

D v D [2005] EWHC 3342 (Nature of recognition of overseas divorce)

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CATEGORY:
ARTICLE

Facts

The wife (W) and the husband (H) were married in a civil ceremony in England. They subsequently underwent a Greek Orthodox marriage ceremony in Greece. They spent their whole married life in Greece. After the breakdown of their marriage W and H reached an agreement whereby W consented to the dissolution and waived any claim she might have against H for financial support in return for an arrangement allowing her to leave the marriage with capital amounting to GBP 1.9 million.

Under the misapprehension that the English marriage still subsisted, H then petitioned for dissolution of the English marriage. W then applied for financial relief in England. W contended that the Greek divorce was not recognisable and that it did not dissolve the English marriage and she was, therefore, entitled to financial relief flowing from the dissolution of the English marriage. Alternatively, she argued that she should have leave to apply for financial relief on the basis that the parties' agreement was unconscionable.

Held

The court refused W's applications.

(1) The English courts recognised the Greek divorce and it dissolved the parties' status under both the Greek and English jurisdictions. It was in the interests of public policy for there to be a harmonised system recognising foreign divorces and, for that reason, the English dissolution proceedings had been unnecessary.

(2) If W's application for financial relief in England went forward, it was much more likely than not that she would ultimately be held to the finality of the Greek agreement, given the overwhelming connection of the marriage with Greece and the Greek expert's view as to the wife's inability to reopen the agreement in that jurisdiction.

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