

# Wife ordered to stay in loveless marriage

**Judges admit ruling against divorce has left them 'uneasy'**

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A WOMAN has been ordered to stay in her loveless marriage for a further two years.

Supreme Court judges yesterday turned down an appeal from a 68-year-old woman who has been refused a legal end to her 40-year marriage.

Five justices of the Supreme Court said Tini Owens had failed to demonstrate unreasonable behaviour by her husband, who maintains that their relationship – which has been dragged through the courts for the past two years – can be saved.

But the judges said the treatment of Mrs Owens under English divorce laws that date back to 1969 made them 'uneasy', and Supreme Court President Lady Hale said she was only 'reluctantly persuaded that this appeal should be dismissed'.

Passing judgment, fellow judge Lord Wilson said: 'Parliament may wish to

**'Unhappy and unappreciated'**

consider whether to replace a law which denies to Mrs Owens any present entitlement to a divorce.'

The push from the country's highest court follows years of campaigning by senior judges and lawyers for a 'no-fault' divorce reform that would allow a husband or wife to walk away from their marriage without the consent of their spouse and without any need to show that poor behaviour had led to the breakdown.

But critics say current divorce laws in England – which mean someone such as Mrs Owens must wait for five years after leaving her husband before her marriage can end – act as a necessary brake on divorce and influence couples to try to preserve their marriages.

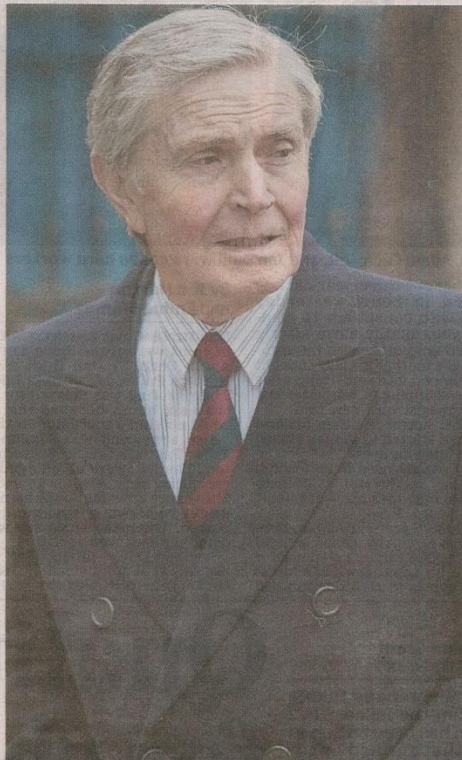
They also accuse lawyers of planning to cash in on a lucrative new boom in divorce.

Divorce rates, which more than doubled in the years after the 1969 laws made divorce cheaper and easier, have been falling in England and Wales for more than 20 years. In Scotland, the law states a marriage can be ended two years after separation.

The Owens case was one of a tiny proportion of divorces in which a couple go to court to argue over whether their marriage should end.

Mrs Owens and her 80-year-old husband, Hugh, were married in 1978 and have two adult children. Mrs Owens talked to lawyers about a divorce in 2012 and then began an affair. However, she then went back to her husband, before leaving him in February 2015.

The couple, said to have built up 'significant wealth' through Mr Owens's business, own a substan-



Husband: Hugh Owens did not agree to a divorce



Wife: Tini Owens is 'devastated' by the court's decision

## Splits more straightforward in Scots law

THERE are a number of legal differences between Scotland and England and Wales around divorce.

In Scotland, it is possible to apply for divorce due to an 'irretrievable breakdown' within the first year of marriage.

However, in England and Wales you must have been married for at least one year.

Since 2006, it has been possible for Scots couples to divorce after one year of living apart, as long as one party consents. If they do not, an application can be made after two years apart without a spouse's say-so.

In England the law still states that a pair

must live apart for two years with consent and five years without consent – as in the case of Tini Owens.

Courts in Scotland, unlike in England and Wales, do not have to rubber-stamp formal agreements (known in Scotland as Minutes of Agreement or Separation Agreements) made by the couple involved and resolve the issues arising from their separation.

Instead, a simplified divorce procedure can be used where financial issues are resolved, there are no children under the age of 16 and either of the separation grounds applies. This process is considered

more straightforward and much less expensive than the traditional method used south of the Border.

Debbie Reekie, senior solicitor in BTO Solicitors' Family Law team, said: 'The issue of "non-fault" divorce has been a hot topic in England in recent times with thoughts that England lags behind many other countries who have a non-fault system, like Australia and Scotland.'

'It seems archaic to apply a legal test which was put in place over 40 years ago and which no longer fits the fast-paced realities of modern life.'

tial manor house in a Gloucestershire village. Mrs Owens now lives in a house owned by the couple next door.

English law states that a couple can be divorced after two years of living apart if they both agree, and after five years if only one wishes to divorce. Otherwise they must show fault on the part of their spouse – adultery, desertion, or unreasonable behaviour.

The Supreme Court judges said Mrs Owens had not shown that it was unreasonable to ask her to continue to live with her husband.

In court she had complained that he put work before home life, he treated her without love or affection, had been moody and argumentative, had disparaged her in front of others and that she had grown apart from him, feeling unhappy, unappreciated, upset and embarrassed.

But in the first hearing of the case a judge called her examples of her husband's behaviour 'flimsy' and said she had 'exaggerated their context and seriousness'.

Lord Wilson said there were no legal grounds for granting a

divorce but added: 'There is no denying that the appeal of Mrs Owens generates uneasy feelings.' He went on to say that 'uneasy feelings are of no consequence in this court'.

Lady Hale said of Mrs Owens's complaints: 'Those who have never experienced such humiliation may find it difficult to understand how destructive such conduct can be of the trust and confidence which should exist in any marriage.'

Mrs Owens is now likely to wait until she can win a divorce on the

grounds she has been separated from her husband for five years, which will be in February 2020.

Her solicitor Simon Beeble said Mrs Owens was 'devastated by this decision' and many people would find the Supreme Court ruling 'hard to understand'.

Barrister Hamish Dunlop, who represented Mr Owens, said that Mrs Owens had made an 'attempt radically to reinterpret the requirements for a behaviour divorce' and had been advocating 'divorce by unilateral demand of the petitioner'.