daughter, Barbara, her husband and the other, she inquired from her husband who was the other third child. He (the respondent) replied her that was his daughter. That was the first time to talk about that child with her husband. She tried to ask him about details and
10 he said that was enough. Subsequently, she inquired from her daughter Anna who the girl was in the photograph. She was shown the photograph and she got information from Anna that was the girl she (PW1) was asking for, she got information that was the girl who was living with her children at Ntinda
15 when she was away. She further received information that the Respondent and her children also used to visit Maria and her mother at Bugolobi, their home. She tendered in evidence the photograph. In the photograph her husband was standing in a green shirt. The girl standing next to him is Barbara who has
20 been staying with them since her childhood. The girl in T-shirt is her daughter Anna. The girl standing on Mayambala's side in a brown T-shirt is the girl who was identified to her as Maria. The photograph was received in court as Exhibit P1. The further information received by the Petitioner was that
25 the child was born in 1985 and was studying at Nakasero Primary School where she did her PLE examination last year (1997). The girl is known as Maria Nanteza and the Petitioner and the Respondent got married in October, 1998.

Also she is aware that the Respondent has got three other children besides Maria Nanteza. That's besides her children Michael, Anna and Barbara the step child.

5 The other conduct of Respondent is that he used to return home very late at around 11:00 p.m. This was almost done four days in a week.

Apart from this adultery, for the early part of the marriage from 1993 to 1988 those were relatively good days but subsequent to this, there was a high degree of violence. This
10 high degree of violence was attributed to the fact that her husband was not faithful to her. This began in 1988 and by then she was active in business and with her work in Uganda Commercial Bank. But early in 1989 after midnight the respondent found her lying on their bed and brought with him
15 two (2) bottles of beer. She was then sleeping in their bed. He came and sat on top of her and gave her several fists on her face. His target was the upper part of the body. But prior to that they were not living harmoniously and she had baptised their children unilaterally without the participation of the
20 Respondent. When she was assaulted by the Respondent, she sustained some injuries. One of her eyes got swollen. She never bled but went to the clinic for treatment.

Another incident of violence was in 1990 when they were living at Kisugu/Kansanga, the Respondent tried to choke her by
25 holding her neck so tightly. By then she was being employed by the National Insurance Corporation and one time she went to represent her employers in Hoima when she returned he claimed that she had not gone there as claimed by her. That was not

the only incident. It was an accumulation of grievances that without any isolated incident he would then descend on her and would first lock the door and hide the key so that those in the home could not come to her rescue.

5 The Petitioner described one incident when she was seriously assaulted by the respondent at Ntinda. The Respondent found her in the bed pulled her out of the bed and started assaulting her. Blood started oozing from her right eye. She asked the respondent to take her to Hospital and he refused.

10 She thought she would bleed to death. There was blood on the floor and there was also blood in the children's bedroom, where she had gone when she was resisting the assault. The children were woken up because of the struggle. She raised an alarm. The Respondent's brother brought her the keys which she

15 used to open the door. She went to Ntinda Trading Centre from where she hired transport to Ntinda Police Post and her brother's home, Steven Musoke, who lives in Bukoto. Her brother later took her to Lemana Hospital and later to Mulago Hospital where her wound was stitched. At Mulago she was

20 issued with some forms on which she was treated as an out patient. The forms were tendered in evidence marked as Exhibit P2.

When she sustained some injuries there were some photographs taken of the Petitioner with plaster over the injured right

25 eye. The said photograph of her right eye was tendered in evidence as Exhibit 3. The incident in which her eye was injured took place in July, 1995. Her statement was recorded from her by the police and also the police surgeon examined

her. A photocopy of the examination report PF3 dated 1st August, 1995 and on the reverse handwritten was tendered in evidence and marked as Exh.P.4. It was her right eyebrow which was stitched and the scar shown to court.

5 PW1 went on to testify that the Respondent kept a big stick in a corner in the bedroom and urged him to take it away but he refused. She had fears that the big stick would be used on her. She was living permanently under fear. She used to talk to him about his violence so did everybody but he could not
10 listen. No reconciliation has taken place and there is no opportunity for them to live together.

There were only two children of their marriage when they separated. The children stayed with the Respondent but when she got a house in July, 1996, they started living with her up
15 to this day. She has spent money on their education. At the time Ezra Kigwanye was at Green hill Academy and had to pay Shs.280,000/= per term. Picking him and collecting him from school shillings 170,000/= per month. There were other requirements like uniforms, swimming, miscellaneous expenses,
20 in addition to tuition and money for trips taken. Since this year he joined St. Henry's College, Kitovu. For the first term the school fees were fixed at shillings 280,000/= for the second and third terms it is shillings 200,000/= per term. In addition to that there are text books, pocket money and
25 personal requirements. These add up to shillings 1,500,000/= that is fees for this year alone. In fact the additional expenses come to the figure of shillings 2,770,000/= some of the receipts for the expenses incurred in education in this

respect about ten receipts, including a circular were tendered in evidence and marked as exhibit P5. There was also a document in connection with Ezra Kigwanye. The document worth 199,500/=. This being school fees for 2nd term for Ezra Kigwanye. The document photostat copies bank slips was tendered in evidence as Exhibit P6. These documents do not represent all the expenses in education expenses for Ezra's education. Included in this sum of 2,770,000/= are other items like clothing requirements. There are in fact many miscellaneous items like edibles. She also used to visit him three times a term once per month. There are transport expenses for putting him to school and coming back from school. Those were expenses recurrent every term.

Ever since July, 1996 when she started living alone with the children Mr. Mayambala has never assisted the children. She had incurred expenses on Anna Nalubwama like school fees since July, 1996. At the time, she was studying at Green Hill Academy where the fees were 280,500/= per term. In 1996 she switched to Agakhan Primary School. Registration was 150,000/= and the fees were shillings 300,000/= per term. Then in the year 1997, they increased to 350,000/= per term. She produced copies of bundle of Banks slips from Grindlays Bank. The Bank slips comprise 11 bank slips. Her evidence further showed that apart from school fees she had to pay for lunch which is provided at school at the rate of 500/= shillings per day. Normally they are supplied with coupons. She had some receipt for luncheon but this does not cover the whole period. 13 of these receipts were tendered in evidence as Exhibit P8. She

used to pay for evening lessons for their children at the rate of shillings 8,000/= per month. Anna went to that school in 1996 up to date the Respondent had not assisted in any way.

The witness also tendered receipts for swimming lessons in

5 respect of Anne Winfred Nalubwama. She continued payment except at one time when the pool was not working. The charges were shillings 2,000/= per week. Sometime the payments were never receipted. She also spent money on her uniform and some text books which are not provided by the school. She had not
10 been recording almost for entire period. Since July, 1996 but reiterated that she had spent shillings 3,997,200/= on the educational requirement alone.

She had spent shillings 40,000/= per week in feeding the two children. Since July, 1996 to date she had to provide for the
15 clothing and for their medical treatment. Then she had to pay for utilities like electricity and water generally she was looking after their welfare and at least to take them out once. This is for their recreation.

Since 1996 to date her husband had never spent anything on her
20 daughter. PW1 also testified that Maria Nanteza was born out of wedlock. She had photocopy of a form which is filed by children for PLE. The form filled by Nanteza Maria shows the respondent was the father. The form is in the names of Nanteza Maria. The form was tendered in court as Exhibit P10. By Ex.P1
25 and Ex.P10 she confirmed that they were the same person. Her husband was mentioned on the form as a lawyer by occupation. The property they had together was the matrimonial home at Ntinda which they built together at 43A Block A off Martyrs

Way Ntinda. Mr. Mayambala was allocated this by the ULC in 1981 initial term was 5 years. Prior to their legal marriage they had been friends for about 4 years so she was aware of the allocation and then he obtained title. He incurred the expenses alone. After their marriage they lived in several places which they were renting and they decided as a couple that they needed a permanent home. So they agreed that they have a building plan. Luyima drew a building plan and had it approved by the City Council.

Mr. Luyima requested for 100,000/= shillings for his fees. By then her children had not started schooling so she convinced him to accept Shs.80,000/=. She paid him the balance of 60,000/= on approval of the plan. She paid the money to the surveyor to re-open the boundary. He gave him shillings 45,000/=. He was given a receipt for this. Then they started the foundation made by a man from the Petitioner's home. She bought the bricks and paid for labour for digging. They put up the building up to the window level. Mr. Mayambala continued with the building from the window up to the beam. He met the expenses of roofing. The work stalled for sometime but the housing problem was still there. She convinced her employer and they advanced him a loan which could cater for outer doors. The security for the loan was her title for her mother Erina Zalwango the late. She talked to her parents and they agreed to assist them. She did meet most of costs for material and Mayambala did much of the supervisory work. From 19th April, 1989 to October, 1991, she housed the family at Kansanga. In 1988 she took her housing allowance advance of

shillings 750,000/= and applied the money towards the house. He was advanced a loan of Shs.700,000/= by the Petitioner's employer, the Uganda Commercial Bank, with the Petitioner's assistance.

5 Apart from evidence of PW1 on the matrimonial home she had a motor vehicle Reg. No. UPO 264 a mini bus 8 seater which operated as a Taxi. She bought it from Bela Trading Company. She bought it in 1992. In July, 1993 when she was going for further studies and she entrusted this vehicle to her husband.

10 The latter sold this vehicle at 2.5 million shillings. By the time she passed over the vehicle it was still in names of Bela Trading Company. The vehicle had not been transferred in her names. She had instructed the respondent to put the proceeds on her account. This was towards the end of 1992 and 1993. He
15 husband told her that she had sold the car at 2,500,000/= shillings and added he had borrowed that money.

When she came back in 1994 this money had not been deposited on her account despite her request for payment. This money had never been paid up to now. He refused even to pass over the
20 sale agreement to her.

He husband is a lawyer in firm of Mr. Mayambala & Company Advocates. Since she knew him in 1979, he has an income. He is relatively a well to do person. She requested the court to
25 dissolve her marriage with Mr. Mayambala on grounds of adultery and cruelty. Shs would like to be granted custody of the children. She would like the court to order for the refund of the educational and maintenance expenses of the two children and part contribution for the up bringing of their

children. And would also like the court to order Mr. Mayambala to pay for the maintenance of these children till they reach majority of 21 years.

Eventually they moved to their house at Ntinda in 1991 October

5 and not 1990 as earlier stated. The documents from NIC in connection with the housing policy was tendered in court. They are given documents comprising 6 pages from National Insurance Corporation on arrangements of housing allowance. The documents given to the witness in this respect were all marked
10 as Exhibit P11.

Sekimpi PW2 gave evidence in support of the Petitioner's claim. He testified that he is a mechanic of motor vehicles and stays at Najjanankumbi. He has worked at Kibuye for 10 years and knows Mayambala as from 1990 up to now. He is not
15 related to Mrs. Mayambala expect that she was his customer. He recalls he used to repair her minibus which was a Toyota UPO 264. During the mid year 1993 she brought her vehicle for repair and he did carry out the repairs. After the repair Mr. Mayambala footed the bill and collected the vehicle from his
20 garage.

The third last to testify in support of the Petitioner's claim (petition) was Harriet Bogere. She testified that she is married and stays in Bukoto in Kampala she has a shop in Ndeeba. She knew the Petitioner as her sister in law. She got
25 married to her elder brother since October, 1985. She had known the Petitioner before she got married to her brother. Mrs. Mayambala was married to William Mayambala. They got married in 1983. Ever since they got married she had been

visiting the couple.

On 30th July, 1995 at around mid night Mrs. Mayambala came to her home. She found them already asleep. She knocked at the door and she opened for her. She was bleeding profusely/seriously. She was bleeding from the upper side of her eye. She gave her a piece of cotton to cover the wound. At the her husband was around and he too woke up. He husband took the car out of the garage and they took Mrs. Mayambala to Leman Hospital on William Street. They did not get any treatment from there. They were referred to Mulago Hospital. At Leman they said they did not have thread to stitch the wound. At the casualty department, Mulago, Mrs. Mayambala explained to the Doctor how she got injured.

In her presence close enough Mrs. Mayambala just told the doctor that she got an accident. The Petitioner was attended to. After this they all returned home. However, when asked about incident PW1 informed her husband that she had been assaulted by the respondent. It was the first time that she had been assaulted.

She stayed with them for 3 months and after that she had to look for accommodation. She got a house at Buziga and had to live there with her young brother. She never went back to her husband's home and as of now they are living apart. Mrs. Mayambala has got two children Anna Nalubwama and a boy. They are Ugandan and they live with their mother. It would appear the issues in the case are:-

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(a) whether the Respondent was guilty of the matrimonial offenses of adultery are cruelly against the Respondent.

(b) whether the Petitioner is entitled to the expenses incurred on the education of the two children of the family.

5 (c) whether she contributed to the construction of the matrimonial home and if so, what is her remedy.

(d) what about the miscellaneous expenses as items incurred by the Petitioner and others in the form of debts owed to Petitioner by the Respondent.

10 (e) what are the quantum of damages and or remedies available to the Petitioner.

I was addressed excessively on all these issues just framed. Adultery has been defined as the voluntary sexual intercourse between a married person and person of the opposite sex, the two persons not being married to each other. To be a ground
15 the adultery must be committed since the celebration of the marriage. It is immaterial whether the marriage has been consummated or not. See Onsey Vs. Onsey and Atkinson 1874 LR 3P and P.235 Waters Vs. Waters and Gental (1875) 33 LTP 259. See the Divorce Act Cap. 215.

20 In her evidence PW1 testified that on information received that respondent may have fathered a child called Maria out of wedlock, she talked to the respondent who admitted that he fathered the said Maria. Maria was born on 13th June, 1985 after the Respondent had married the Petitioner on 15th
25 October, 1998. The Respondent according to his own admission and as could be deduced from Exh.1 a child Maria was born out of wedlock. Also in her application for admission to secondary school, Maria then aged 12 years mentioned the respondent as

her father a lawyer of P.O. Box 22000 Kampala. The application form for admission to Secondary Level Institution was tendered in court as exhibit P10.

It is a common ground that during the subsistence of marriage
 5 respondent had sexual intercourse with women and on diverse days which culminated into other issues whose mothers the petitioner did not know. This evidence by the petitioner is overwhelming. And I endorse the submission of the learned counsel over the first issue that the Respondent did commit
 10 the matrimonial offence of adultery during the subsistence of the marriage. Adultery has been proved. However, for the sake of emphasis Halsbury's Laws of England 3rd Volume 12 page 235 Adultery was described as the sexual intercourse during the subsistence of marriage between the spouse and one act of
 15 adultery is sufficient Douglas Vs Douglas 1952 AER 748. It has been proved to the satisfaction of this court that is beyond reasonable doubt the evidence need not reach certainty but it must carry a high degree of probability Miller Vs. Minister of Pensions 19472 AC p.372. Preston Jones Vs. Preston Jones 1951
 20 AC page 391. But in nearly every case the fact of adultery is inferred from circumstances which by fair and necessary inference lead to that conclusion like the instant case. The second issue of cruelty which is a ground for dissolution of marriage may be defined as wilful and unjustified conduct of such character as to cause danger to life limb or health (bodily or mental) or as to give rise to a reasonable apprehension of such danger See Russel Vs. Russel 1895 p. 313, 1897 AC 395, Hortan Vs. Hortan 1964 AC p.664.

The Petitioner in this petition gave several incidents in which she was assaulted by the respondent using his fists, or time he pulled her out and assaulted her and thereby sustaining serious injuries. There is also on one occasion

5 when the Respondent returned home with 2 bottles of beer. He found the petitioner lying on the bed. He sat on top of her and started assaulting her with his fists. This was not the treatment expected of the respondent. The attack was brutal and the same is condemned in the strongest terms possible.

10 am of view the ground of cruelty has been proved sufficiently by the said evidence of repeated physical assault leading to injury grievous harm or injury to the life, body and health. In support of this ground the learned counsel referred me to the case Colarossi Vs. Colarossi 1955 EA which was approved in

15 Y.Mugoya Vs. T.N. Mugoya 1975 HCB 295. Where Butagira Ag. J held:

(1) what constitutes legal cruelty is a matter dependant on facts of each particular case. Courts will not regard acts found on mere trivialities or incompatibility to

20 prove it but the essential element is of the petitioner to prove actual or probable injury to life, limb or health, Colarossi Vs. Colarossi 1965 EA 129 (applied), In the instant case the trial Magistrate properly interpreted the law and his finding of

25 cruelty was supported by evidence. And also the other case referred to me by the learned Counsel, Habyarimana Vs. Habyarimana 1988 HCB p. 140, Odoki J. held:

" There is no definition of cruelty but case law

has established that no conduct can amount to cruelty in law unless it has the effect of producing actual or apprehended injury to the Petitioner's physical or mental, health (bodily or mental), or reasonable apprehensive of it to constitute legal cruelty".

To constitute cruelty the conduct complained of must be serious. It must be higher than the ordinary tear and wear of a married life. It is therefore the effect of the conduct rather than its nature which is of paramount importance in assessing a charge cruelty. It must be proved the respondent however mindless of the consequences has behaved in a way the Petitioner could not in the circumstances be called upon to endure and that such conduct caused injury to health or reasonable apprehension.

Applying the above case to the instant case. The situation of the parties was not merely of acts founded on mere trivialities or incompatibility but of actual injury to life, limb and/or health. The Petitioner was assaulted on a number of occasions and sometimes escaped death e.g when she was choked and almost strangled. She was under fear of being beaten with a big stick which was kept under the bed in the bedroom. Having proved the ground of adultery coupled with cruelty against the Petitioner under Section 5(2)b of the Divorce Act Cap 215, and this in absence of evidence suggesting collusion, accessory to, condonation and connivance on the part of the Petitioner or any counter charge as laid down in section 7 and 8 of the Divorce Act, the Petitioner is

entitled to the first order towards the dissolution of her marriage with the Respondent i.e Décreé Nisi. It is hereby pronounced in her favour

But then there is the question of the children who are now
5 apparently in the custody of the Petitioner. She is a University lecturer and professional lawyer. Welfare of the children is paramount. I am of the view that the said children of the said marriage continue staying with their mother with the usual clause of access by the Respondent and even taking
10 them out. This uncaring father is unfortunately not entitled to the custody of these children. The respondent is however legally bound to contribute to the education and maintenance of the two children. This is even provided for in the Constitution Article 31 (4), 34 of the Constitution and
15 Section 7 of the Children Statute 1996. The Petitioner quantified the expenses she incurred on the education of the two issues of the marriage amounting to a figure of shillings 10,587,000/=. I think that figure was reasonable in the circumstances of this petition. The Petitioner is awarded that
20 figure of 10,587,600/= shillings. That is the expenses incurred by the petitioner for education of the children from April, 1996 when she separated from the respondent up to September, 1998.

It was also suggested that the Respondent should be ordered to
25 contribute at least 50% of the two children's maintenance costs. It was further prayed that maintenance costs alone be ordered at shilling 40,000/= per week till the children attain the age of 21 years. It was submitted that the shillings

40,000/= per week proposed for maintenance takes into account that though sometimes children are at Boarding schools the Petitioner has to go on visitation and take them various food and necessary items in additions to transport costs. She

5 incurs expenses on those visitations. Submission are reflected from the record. The figure of shillings 40,000/= as proposed for future maintenance of the two children is reasonable in the circumstances. The Respondent shall pay this maintenance from July, 1996 till the children attain the age of 21 years.

10 About a motor vehicle Registration No. UPO 264 Mini Bus which the Respondent sold. There evidence that the said vehicle was the property of the Petitioner. The Respondent was supposed to deposit the Shs.2.5/= proceeds of sale on the Petitioner's account. There was adduced, in my humble opinion, sufficient
15 evidence to prove this claim. The respondent is hereby ordered to pay shillings 2,500,000/= the proceeds of the sale of Motor Vehicle Registration No. UPO 264, with interest at the rate of 35% p.a. with effect from December, 1993 until payment in full. Ssekimpi PW2 categorically stated that he knew the
20 parties and used to repair the said motor vehicle and knew the property of the Respondent. The Respondent had no right to dispose of the vehicle and pocket the proceeds.

With regard to the house at Plot 43A Block A off Martyrs Way, there is abundant evidence to show then both parties
25 contributed to the construction of the house. The Respondent appears more to have carried out supervision. He is the Registered owner of the suit property. The Petitioner did most of the time provide the building material. It is the behaviour

of the Respondent, which had led to the Petitioner to leave the matrimonial property/home. The Respondent is now the full occupant of this house. There was a clear intention from the testimony of the Petitioner to enter into a common pool with regard to the matrimonial home.

In the case of Nakiyingi Vs. Merikizaddeki 1978 HCB p. 107 a case quoted to me by the learned counsel, it was held that:-

- (1) Since the Respondent was the one that terminated the marriage, in the eyes of equity which the High Court is enjoyed to administer, he could not chase the defendant out of the house to which she had substantially continued to build.
- (2) Although in law if A expends money on B's property this does not give any interest in such property, nevertheless the doctrine of equitable estoppel may apply if a wife had incurred expenditure on property on the belief, encouraged by her husband, that she already owned or will be given some proprietary interest in it.
- (3) The court may impose a trust whenever it would be inequitable for the estate owner to claim, the property as his own. It is not necessary to express any express or implied agreement or common intention that the wife made contribution to the family property with a view to acquiring an interest Haseltine Vs. Haseltine (1971) 1 all ER p.774.
- (4) In the circumstances of the instant case therefore the house and the kibanja were beneficiary owned by the Plaintiff and the Defendant under a trust for sale. The

trust for sale having arisen out of the substantial contribution by the wife to the development of the kibanja and the building of the house and this the plaintiff could not exclude the defendant from the enjoyment of their joint home.

In the above case the court made an order refusing the sale of family property and allowed the Defendant to remain on Kibanja till she remarried or till plaintiff provided reasonable alternative accommodation. In view of the parties agreeing to sell the house and the kibanja, the Defendant was to get half of the market price. In the instant case a trust has arisen as a result that the Petitioner contributed to the construction of the house at Ntinda Block A Plot 43A, off Matyrs' Way. Her interest in the property is estimated at 70% and in case the house is sold she gets 7% of the market price. The court therefore makes the following orders.

(a) that the said marriage of the Petitioner with the Respondent is hereby dissolved and the first decree is pronounced in favour of the Petitioner.

(b) the Respondent is ordered to pay for:

(i) the education of the children of the marriage till they attain 21 years.

(ii) maintenance of the two children at Shs.40,000/= per week from judgment in November, 1998 till they attain 21 years.

(c) the Respondent is ordered to refund expenses made towards the education and maintenance of the children as

particularized in paragraphs 12 and 13 of the Petition i.e Shs.10,587,600/=.

(d) The Respondent do pay to the Petitioner Shs.2,500.000/= being proceeds from the sale of the Petitioner's mini-bus plus interest thereon at the rate of 35% per annum from December, 1993 till payment in full.

(e) The Petitioner is entitled to 70% or such other fair proportion of the use or market value of the matrimonial home at plot 40A Block A off Martyrs Way, Ntinda and the Respondent do pay regularly to the Petitioner 70% of the market rental value thereof.

(f) The Registrar of Titles is enjoined to amend the relevant parts of register of Titles to reflect the Petitioner's 70% interest in the property at plot 40A Block A off Martyrs Way, Ntinda.

(g) The Respondent is hereby restrained from assaulting or threatening the Petitioner after the dissolution of the said marriage.

(h) The Custody of the children, Michael Kigwanye and Anna Nalubwama is given to the Petitioner and the Respondent shall have free access to them and is permitted even to take them out.

(i) The Respondent do pay the costs of this Petition.

I. Mukanza
J u d g e

3.11.98

3.11.98:

Mr. Muhanguzi for Petitioner
Petition in Court

Court:

Judgment is read and signed

I. Mukanza
J u d g e
3.11.98