

**IN THE CIRCUIT COURT '1', ADENTAN, ACCRA, BEFORE HER HONOUR JUDGE  
DORA G. A. INKUMSAH ESHUN (MRS.) SITTING ON THURSDAY THE 3<sup>rd</sup> DAY OF  
NOVEMBER 2022**

**SUIT NO. C5/24/2022**

**AKUA SEIWAA DAAKU**

**PETITIONER**

**V.**

**WILLIAM ASARE-DUA AMPOFO**

**RESPONDENT**

**JUDGMENT**

The parties were married under **Part 3 of the Marriages Act, 1884-1985 (Cap 127)** on 15<sup>th</sup> December 2016 at the Victory Congregation of the Presbyterian Church of Ghana and have a three-year-old daughter. They cohabited at Kwabenya Estate in Accra after the marriage. The petitioner is a school administrator, and the respondent is a bank manager.

The petitioner prayed that the respondent has behaved in such a way that she cannot reasonably be expected to live with him because the respondent has denied her conjugal rights for the past three years of their marriage; the respondent is cold and unaffectionate towards her; barely communicates with her; does not eat any food she cooks; and does not sleep on the same matrimonial bed with her. These averments were denied by the respondent. According to the petitioner, the respondent's behaviour has caused her immense emotional trauma and psychological stress.

The respondent averred in his Answer that his responses to the petitioner mirrored her expectations of him and any loss of interest reflects her own loss of interest in him. The petitioner's treatment of him over the years has been in bad taste and has caused him more trauma than she can imagine.

The petitioner prayed for;

1. The dissolution of the Ordinance marriage celebrated between the parties on the 15<sup>th</sup> of December 2016 at the Presbyterian Church of Ghana, Victory Congregation, Frafraha.
2. Custody of the child of the marriage with reasonable access to the respondent.
3. That the respondent be ordered to pay alimony of Eighty Thousand Ghana Cedis (GH¢80,000.00) to the petitioner.
4. That the respondent be ordered to pay One Thousand, Five Hundred Ghana Cedis (GH¢1,500.00) monthly for the maintenance of the petitioner and the child of the marriage until the final determination of the petition, to be reviewed annually.
5. That the respondent provides for the child's educational and health requirements.
6. That the respondent provides decent accommodation for the petitioner and their child.
7. Any other reliefs that the honourable court deems fit.

The respondent agreed that the marriage be dissolved, and custody of the child be granted the respondent. He however, denied that the petitioner is entitled to alimony because he bore all the household expenses when they were married and cannot offered the sum demanded. During the marriage, he put all their wedding donations amounting to GH¢20,000 into a joint account which was solely used by the petitioner. He also supported the petitioner to acquire a saloon car in their first year of marriage, while the petitioner has not contributed to, nor supported him to acquire any asset since they got married.

The respondent averred that he currently gives maintenance of GH¢800 for the petitioner and the child because the petitioner's workplace closed, and the child stayed home longer during the COVID-19 restrictions. Therefore, he cannot pay for the separate accommodation the petitioner demands due to his paying maintenance and all the child's expenses, so, the petitioner can provide shelter for herself and their child with her monthly salary from her full-time employment.

After a case management conference on 17<sup>th</sup> March 2022, the parties gave brief evidence on the following issues. Whether:

Judgment

Akua Seiwaa Daaku v William Asare-Dua Ampofo  
Nov 3, 2022

2

- a) the respondent has behaved in such a way that the petitioner cannot reasonably be expected to live with him,
- b) custody of the child should be given to the petitioner with reasonable access to the respondent,
- c) the respondent should be ordered to provide for the maintenance, accommodation, education, and health needs of the child, and
- d) the respondent should be ordered to pay alimony of GH¢80,000 to the petitioner.

A marriage celebrated in Ghana may be dissolved where the parties prove that the marriage has broken down beyond reconciliation [**section 2(1) of the Matrimonial Causes Act, 1971 (Act 367)**; Mensah v. Mensah [1972] 2 GLR 198-209]. To prove that a marriage has broken down beyond reconciliation, a party shall satisfy the Court of one of the facts found in **section 2(1)(a)**

– (f) of Act 367.

To determine whether the behaviour of the respondent is such that the petitioner cannot reasonably be expected to live with him [**section 2(1)(b) of Act 367**], the court must look at the whole history of the marriage. HL Justice Hayfron-Benjamin in Mensah v. Mensah [1972] 2 GLR 198 citing Lord Pearce in Gollins v. Gollins [1964] A.C. 644 at p. 696, HL, held:

*"The particular circumstances of the home, the temperaments and emotions of both the parties and their status and their way of life, their past relationship and almost every circumstance that attends the act or conduct complained of may all be relevant."*

The petitioner testified that she was 39 years old, had been employed for close to 16 years and was living with her parents at Adenta before the parties got married. She lived in a rented apartment for four years before the marriage. The parties cohabited at the respondent's home in Kwabenya, Accra preceding the marriage. She had a traumatic pre-and post-childbirth experience leading to her being hospitalized and underwent medical procedures to give birth to their only daughter. Months after the child's birth, she noticed the respondent had not made any attempt to have conjugal relations with her. She initially thought he was being

cautious due to her traumatic childbirth experience; however, he has persisted in this behavior till date despite

---

Judgment

Akua Seiwaa Daaku v William Asare-Dua Ampofo  
Nov 3, 2022

several discussions about the issue. He affirmed his disinterest in conjugal relations with her by deliberately ignoring the petitioners' overt and subtle advances as a wife even to the extent of not sleeping on the same matrimonial bed with her for three years preceding the institution of this petition. According to the petitioner, the respondent locks the doors of the bedroom he sleeps in and two other bedrooms in the matrimonial home, leaving one bedroom for the petitioner and their daughter.

The respondent testified under cross-examination that the petitioner would sleep with him on his bed when he relocated to a different town during the first year of marriage. However, he does not recall the last time he initiated sex because of "*experience*". The most recent time the petitioner denied him sex was during the first trimester of her pregnancy. He denied that the petitioner had a complicated pregnancy. This is a contradiction of the respondent's evidence that the petitioner was admitted and moved into her parents' home due to complications from the pregnancy.

The petitioner testified that the respondent has deliberately refused to eat any food she cooks for the past three years without justifiable reason. The respondent admitted that he usually does not eat from the house when he is in Accra. He testified that the food the petitioner cooked for him within a few months of marriage were not to his palette and gave him a few health issues. Since he tended to arrive late and would not be able to eat, he decided to eat the petitioner's food for lunch, but it usually went bad due to long storage. When he was transferred from Accra, he had to cook for himself and simply continued to do so when he returned for weekly visits. The respondent could not produce any medical records to prove that the petitioner's food gave him problems and testified that "*...in most cases one will quickly go to the pharmacy or a licensed chemical shop*" to purchase a drug when his stomach was upset.

According to the petitioner, the respondent barely communicates with her or their child and spends an hour or less with the child during his weekend visits. He deliberately displays a cold and distant demeanor towards her whenever he visits. The petitioner said the

respondent's behavior towards her has caused her immense emotional and mental distress.

The respondent

---

Judgment

Akua Seiwaa Daaku v William Asare-Dua Ampofo

Nov 3, 2022

4

testified that since he has not been living permanently in the matrimonial home for the past 4 years, the communication between the parties over the phone is on a needs basis due to issues that occurred in their marriage. The petitioner only comes near him when he is playing with their daughter and makes no effort to engage him in conversation.

The respondent testified that he was transferred into his current position a year into the marriage due to his experience, background, knowledge, the market needs of that branch and the urgency with which the bank needed to fill that vacant position due to the previous manager's resignation. He is also currently the Director of Finance at the Victory Presbyterian Church. According to the respondent, his behavior has always reflected the wants of the petitioner. He is not the cold and unaffectionate person the petitioner claims, although he is reserved. He would call her when he was returning to Accra from his station to let her know he was on his way, but the petitioner told him the calls made her anxious about the journey, so he stopped calling when he set off to keep her at ease.

The respondent testified that the petitioner left for her parents' home when she was 4 months pregnant after being admitted to the hospital for an ailment and stayed there until a year after the birth of the child. The petitioner only returned to the matrimonial home after her church elders convinced her to return. The petitioner admitted this fact and testified that in the fifth month of her pregnancy, she started having complications and was hospitalised on June 13, 2018. She was put on bed rest and since she was alone at home most of the time, her parents advised her and sought permission from the respondent to move back home for assistance. After she delivered in November, she moved back to her matrimonial home in May 2019, by which time the child was 6 months old. When they moved back, there were a few challenges and renovations had to be done at home. The parties decided that she should move back to her parents' home during the renovations. The petitioner believed it would be for a few weeks, however, the renovations were completed a year and three months later and she moved back into the matrimonial home in May 2021.

---



Judgment

Akua Seiwaa Daaku v William Asare-Dua Ampofo

Nov 3, 2022

5

The respondent testified under cross-examination that he tried to find out the problems the petitioner had during pregnancy, but she did not tell him. He admitted that he never visited the hospital with the petitioner during her pre-natal or post-natal care because he was not in town. When petitioner counsel put it to him that he returned to Accra often to perform duties for the church and prioritized those duties over taking care of his wife such as taking her to the hospital during her pregnancy, the respondent testified that she would inform him to take care of the bill on the occasions she went to the hospital because he was not in Accra.

The respondent further testified that during their first year of marriage, in order not to disturb the petitioner, when he closed late from work, the parties adopted an arrangement where they would sleep in different places and would only sleep together over the weekends when they were both home. According to the respondent, due to past experiences with the petitioner, he does not approach her for sex in case he is denied. His duty post is in Essiama in the Western Region but when he comes to Accra once or twice a month, the petitioner never approaches him for conjugal relations. The petitioner admitted that for the most part of the marriage the respondent's duty post was at Essiamah and testified that before he left, they both went to look at the place and returned to Accra. When the respondent returned to his post, the petitioner visited him once and returned to Accra, after which she became pregnant with complications. After the delivery, when she suggested she visit him with the child, the respondent declined. The respondent admitted the petitioner has expressed her desire to have another child with him.

In Walsham v. Walsham [1949] 1 AER 774, it was held that periods of sexual refusal on the part of a husband followed by coitus interruptus amounted to cruelty. The court finds from the evidence that the respondent, who admitted that he has not slept with the petitioner for most of their marriage, denied the petitioner the consortium that is her right as a wife. According to Daniels<sup>1</sup>, *"The mutual right to sexual intercourse lasts throughout the marriage provided that it is reasonably exercised"*. This right is part of the right of consummation in the doctrine of consortium in marriages and includes the mutual right of cohabitation – *"the entitlement of a*

---

<sup>1</sup>Daniels, W. C. E. (2019). *The Law on Family Relations in Ghana*. Black Mask Limited. 166-167

---

Judgment

Akua Seiwaa Daaku v William Asare-Dua Ampofo

Nov 3, 2022

6

*husband and wife to each other's society... affection, companionship and assistance of each other...*" – marital communication and the protection of the privacy of the home and marital communication under **section 110 of the Evidence Act, 1975 (NRCD 323)**<sup>2</sup>.

In Mensah v. Mensah [1972] 2 GLR 198-209 the parties could not have a child. They initially made attempts to seek medical attention, but the respondent husband refused to accept the results of the medical examination, began to taunt, insult and assault the petitioner wife and refused to discuss the issue. This caused the petitioner mental distress and humiliation. The court held that **Act 367** "*... does not require that the behaviour should be aimed at the petitioner, or that it should cause her injury; it only requires that it should be such as to justify a finding that the petitioner cannot reasonably be expected to live with the respondent*" and that "*...it would not be reasonable to expect a petitioner to continue to live with a respondent who behaves and seems to be set on behaving in this manner*".

The court finds from the evidence that the respondent has behaved in such a way that the petitioner cannot reasonably be expected to continue to live with him.

Another factor the court may consider in determining whether the marriage has broken down beyond reconciliation is whether the parties have, after diligent effort, been unable to reconcile their differences under **section 2(1)(f) of the Matrimonial Causes Act, 1971 (Act 367)**; Danquah v Danquah [1979] GLR 371]. The requirements to prove this fact were set out in Mensah v. Mensah [1972] 2 GLR 198-209, as follows:

- (a) there should exist differences between the parties, and not disputes,
- (b) the parties should have made diligent efforts to reconcile these differences, and
- (c) the parties should have been unable to effect the reconciliation of the differences.

In Mensah v. Mensah (*supra*), it was held that, "*...the differences should be such as would make it impossible for the marriage to subsist*" ... and they "*...must be real and not imaginary; they*

---

<sup>2</sup> Daniels, W. C. E. (2019). *The Law on Family Relations in Ghana*. Black Mask Limited. 166-168

Judgment

Akua Seiwaa Daaku v William Asare-Dua Ampofo

Nov 3, 2022

7

*should be so deep as to make it impossible for the parties to continue a normal marital relationship with each other."*

The petitioner testified that several efforts made by both families to settle their differences have failed and it is apparent the respondent is not willing to put in any effort to salvage the marriage. The respondent on the other hand, testified that the way the petitioner has treated him over the years has been in bad taste. He has suffered more trauma than the petitioner can imagine but has just kept his concerns to himself. For example, when there was an issue in their marriage, the petitioner would call and report it to her parents, some Reverend Ministers, and Ministers wives he respected a lot. He was always receiving calls and requests for meetings to discuss some infraction the petitioner believed he committed. This was traumatic for him as he does not like his personal issues being reported to and discussed by third parties. He had to bear this during the marriage with a brave face.

According to the respondent, the marriage has broken down beyond reconciliation. He does not know the exact date and time the petitioner and child left the matrimonial home. He arrived from Essiama late at night on November 11, 2021, to find that the petitioner had packed all her belongings and left the matrimonial home without informing him. He called her several times, but she did not answer. He left text messages and received no response. He then called her father the next day who confirmed that the petitioner and their daughter were at his house. On 13<sup>th</sup> November he was called to receive the divorce petition by the court bailiff as he was preparing for an examination. After years of having their marriage issues paraded before a host of persons without solution, he did not think it was worth it to attempt a reconciliation as the petitioner had clearly made up her mind.

The respondent admitted that he has not counted the number of times he has visited his family but denied that he has visited them less than five times since their departure. According to the respondent, on 11<sup>th</sup> December 2021 the petitioner and her mother returned the customary marriage drinks to the respondent's family. The petitioner spoke to the respondent's stepfather

---

Judgment

Akua Seiwaa Daaku v William Asare-Dua Ampofo  
Nov 3, 2022

8

who stood in for his deceased father during the marriage ceremony. His stepfather asked his senior sister to receive the drinks as he was not available at the time.

The court finds from the evidence, particularly the dissolution of the customary marriage between the parties, that the parties have after diligent effort, been unable to reconcile their differences under **section 2(1)(f) of Act 367**.

In **section 22(2) of the Matrimonial Causes Act, 1971 (Act 367)** the court may make an order concerning a child of the household that it thinks reasonable and for the child's benefit.

*"The Court may, either on its own initiative or on application by a party to proceedings under this Act, make an order concerning a child of the household which it thinks reasonable and for the benefit of the child"* [**section 22(2) of Act 367**].

In **section 22(3) of Act 367** the court may make an order under **section 22 of Act 367** to;

*(a) award custody of the child to any person;*

*(b) regulate the right of access of any person to the child;*

*(c) provide for the education and maintenance of the child out of the property or income of either or both of the parties to the marriage".*

In **section 47(1) of the Children's Act, 1998 (Act 560)**, a parent who is legally liable to maintain a child or contribute towards their maintenance is under the duty to supply the necessities of health, life, education, and reasonable shelter for the child.

The petitioner testified that she pays the utility bills of the matrimonial home and manages household expenses. She also buys the child's clothing since the clothes the respondent buys (church clothing) are usually sizes that are too big. The child would only be able to wear them after two or more years. Some of the sizes of the clothes the respondent buys are too small. The petitioner must buy the child's pajamas, house clothing and shoes. According to the petitioner, maintenance of GH¢800 given by the respondent does not cover half of their



monthly essential needs. She is also presently squatting with the child at her parents' residence at Adenta and is in

---

Judgment

Akua Seiwaa Daaku v William Asare-Dua Ampofo  
Nov 3, 2022

dire need of accommodation. The respondent testified that he took care of the bills while the petitioner stayed in the house when he was at his duty post.

The petitioner testified under cross-examination that she earns GH¢3000 a month and spends close to GH¢1,500 on expenses. For most of the marriage, the parties lived together only on the occasional weekend during which the respondent gave her GH¢600 for housekeeping and utilities, which has been increased to GH¢800. She also testified that she sent the respondent the cost of the child's vests, socks, and underwear. The respondent testified that he earns GH¢4,129.93 and part of his salary was being used to take care of the house and other responsibilities as the head of family. He started giving the petitioner maintenance of GH¢800 for herself and their child during the COVID-19 restrictions period because their child stayed home longer when school closed. He increased the allowance to GH¢1,000 but could not sustain it after his mother and father died and he had other dependents to look after. So, he reverted to paying GH¢800. Prior to COVID, he was paying maintenance of GH¢600. The respondent said he cannot pay more than GH¢800 as he is solely responsible for the child's expenses after the normal resumption of duties and despite the strain on his finances.

According to the petitioner, the school the child attends belongs to her family. When the respondent asked her for the list of the child's school needs, she gave him a list of uniforms, books and learning materials. She had already purchased socks and underwear without a receipt. The respondent only paid her back for the school items she was given a receipt for. She denied that the respondent has traditionally borne all the child's expenses except for school fees. The respondent testified that he cannot afford the petitioner's demand for separate accommodation after paying maintenance and all the child's expenses. According to him, *"The petitioner is on a monthly salary from her full-time employment and can equally provide shelter to take care of herself and our daughter as I provide for all other expenses."*

Considering the current elevated cost of living, and the fact that the petitioner's family is funding the child's tuition, the court finds it just to award maintenance of GH¢1000 for the

child. The respondent shall purchase the child's school supplies textbooks and uniforms. The respondent

---

Judgment

Akua Seiwaa Daaku v William Asare-Dua Ampofo  
Nov 3, 2022

10

shall also pay 50% of the accommodation expenses for the child and the petitioner 45 days before their rent is due. The parties shall also contribute towards the child's medical expenses.

In **section 19 of Act 367**, a court may grant financial provision to a party in divorce proceedings. In Christina Quartson v. Pious Pope Quartson (Civil Appeal, No. J4/8/ 2012, 31<sup>st</sup> October 2012), the Supreme Court granted a wife who showed substantial contribution to the economic livelihood and assets of the parties, financial provision, and property settlement. According to the petitioner, she has supported the respondent throughout their marriage by managing the household for the two years she lived in the matrimonial home and solely providing for their only child to enable the respondent flourish in his professional career. She also takes care of the household expenses, utility bills and their daughter's clothing.

The respondent testified that the petitioner is not entitled to alimony as he bore all the household expenses when they were married. He then stated that he lived mostly in Essiama where he catered for himself, therefore he cannot afford such a sum. He put all their wedding donations amounting to GH¢20,000 into a joint account from which he did not withdraw a penny – the money was solely used by the petitioner. He also supported the petitioner to acquire a saloon car during their first year of marriage while the petitioner has not contributed nor supported him to acquire any asset since they got married.

The petitioner submitted to the court that the respondent requested that she use GH¢4,000 out of the amount paid into the joint account to buy a car. GH¢5,000 was lost when the GN Bank which the account was held in, was closed. The petitioner could not follow up on it as she was pregnant at the time – there is currently a balance of GH¢11,000 in the account. The court finds from the evidence that the petitioner is entitled to some alimony from the proceeds of the marriage ceremony that was paid into the joint account of the parties.

After considering the evidence and the law, the court finds that the marriage of the parties has broken down beyond reconciliation under **sections 2(1)(b) and (f) of Act 367**. The marriage celebrated between the parties on 15<sup>th</sup> December 2016 at the Victory Congregation of the

---

Judgment

Akua Seiwaa Daaku v William Asare-Dua Ampofo  
Nov 3, 2022

11

Presbyterian Church of Ghana, Adenta, by certificate number PSG/VPFR/023/2016 is hereby dissolved.

The court makes the following orders:

**1. CUSTODY**

The petitioner shall have custody of the child of the parties.

**2. ACCESS**

The respondent shall have reasonable access to the child with reasonable notice to the petitioner.

**3. FINANCIAL SETTLEMENT**

The respondent shall pay the petitioner financial settlement of GH¢7,700 as a lump sum payment from the joint account held by the parties into the petitioner's personal account.

**4. MAINTENANCE**

The respondent shall pay child maintenance of GH¢1,000 by the third of each month, effective November 2022.

**5. EDUCATION**

(a) The respondent shall pay for the child's books and supplies.

(b) The petitioner shall pay for the child's uniforms.

(c) Where the child moves to a school that is not owned by the petitioner's family, the respondent shall pay for the child's school fees, school feeding fee and books, and the petitioner shall pay for the child's uniforms and supplies.

**6. HEALTH**

(a) The parties shall register the child for the National Health Insurance Scheme (NHIS).

(b) The parties shall pay the child's medical bills that are not covered by National Health Insurance equally, within 24 hours of the bill being issued.

Judgment

Akua Seiwaa Daaku v William Asare-Dua Ampofo

Nov 3, 2022

12

**7. CLOTHING**

The respondent shall pay the petitioner GH¢1000 every six months for the child's clothing.

**8. ACCOMMODATION**

(a) The respondent shall pay 50% of the accommodation for the child and the petitioner by November 30, 2022.

(b) Thereafter, the respondent shall pay 50% of the cost of accommodation for the child and petitioner 45 days before their rent is due, until the child has reached the age of majority or the petitioner re-marries, whichever comes first.

**9. COSTS**

The parties have waived costs.

Petitioner Counsel – Yaw Attakorah Amoo

Respondent – Susanna Nyampong

Counsel

(SGD)

**DORA G. A. INKUMSAH ESHUN  
CIRCUIT JUDGE**

---



