

IN THE HIGH COURT OF LESOTHO

In the matter of

'MAMOKONE POSA Plaintiff/Applicant

v

POSA E POSA Defendant/Respondent

J U D G M E N T

Delivered by the Hon. Chief Justice Mr. Justice
T S Cotran on the 26th day of June 1984

The plaintiff 'Mamokone sued the defendant Posa, who is her husband, for a decree of Judicial separation a mensa et thoro and for alternative or further relief

The defendant resists the claim and counterclaims for an order directing the plaintiff to restore conjugal rights failing compliance with which a decree of divorce on the grounds of malicious desertion

It is common cause that prior to the breach the matrimonial home of the parties was a house on plot 872 Cathedral Area, Maseru, acquired through the Lower Income Housing Company Society Ltd (Lehco-op). The house was completed through the joint effort of the parties although there is a dispute as to how much each contributed.

The plaintiff brought an application seeking, pendente lite,

- (a) Maintenance in the sum of M80 per month
- (b) Maintenance for the child in the sum of M100 per month
- (c) Payment of M60 towards her legal fees

/(d) An

- (d) An order directing the defendant to provide her with accommodation at the matrimonial home or "at any place the Court may deem fit"

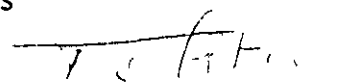
The position at the time of hearing the application was as follows -

- 1 The plaintiff/applicant was employed and earning How much we do not know.
2. The plaintiff/applicant has been provided with accommodation for her and the child by defendant/respondent's father
- 3 The defendant/respondent had lost his job as a salesman in a furniture shop and now earns nothing
4. The matrimonial home at Cathedral area had been let by the defendant/respondent to some tenants in order to pay Lehco-op instalments due on the house loan According to him a great part of the M30 rent goes in repayment and the rest is necessary for his own living expenses He swore he had no other income

I indicated to counsel for the plaintiff/applicant that on these facts it is beyond my comprehension how and from where the defendant/respondent is expected to pay the amounts claimed pendente lite I indicated to counsel that I am prepared to grant the plaintiff/applicant interim relief safeguarding her rights, if any, to the joint property

Until the position of the defendant/respondent changes for the better when the applicant can move the Court again, the only order I can make pendente lite is that the defendant/respondent will not sell, dispose or otherwise alienate the matrimonial property until the action is disposed of

The defendant/respondent will pay the costs


CHIEF JUSTICE
26th June 1984

For Plaintiff/Applicant Mr. Kambule
For Defendant/Respondent Mr Redelinguys