

DIV C 105/09

2009

S No. 18

IN THE HIGH COURT OF SIERRA LEONE

DIVORCE DIVISION

BETWEEN

DR ABU JAMES SUNDUFU

- PETITIONER

AND

MRS SALLAY SUNDUFU (NEE MARGAI)

- RESPONDENT

COUNSEL:

MS HANNAH BONNIE for the Petitioner

R A DURING ESQ for the Respondent

BEFORE THE HONOURABLE MR JUSTICE N C BROWNE-MARKE

JUSTICE OF APPEAL

JUDGMENT DATED THE 1st DAY OF NOVEMBER, 2012.

1. The Petitioner has Petitioned this Court by way of Petition dated 3 December, 2009 that his marriage to the Respondent be dissolved on the ground of the Respondent's cruelty during the course of the marriage. The Petitioner avers that they were married on 15 March, 1997 at the Registry in Bo Town. Thereafter, they cohabited in Freetown. There are two children of the marriage, namely Tajoe Sundufu who was then aged 14 years 6 months, and would be aged between 17 and 18 years; and Mamanda Sundufu, then aged 11 years, and now 14 years. Both parties are domiciled in Sierra Leone. There have been no proceedings in the High Court with reference to the Marriage. *Alu.*

2. The grounds of cruelty alleged are as follows: The Respondent inculcated the habit of hurling abusive language at the Petitioner, and did so in public in August, 2006. She repeated this behaviour in September, 2006. This same month, she locked Petitioner and their children in the house, and threatened to burn the house down and kill them. In October, 2006, she threatened Petitioner with death, or, the penalty of spending his fortune on medical bills. Two weeks thereafter, Petitioner suffered muscular pains, and had breathing problems, which problems still persist. In February, 2007 when Petitioner returned to the Matrimonial home, Respondent told him she had taken the matrimonial properties for her own use. Respondent continued to harass Petitioner, and he was forced to *Alu.*

move into a room in his brother's apartment. Respondent has continued to harass, molest and intimidate Petitioner. She has reported him to the Police, the Respondent's Solicitor, the Family Support Unit, and the Human Rights Commission. Her complaints were proved baseless. Respondent has denied Petitioner his conjugal rights for a period of three years preceding 2009. She has not shown any intention of putting an end to her acts of cruelty. Petitioner has not condoned or connived at Respondent's cruelty. The Petition is not presented in collusion with the Respondent. The Petitioner therefore prays that the marriage be dissolved, and for further or other reliefs.

3. On 2 December, 2009, a day before the Petition itself was filed, Petitioner deposed and swore to an affidavit, verifying the Petition. This is irregular. One cannot verify something that is yet to come into existence. The affidavit should either be deposed and sworn to on the day the Petition is filed, or thereafter. But as the Respondent has waived the irregularity, no adverse finding will be made against the Petitioner in this respect.
4. On the same 2nd December, 2009 Petitioner deposed and swore to an affidavit in lieu of a marriage certificate. The certificate was handed over to the wife, as is usually the case; the copy in the Registrar's office in Bo disappeared after the office was vandalized during the rebel invasion.
5. Appearance was entered for the Respondent on 21 January, 2010 and Notice of the same was given the same day to Petitioner's Solicitors.
6. On 27 January, 2010, Respondent filed her Answer and Cross-Petition ~~on 27 January, 2010~~. It is not divided into two sections, as is usually the case. Respondent's Solicitor has bundled up the two together, so that there is no indication as to where the Answer stops, and where the cross-petition begins. This is sloppy pleading, and must be avoided at all cost.
7. This is what she averred, however. She denies that they were married on 15 March, 1997 but she does not suggest the correct date. She admits paragraphs 2, 3, 4 and 5 of the Petition. These were the formal portions of the Petition. She denies the cruelty averred in paragraph 6 of the Petition, and avers in her paragraph 3 that the Petitioner deserted the matrimonial home, and committed adultery and cruelty during the marriage.

8. The particulars of cruelty are, as follows: Since the inception of the marriage, Petitioner had exposed Respondent to embarrassment, socially. He was a philanderer, and consorted with other women. The harmony in the matrimonial home therefore deteriorated, particularly during the month of November, 2007. Petitioner denied her sex, even though Respondent requested it. Petitioner told her she looked like a lion. In December, 2007, Petitioner went with girlfriend, Florence to the matrimonial home, and took away computers, freezers, TVs and other items. Since then, Petitioner had not returned to the matrimonial home, and has been staying with Florence at his brother's place at 34 Cole Street, Freetown. Prior to his leaving the house, Respondent had been subjected to abuse and provocative language from Florence. Petitioner has another girlfriend Senya with who he has a child, Tarjoe. She had cause to seek relief in the Magistrate's Court for maintenance for herself and the children. Petitioner was Ordered to pay Le150,000 monthly as maintenance, and for school fees. He paid for one month only. Respondent has suffered both physically and mentally as a result of Petitioner's cruelty, and fears she may suffer a breakdown. She believes the marriage has irretrievably, broken down. She therefore Prays the Court to reject the Petitioner's prayers; that the marriage be dissolved on the grounds of Petitioner's cruelty and/or adultery and/or desertion; that the Petitioner be responsible for the general maintenance and welfare of the children of the marriage; that the Petitioner pays her Alimony; That he pays the Costs of the Petition; and for any further Order this Court may deem fit.
9. With respect to the prayer for Alimony, On 4 February, 2010 Respondent filed a Notice of her intention to apply to this Court for payment of Alimony pending suit. She did the same thing on 9 February, 2010, though she now added a further request for monthly payments pending suit. On 26 May, 2010 SHOWERS, JA Ordered the Petitioner to pay to the Respondent, the monthly sum of Le250,000 in respect of Alimony pending suit.
10. In his Reply and Answer to the Cross-Petition, dated 9 February, 2010, the Petitioner joins issue with the Respondent; he denies the averments in paragraph 3 of the Cross-Petition; and all the particulars of cruelty, and puts the Respondent to strict proof of the same. I note the

ineptitude of the draughtsman of this particular pleading. There is a signature above the title: Counsel and then Solicitor for Petitioner. The draughtsman obviously does not know the difference between signing as Counsel, and as Solicitor, and has therefore conjoined the two. Pleadings, when settled by Counsel, are signed by Counsel. The filing is done by the Solicitors. There is no indorsement at the bottom as to who filed the Reply and Answer to Cross-Petition, and on whose behalf, it was so filed. Solicitors and Counsel must be more careful in the preparation of Court documents.

11. On 22 March, 2010 the Registrar issued his Certificate, but which was only filed on 10 April, 2010, certifying that the Cause was ready for hearing. Inexplicably, Respondent's Solicitor also applied by Notice dated 30 May, 2011 for the Registrar's Certificate. The Registrar again issued his Certificate dated 14 June, 2011 but filed on 17 June, 2011. It may be that Mr During was unaware of what had gone before; or, it may be that the Registrar was not aware of the Rules, and may have felt his Certificate could be issued, willy-nilly, to all comers. However, hearing commenced before me on 5 July, 2011 with the Petitioner testifying on his own behalf.
12. The Petitioner's testimony was this: He got married to the Petitioner on 15 March, 1997 at the Registry in Bo Town. The Marriage Certificate was given to the Respondent. He was told at the Registry that the certificate had gone missing when the office was vandalized by rebels. He was given an affidavit in lieu thereof which he tendered as exhibit A pages 1&2. That is the affidavit referred to earlier, deposed and sworn to by the Petitioner on 2 December, 2009. At the time, i.e. July, 2011, the elder child, Tajoe was 16, and the other, Mamanda, 13. He did not live together with the Respondent immediately after the marriage. After the wedding, they came back to Freetown. Respondent went to live with her sister at 1 Leadenhall Steet, Kissy, whilst he was staying at 34 Cole Street. This continued for about 2 years. In August, 1999 he went to China to study. He returned in August, 2005. They lived together for a year at 3 Winter Street, Kissy. In August, 2006, just one year after they started living together, Respondent began raining abuses on him. In September, 2006, the situation got worse. She went on a rampage, locked the door to the house with himself and the children inside, and then threatened to burn

the house down. She was only restrained from carrying out her threats by the Landlord and his wife. Later, she used words to the effect that he would be effaced from the face of the earth. Thereafter, life was hell in the house. Respondent would wake up about 6am and would begin the day by traducing his mother's character with allegations that she was guilty of infidelity in her married life. That same month, she threatened to kill him with a knife she had bought. She was again abusive in October, 2006 to the hearing, and in the presence of neighbours. He had to go to Sierra Rutile. He returned in November, 2007. He left the house and went to stay with his brother at 34 Cole Street, where he still lives.

13. In February, 2008 he went to see the children. He found out that two canon photocopiers, three Compaq computers and a vehicle registration number ABU 839 were no longer at the house. Respondent had claimed them as her property and had moved ~~the~~ away. He was able to take away his personal Philips' computer, a printer and a scanner. In June, 2009 he was invited by Respondent's Solicitor Mr J K Lansana to his office at Brook Street to explain why he had been neglecting the home. He had not been doing so, as he was still responsible for food and the monthly rent, and other things. He had receipts for expenditure he had undertaken. I had to stop him at this stage because Respondent's Solicitor had not been served with copies of these receipts, and also because, much of what he had said was not pleaded. Ms Bonnie was granted an adjournment at this stage.
14. By the next adjourned date, 7 July, 2011 Ms Bonnie had served Mr During with copies of these receipts, and she was therefore able to proceed with her examination-in-chief of PW1. PW1 tendered in evidence as B1-18, copies of various receipts. B1-16 are original receipts, and copies of receipts, issued by the Judicial Sub-Treasury, evidencing the payment into the Sub-Treasury of various amounts of money, by PW1 as maintenance payments to the Respondent between 2009 and 2011. Page 17 is undated, and is a handwritten note detailing requirements of the children. Page 18 is a handwritten receipt dated 3 September, 2010 evidencing the receipt by the Respondent of the sum of Le1million from Petitioner in respect of payment of rent for one year.
15. PW1 ended his testimony in chief by saying that before he left for China in 1997, he told Respondent to go and stay with his parents in Bo Town.

He confirmed she went to stay there. He said two weeks after he was threatened by Respondent, he began to suffer serious pain in his right leg. He had to consult a 'Murray Man' and had to be with him for a whole year.

16. Cross-examination of PW1 by Mr During, went this way. " *I see exhibits B pages 1-18. The earliest receipt is dated 4/05/10. I left my wife and children in 2006. I was Ordered by the Court to support my wife and children, once, in June, 2009. It is not true I was not supporting my wife and children. I was not Ordered by the High Court to support my wife and children. I received a Court Order dated 26/05/10, now shown to me in Court.* "
17. There was a long break thereafter, because of Mr During's ill-health, and because of the intervening long vacation. Cross-examination finally continued and ended on 13 October, 2011. It went this way: "*I moved out of the matrimonial home. I did not stay with Florence. I stayed with my elder brother Mr Michael Magao at 34 Cole Street. I do not have a child outside marriage. I was not forced to provide maintenance. I paid fees for my children last month, and not after I had received a letter from you. I came last night. I know it is my responsibility. I did not drive my daughter away when she went to me for fees. I see letter dated 20/08/11. I did not receive this letter. I paid Le1million to my daughter on 10/09/11.*" There, cross-examination ended. There was no re-examination. That was the case for the Petitioner.
18. Respondent opened her case by going straight into the witness box. She said she was a student at the Freetown Teachers' College. She said she got married to Petitioner on 15 June, 1997 at the Registry in Bo. She tendered the original marriage certificate as B1 and the copy as B2. B1 confirms that the wedding date was indeed 15 June, 1997 and not 15 March, 1997 as deposed and sworn to by Petitioner. She confirmed that there were two children of the marriage. She said she lived and cohabited with Petitioner at 3 Winter Street, Kissy. Petitioner deserted the matrimonial home, and went to live with his girlfriend, Florence at 34 Cole Street. He moved out in November, 2007. He abandoned Respondent and the children. Petitioner has never returned to the matrimonial home. He is now staying with a girlfriend, Senya Bakarr in Njala. They have a child, Gracie Yellie Sundufu. The Petitioner did not want her anymore as

his wife. They used to quarrel. She had to bring him to Court. He was giving her Le250,000 a month. He has not been paying rent, nor the school fees for the children. She asked the Court to reject his Petition, and to dissolve the marriage on the grounds of Petitioner's cruelty and adultery.

19. Under cross-examination, Respondent said that Petitioner had been at Njala for 3 years, and that she had not visited him whilst ^{he} has been there. She did not know Petitioner had been ill. She had not been seeing him. He would drop the phone whenever she called him up. They were saying she is a witch. She had been asking him for school fees. Petitioner came back from China in 2005. They stayed together for about a year. She stayed with his family in Bo when he left for China. The family drove her out of the house. She picked him up at the airport when he returned from China. They stayed together. She did not shut him out. It was not true Petitioner had been complaining to their God parents on about five occasions. He has not been supporting them fully. There was no re-examination. Thereafter, Respondent's Counsel filed his written closing address; Ms Bonnie relied on the evidence led, in closing. She urged the Court to accept the prayers of the Petitioner. She

20. The Statutory Law relating to divorce, is to be found in the *Matrimonial Causes Act, Chapter 102 of the Laws of Sierra Leone, 1960 "The Act"*. The Rules are to be found in Chapter 7 in Volume 6 of the *Subsidiary Legislation, 1960 - "The Rules"*. Section 4 of the Act states that: "*No Petition for Divorce shall be presented to the Court unless at the date of the presentation of the Petition three years have passed since the date of the marriage.*" There is a Proviso to this Section which empowers the Court to Order that a Petition be presented notwithstanding less than three years have elapsed since the marriage. The grounds on which a party to a marriage can obtain a Divorce Decree, are as follows: Section 5 of Cap 102: "*A Petition for divorce may be presented to the Court either by the husband or the wife on the ground that the respondent- (a) has since the celebration of the marriage committed adultery; or (b) has deserted the petitioner without cause for a period of at least three years immediately preceding the presentation of the petition; or (c) has since the celebration of the marriage treated the petitioner with cruelty;*" She

and by the wife on the ground that her husband has, since the celebration of the marriage, been guilty of rape, sodomy or bestiality."

21. According to Section 7(1) of the Act, "On a petition for divorce it shall be the duty of the court to inquire, so far as it reasonably can, into the facts alleged and whether there has been any connivance or condonation on the part of the petitioner and whether any collusion exists between the parties and also to inquire into any countercharge which is made against the petitioner. (2) If the Court is satisfied on the evidence that - (i) the case for the petitioner has been proved; and (ii) where the ground of the petition is adultery, the petitioner has not in any manner been accessory to, or connived at, or condoned the adultery, or where the ground of the petition is cruelty the petitioner has not in any manner condoned the cruelty; and (iii) the petition is not presented or prosecuted in collusion with the respondent or either of the respondents; the court shall pronounce a decree of divorce, but if the court is not satisfied with respect to any of the aforesaid matters, it shall dismiss the petition: Provided that the Court shall not be bound to pronounce a decree of divorce and may dismiss the petition if it finds that the petitioner has during the course of the marriage been guilty of adultery or if, in the opinion of the court, the petitioner has been guilty: (a) of unreasonable delay in presenting or prosecuting the petition; or (b) of cruelty towards the other party of the marriage; or (c) where the ground of the petition is adultery or cruelty, of having without reasonable excuse wilfully separated himself or herself from the other party before the adultery or cruelty complained of; or (d) where the ground of the petition is adultery or desertion, of such wilful neglect or misconduct as has conduced to the adultery or desertion."

22. Section 9 of the Act provides that: "If in any proceedings for divorce the respondent opposes the relief sought, in the case of proceedings instituted by the husband, on the ground of his adultery, cruelty or desertion, or.....the court may give to the respondent the same relief to which he or she would have been entitled if he or she had presented a petition seeking such relief."

23. On the evidence before me, I am satisfied that on a balance of probabilities, that the following facts have been proved, and that some of the requirements of Sections 4, 6, 7 & 8, have been met. I am satisfied

firstly, that the Petition was brought more than 3 years after the celebration of the marriage- 15 June,1997 to 3 December,2009;
 secondly, that a Cross-Petitioner is entitled to the same reliefs claimed by a Petitioner, and that a Cross-Petition should be treated in the same manner as a Petition. Thus, if the cross-petitioner petitions for a decree on the basis of the Petitioner's desertion, three years should have elapsed between the date of desertion, and the date the cross-petition is presented. In the premises, I cannot Grant the Respondent a Decree of Divorce on the basis of the Petitioner's alleged Desertion because, on the evidence led, he deserted the matrimonial home in November,2007; the Cross-Petition was filed on 27 January,2010, two years and two months later. Contrary to what Mr During has stated in his written closing address dated 5 December,2011, even his client averred in her Answer and Cross-Petition that Petitioner left the matrimonial home in November,2007 and not 2006 as stated by Mr During.

24. Thirdly, that neither the Petition, nor the Cross-Petition was brought with the connivance and/or the collusion of the opposing party. Condonation has not been alleged, nor has it been proven.

25. The Petitioner's sole ground for divorce is the Respondent's cruelty. The acts of cruelty, seem in the main to be abuse of his person and of his mother in particular, and of threats to his person. The matters to be proved when cruelty is alleged in the other partner are set out in RAYDEN ON DIVORCE 9TH Ed. At para 82, the Learned Editors state the Law to be as follows: "*The general rules in all questions of cruelty is that the whole matrimonial relations must be considered, and that rule is of special value when the cruelty consists not of violent acts, but of injuries reproaches, complaints, accusations or taunts*". Further, in one of the reported cases, the Courts have tried to explain what cruelty entails. MARKE,J in DAVIES v DAVIES (1964-66) ALR SL 83 at page 87 LL30-32, said that "*...the Court must be satisfied that there is danger or a reasonable apprehension of danger to life, limb or health (bodily or mental)*." But as the Court of Appeal held, in reversing in part, MARKE,J's Judgment at Page 188 of the same Report, LL16-20: "*...there must be a standard, the matters complained of must be beyond the trivial or the casual; the causes must be weighty and grave.....but it is not to be judged objectively, but it is to be seen as this conduct by this woman to this man.*" In LAKE

v LAKE [1970-71] ALR SL HC 426, BETTS, JSC said at page 430 LL19-29 as follows: *"I have outlined these facts bearing in mind that legal cruelty is conduct of such character as to have caused 'danger to life, limb or health, bodily or mental, or a reasonable apprehension of it.....with regard to the quantity, that is the frequency with which the acts complained of occur, it is said that one act may be so grievous as by itself to constitute cruelty but continued acts of ill-usage, none of them in itself sufficient to support such a charge may accumulate until a case of cruelty arises."* *mlu.*

26. No injuries have been complained of by the Petitioner, but threatening to burn a house down, while Petitioner and the children were in it, could result in very serious injuries to them, and serious damage to the property. This allegation was not seriously challenged by Mr During while cross-examining the Petitioner. In fact, Mr During's cross-examination seemed to dwell a lot on issues pertaining to maintenance and financial support for the Respondent. If one were to put oneself into the Petitioner's position as suggested by the Court of Appeal above, Petitioner must have been petrified he was going to meet an early ending. This threat may easily constitute what BETTS, JSC referred to above as 'grievous' conduct. In the absence of any evidence contradicting Petitioner's evidence, I am left with no alternative but to accept it on this point, and to rely on it as proof of cruelty. I am also satisfied that he has not condoned Respondent's cruelty in any way whatsoever.

27. I now turn to Respondent's Cross-Petition. I have already indicated above that she cannot succeed on the ground of Petitioner's Desertion, as the act of desertion complained of, occurred less than three years before the presentation of the Petition. What I have to consider is whether she should succeed on the grounds of cruelty and adultery. As for the cruelty allegation, there is not much to go on. She said Petitioner does not love her. They used to quarrel. Petitioner left, and went to stay with his brother at Cole Street. He abandoned her, and the children. In paragraph 5 of her Answer and Cross-Petition, she avers that she *"....sincerely believes that the marriage between (them) has irretrievably broken down."* To quote Cole, Ag C.J. in WILLIAMS v WILLIAMS [1964-66] ALR SL 120 at Page 123 LL17-20: *"I have no doubt in my mind on the evidence that the marriage here has utterly broken down, due substantially to the fault of the Respondent. Although the Petitioner is guilty of adultery*

whilst the marriage subsisted, it would, in my view, be contrary to public policy to allow such a union to continue.....I am of the view that no injustice would be done if I exercised my discretion in favour of the Petitioner." It is not good public policy to keep a marriage going where both parties agree it has broken down irretrievably. Where there is no reasonable prospect of reconciliation between the parties if the marriage is not dissolved; and where also, there is the possibility that the parties may wish to remarry should the petition be granted, it is in the public interest that a Decree be granted so that they should be able to remarry and live respectably. If Respondent believes that the marriage has broken down irretrievably, it is not for this Court to insist that it should continue in existence. On the evidence of the Respondent, Cruelty on the part of the Petitioner is therefore unproven

28. ^{Just} As to the ground of divorce, Respondent testified that Petitioner resides with his woman Florence, at the brother's residence at Cole Street. He also has another with him at Njala called Senya Bakarr who has a child by him called Gracie Yellie Sundufu. These allegations were denied by Petitioner when cross-examined by Mr During. Apart from Respondent's say-so, there is no other evidence to support the allegations. In this the modern age of mobile phone cameras, and other surreptitious means of recording events, it seems strange that the Respondent could not find any piece of material evidence to ^{Support} her testimony. Sadly, this Court cannot act on just her testimony as proof of adultery. According to TEJAN, J in *GEORGE v GEORGE* [1970-71] ALR SL 1 at page 2 LL37-41: "Adultery is the consensual sexual intercourse between a married person and a person of the opposite sex, not the spouse, during the subsistence of the marriage. Although a divorce proceeding is a civil suit, strict proof of adultery is necessary, and the proof must at all events be higher than the proof necessary in civil suits." At page 3 LL10-12, he said: "In adultery cases, the evidence of the petitioner is seldom accepted without corroboration either by a witness or at least by strong surrounding circumstances." In the instant case, not only is material evidence of adultery absent, but there is no other evidence to support the possibility that it may have occurred. The birth of a child to the husband, outside the marriage, could, if unchallenged, provide some degree of proof of adultery. But here, there is no birth certificate of the so-called child of

the Petitioner; no one else has come forward to say, the child is the Petitioner's. The husband has not been caught in flagrante delicto. There is really no evidence on which this Court could act. I find that the Respondent has failed to prove adultery on the part of the Petitioner.

29. It seems to me, having reviewed her evidence, that the Respondent was, and is more interested in money matters: How is she going to live with her children. She seems to care little for the Petitioner. When asked in cross-examination whether she knew Petitioner had fallen ill at one time, her short answer was that she did not. No words of sympathy were uttered by her. Indeed, the marriage has broken down irretrievably. Neither party is interested in keeping it going.

30. In *NAVO v NAVO* [1967-68] ALR SL 124 *BROWNE-MARKE, J* at page 133 L37- page 134, L40. cited with approval the Judgment of *VISCOUNT SIMON* in *BLUNT v BLUNT* [1943] A.C. 517 at page 525, in which he cited with approval also the dicta of *DUKE, P* in *WILSON v WILSON* [1920] P. 20, where the learned President said: *Of paramount importance in asking the Court to exercise its discretion in favour of a Petitioner, is the consideration whether there is a reasonable prospect of reconciliation between the Petitioner and the Respondent if the marriage is not dissolved; and also, the interest of the Petitioner and in particular the interest that the Petitioner should be able to remarry and live respectably.*" At page 134 LL13-20 in *NAVO*, *DUKE, P* is cited as saying: *"To these four considerations I would add a fifth.....namely, the interest of the community at large, to be judged by maintaining a true balance between the sanctity of marriage and the social considerations which make it contrary to public policy to insist on the maintenance of a union which has utterly broken down."* This was said long before the passage of the UK Divorce Reform Act, 1969 which introduced the concept of 'irretrievable breakdown' as a ground of divorce, and I believe these words should apply with much more force in our present day society.

31. As to the Prayer for General Maintenance for the children, and for Alimony for herself, Section 21 of the Act confers a discretion on this Court to Order payment of a gross sum, or monthly payments. Exhibit B pages 1-18 show that the Petitioner has not been entirely remiss in his duties as a husband and as a father. But I do not think enough evidence has been provided by both parties, such as would enable me to make a

Final Order in this respect. Additional evidence needs to be taken. I therefore invite Counsel on both sides to agree a date when a Hearing could be held in Chambers to deal with Alimony and General Maintenance for the children.

32. In the premises, the Petitioner succeeds on his Petition, and the Respondent's Cross-Petition is Dismissed. I ORDER as follows;

1. That the marriage solemnized on 15th June, 1997 at the Bo District Registry, Bo Town in the Southern Province of Sierra Leone between ABU JAMES SUNDUFU, Bachelor, and SALLY MARGAI, Spinster BE DISSOLVED on the ground of Respondent's Cruelty.
2. The Respondent shall have Custody of the children of the marriage, TAJOE SUNDUFU and MAMANDA SUNDUFU until they attain the age of 18 years. Petitioner shall have access to them at all reasonable times.
3. Though Costs should follow the event, in the exercise of my discretion, I ORDER that each party bears its own Costs.
4. Liberty to Apply for Maintenance for the children, and for Alimony and for determining issues relating to access. In the interim, SHOWERS, JA's Order of 26 May, 2010 still subsists.



THE HONOURABLE MR JUSTICE N C BROWNE-MARKE