

IN THE SUPREME COURT OF SEYCHELLES

FRANCE LAFORTUNE

PETITIONER

VERSUS

MRS ELISE LAFORTUNE

RESPONDENT

Divorce Side No 29 of 2003

Mr. S. Rajasundaram for the Petitioner

Mr. A. Derjacques for the Respondent

JUDGMENT

Perera J

The Petitioner, who is 81 years old, seeks the dissolution of his marriage on the ground that the Respondent, who is 79 years old, has behaved in such a way that he cannot reasonably be expected to live with her.

The parties were lawfully married on 7th July 1987. No children were born of this marriage. However, the petitioner, who was a divorcee had a son by the previous marriage, and the respondent who was a widow had 7 children at the time of marriage. Two of the respondent's children, namely one Christopher and Egbert were living in the matrimonial home of the parties.

According to the evidence of the petitioner, the respondent did not cooperate with her, and incited her children to harass him. One day the two children threw broken bottles and stones at him, but the respondent did not intervene. The following day, she threatened him with a machete, and hence he left the house in fear. Thereafter he resided with his son, one Mike Lafortune at Roche Caiman. The petitioner further stated that he is unable to return to the matrimonial home where he has a ½ share, as the respondent and his children would harm him and make life intolerable. He denied that the petition for divorce was filed at the instigation of his son, in order to claim his ½ share of the property. He therefore stated that the marriage had broken down

irretrievably and that there is now no hope of reconciliation.

The respondent denied the allegations made by the petitioner. She stated that she was a religious person who believed that "*what god has put together, no man could put asunder*". She stated that apart from religious grounds, she still loved the petitioner as her husband. She however stated that the petitioner harassed and abused her when she returned from work, and hence she applied to the Family Tribunal for relief. She produced two attendance certificates from that Tribunal (D1 & D2) certifying her attendance on 2nd April 2001 and 8th August 2001.

Bernadette Mussard, a daughter of the respondent denied that she ever harassed the petitioner when she visited her mother. She was aware that they had marital disputes, but she did not interfere.

Christopher Mussard, a son of the respondent also denied harassing the petitioner. He stated that the day the petitioner left the matrimonial home, he was in Praslin with his girlfriend. However he is living with his mother at Pascal Village. He too admitted that the petitioner and the respondent had marital disputes and that one day he saw the petitioner throwing a brick at his mother. He did not know why the petitioner left the matrimonial home. His mother was sad and she always wanted the petitioner back.

The evidence of the two children of the respondent corroborates the evidence of the petitioner that the parties were having marital disputes. The evidence of the respondent also establishes that consequent to these disputes, she sought relief from the Family Tribunal under the provisions of the Family Violence (*Protection of Victims*) Act 2000. The respondent testified that she did not want to break her marriage vows made before God. The petitioner stated that there was no church wedding as he was a divorcee. There was only a civil ceremony before the Registrar. Hence they were put together, not by God, but by man. In any event, religious beliefs have no bearing when considering the dissolution of a civil marriage. The Court is only concerned with the irretrievable breakdown of the marriage due to one or more of the grounds prescribed in the Matrimonial Causes Act.

It was suggested to the petitioner that he is seeking a dissolution of marriage at the instigation of his son, so that he may upon a decree of divorce being obtained, get his share of the Matrimonial Property either in cash or in kind. That was denied by the petitioner. However in case no. 67 of 2003, the petitioner seeks a division in kind of Parcel V. 6280 on the basis of co-ownership in equal shares. That case is still pending before this Court. There is therefore nothing to support the allegation that the petitioner has filed the present petition for divorce with any motive other than to obtain a dissolution of his marriage.

On the basis of the evidence in the case, the Court is satisfied that the marriage had broken down irretrievably as the respondent has behaved in a way that the petitioner cannot reasonably be expected to live with her.

Accordingly, a conditional order for divorce is entered in favour of the petitioner. This order will be made absolute at the expiry of six weeks from the date hereof.

Parties will bear their own costs.

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A.R. PERERA

JUDGE

Dated this 25th day of May 2006