Year: 2026 **Vol:** 01 **Case No:** 60

Categories: non-appearance by respondent; respondent abroad; previous deed of separation

Divorce granted in absence of respondent wife, deed of separation agreed previously

A Circuit Court judge in a rural town granted a decree of divorce where the applicant husband had issued a motion for judgment in default of appearance. The applicant husband was present in court and was represented by a solicitor, and there was no appearance by or on behalf of the respondent wife.

The husband's solicitor said that the wife lived abroad. The parties had signed a deed of separation when they had separated approximately fifteen years previously. The wife had signed over her interest in the family home to the husband in lieu of child maintenance, and she had left the country at that stage. The husband had looked after the parties' children and put them through university.

He said the judge had previously directed him to write to the wife via email and inform her of the adjourned date of the motion, and of the Court's obligation to make proper provision for both parties. The husband's solicitor said he had done this, and he had attached the husband's up to date sworn affidavit of means.

The wife had written to the court office and had attached a spreadsheet detailing her income and expenditure. She said she was not claiming anything from the husband in the divorce proceeding, and she would not be attending. Both parties had pensions and had given details of these.

The husband's solicitor gave an overview of the husband's affidavit of means, and he said there was a valuation of the family home, which was now mortgage free and in the sole name of the husband. The judge said it was an unusual case, but he was satisfied that both parties were happy that proper provision existed for both of them.

Applicant's evidence

The husband was sworn in and gave his formal evidence. He confirmed the date of marriage and identified the original marriage certificate. He said the wife had gone abroad a number of years earlier and he had looked after the children and put them through school and college, and the wife had transferred her share in the family home to him in lieu of paying child maintenance. He said they had lived separate and apart for almost twenty years, the marriage had irretrievably broken down and there was no reasonable prospect of reconciliation.

The judge asked him if he understood that the wife would be open to making an application to the Court at any time if she felt that proper provision had not been made, and he said he understood this.

The judge said he was satisfied that the wife was financially stable. He said she had no interest in the family home or in the husband's pensions having signed these interests over to the husband under the parties' deed of separation.

The judge granted a decree of divorce and mutual orders pursuant to section 18(10) of the Family Law (Divorce) Act 1996. He made a declaration that the husband was the sole owner of the family home and the wife had no legal or beneficial interest in the property, or in any property the husband owned. He made nil pension adjustment orders. The judge said that the wife would be posted the order by the court office, and the husband's solicitor undertook to also inform her of the order.

The judge commended the husband for overcoming any financial issues and for getting the children through education. He thanked the husband's solicitor for assisting in communicating with the wife, and he wished both parties well.