

IN THE EASTERN CARIBBEAN SUPREME COURT
COMMONWEALTH OF DOMINICA

IN THE HIGH COURT OF JUSTICE

CLAIM NO. DOMHMT2017/0050

BETWEEN:

SHANNON RENEE DORTON DEGALLERIE

Applicant

and

DORIAN DEGALLERIE

Respondent

Appearances:

Miss Cara Shillingford for the Applicant

2018: June 29
July 12

RULING

[1] STEPHENSON J.: In the Commonwealth of Dominica, married couples are not allowed to commence divorce proceedings within the first three years of their marriage. However, the law provides for leave to be granted to petition for divorce in this period where there may be exceptional circumstances.

- [2] This is such an application, for leave to present a petition for the dissolution of marriage where the parties have been married for less than three years pursuant to Rule 5 of the Matrimonial Causes Rules 1977 and Section 3 of the Matrimonial Causes Act 1973.¹
- [3] This application raises the question in what circumstances leave ought to be given to a spouse to commence an action of divorce within three years of the marriage. Such leave can only be granted on grounds of exceptional hardship suffered by the Applicant or on grounds of exceptional depravity on the part of the Respondent.
- [4] This application which is uncontested was heard in chambers and was supported by an affidavit sworn to by the Applicant stating the grounds upon which she is asking this court to exercise its discretion.
- [5] The parties herein were married on the 30th June 2016 in Dominica. The Applicant being a citizen of the United States of America was attending Medical School in Dominica at the time of her marriage and the Respondent is a Dominican.
- [6] Within four months of the marriage the Applicant states in her affidavit sworn in support of her application that herself and the Respondent started having a lot of arguments. It is clear that sometime shortly after the celebration of the marriage the Applicant travelled to the United States and returned to Dominica in December 2016.
- [7] Upon her return to Dominica she discovered that her husband was unfaithful and she avers that she found out that her husband was in fact cheating on her since September 2016 some three months after their marriage.

¹A judge of the court may, on an application made to him, allow the presentation of a petition for divorce within the specified period on the ground that the case is one of exceptional hardship suffered by the petitioner or of exceptional depravity on the part of the Respondent;

- [8] The Applicant averred that when she confronted the Respondent about what she learned this caused a big argument between them causing her to feel threatened and resulting in her having to leave the apartment in which she was staying with him. The Applicant averred that she left Dominica four days after and returned to the United States of America.
- [9] The Applicant complains that the experience was extremely humiliating and painful to her and that she was devastated and as a result she now suffers from Post Traumatic Stress Disorder (PTSD). **She avers that “talking to the Respondent, hearing from his friends or anything that is related to him gets her very angry and puts her in a state of emotional panic attack”**
- [10] The Applicant further avers that the thought of remaining married to the Respondent causes her extreme anxiety and distress and has taken a significant toll on her school work and ability to continue her medical training.
- [11] The Applicant also stated in her affidavit that in February 2017 she was placed on sick leave as a result of her suffering from PTSD as she was unable to function well at school. As proof, the Applicant exhibited a medical report issued to her by her Doctor which spoke to her suffering from PTSD and which gave her medical leave on that ground.
- [12] The Applicant further averred that remaining in the marriage will cause her to continue to suffer from a significant amount of psychological and emotional harm and that this is also a threat to her sanity which will cause her extreme hardship.
- [13] The Applicant averred that the Respondent continues to be involved in an open adulterous relationship which in her opinion is extremely depraved behaviour on his part. She also averred that there is no chance of reconciliation between them. It is noted that there are no children of the family.
- [14] Learned Counsel in support of her application cited the case of C –v- C². This case examined the issues of hardship and exceptional depravity and after reviewing a number of decisions from the

² [1980] Fam 23

1940's and 1950's it was said that "*... it is now accepted that in dealing with these applications the judge might properly take into account hardship arising from the conduct of the other spouse, present hardship and hardship arising from having to wait until the specified period had elapsed before a petition could be presented;...*"³.

[15] In this case the evidence quite clearly shows that as a result of the Respondent's **behaviour the Applicant's health has suffered and, in my view, she is being caused exceptional hardship by** her experience and clearly for her to wait further in order to petition this Court for Divorce will only exacerbate her suffering and extreme hardship.

[16] For these reasons coupled with the fact that there is no hope of reconciliation and there are no children of the marriage this Court will grant to the Applicant leave to enable her to commence proceedings within the three year period under section 3 of the Matrimonial Causes Act 1973.

M E Birnie Stephenson
High Court Judge

[SEAL]

By the Court

Registrar

³ Ibid at page 28 per Omrod LJ