

**IN THE CIRCUIT COURT '1', ADENTAN, ACCRA, BEFORE HER HONOUR  
JUDGE DORA G. A. INKUMSAH ESHUN (MRS.) SITTING ON FRIDAY THE 17<sup>TH</sup>  
DAY OF MARCH 2023**

**SUIT NO. C5/26/2022**

**LYDIA SHARON DARKOH**

**PETITIONER**

**V.**

**MICHAEL OKPOTI-KODI**

**RESPONDENT**

**JUDGMENT**

The parties who are Ghanaian, were married under **Part 3 of the Marriages Act, 1884-1985 (Cap 127)** in March 2010 in Accra. They are both bankers and have three children aged ten, nine and six years old at the time the petition was filed on 17<sup>th</sup> November 2021. During the marriage, the parties constructed a four-bedroom self-contained house at Pantang, on land belonging to the respondent that was meant to be their matrimonial home. The petitioner prayed that the marriage be dissolved because the respondent has behaved in such a way that she cannot be reasonably expected to continue to live with him and that he has deserted her.

The respondent filed an Answer on 4<sup>th</sup> February 2022, to which the petitioner filed a Reply on 15<sup>th</sup> February 2022. The respondent denied deserting the petitioner and averred that the petitioner is violent and is not entitled to her claims.

The petitioner prayed that,

a) the marriage be dissolved,

- b) the petitioner be granted custody of the three children of the parties with reasonable access for the respondent,
- c) the respondent be ordered to pay maintenance of GH¢1,000 to the petitioner each month pending suit and thereafter such periodical payment as may be just,
- d) the respondent be ordered to pay to the petitioner in the alternative, a lump sum of Fifty Thousand Ghana cedis (GH¢50,000) – which was reduced to GH¢30,000 in the petitioner's Reply, and
- e) a 50% share of the property the parties are putting up at Pantang Junction be settled in her favour.

The respondent prayed that;

- a) in the unlikely event that the marriage is dissolved, he is not opposed to a court order for the transfer of absolute title in the building to their three children, and
- b) the petitioner is not entitled to her prayer.

The petitioner agreed that absolute title of the building be transferred to the three children on the sole condition that the petitioner shall be the trustee of the property for and on behalf of the children.

An application to set the action down for trial was filed on 12<sup>th</sup> January 2022. The parties informed the court that they were attempting settlement of the ancillary issues – however, no terms of settlement were filed.

The petitioner tendered the following exhibits:

1. A copy of the marriage certificate (Exhibit A).

2. Copies of a Whatsapp chat between the parties with the respondent admitting he hit the petitioner (Exhibits B – B3).
3. A copy of the petitioner's payslip dated June 2016 (Exhibit C).
4. A copy of a bank account statement showing withdrawals for the building project (Exhibit D - D5).
5. A statement from Enterprise Insurance – for the petitioner's Tier 3 Provident Fund showing withdrawals for the building project (Exhibits E – E3).

The respondent tendered the following exhibits:

A statement showing cash withdrawals and loan drawdowns from an unknown source (Exhibits 1-1G).

1. The respondent's payslip from Opportunity International Savings and Loans for December 2015, December 2017 and July 2022 (Exhibits 2-2B).
2. Whatsapp messages between the parties (Exhibits 3 -3P).

The issues the court must resolve are whether:

- a) the respondent has behaved in such a way that the petitioner cannot reasonably be expected to live with him,
- b) the respondent has deserted the petitioner,
- c) custody of the children should be given to the petitioner with reasonable access to the respondent,
- d) the respondent should be ordered to pay maintenance of GH¢1,000 to the petitioner each month pending suit and thereafter, such periodical payment as may be just,
- e) the respondent should be ordered to pay to the petitioner in the alternative, a lump sum of thirty thousand Ghana cedis (GH¢30,000), and
- f) absolute title for the parties' property at Pantang Junction should be transferred to the petitioner to hold in trust for the three minor children of the parties.

A monogamous marriage 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. According to HL Justice Hayfron-Benjamin in Mensah v. Mensah [1972] 2 GLR 198 citing Lord Pearce in Gollins v. Gollins [1964] A.C. 644 HL at p. 696:

*"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 the respondent has been verbally and physically abusive during the marriage. The respondent locks her up in a room with him to restrict her movement whenever they have a feud. He beat her so hard once that it affected her left ear and she had to seek medical care from the hospital. In June 2011, the respondent beat her mercilessly two months after she delivered their first child through a caesarean section, leaving her traumatized with swollen eyes, cuts and bruises all over her body. He also tried to run her over with the car after the delivery of their second child in June 2013 when they returned home after an altercation in town while shopping. She was taking the baby out of the car at that time. When he was confronted, the respondent was nonchalant and showed no remorse. The respondent calls the petitioner names such as "witch" and sprinkles liquids over her in the night. This has affected the petitioner's

mental health and caused her to live in fear that the respondent would either kill her or go to jail, leaving their children without parental care. She therefore prefers to dissolve the marriage.

The respondent testified that he received the petition with surprise because he has always believed the marriage has not broken down beyond reconciliation despite a few misunderstandings for which the petitioner is largely responsible. The respondent denied that he is violent in disposition and testified in his witness statement that the petitioner has a very bad temper – she attacked him sometime back because she heard him talking to someone in the night

– she thought it was a lady, but it turned out to be his colleague. The respondent did not say whether this colleague was a gentleman or a lady. The respondent said that one time the petitioner slapped him a few times on the face while he was driving her from her office simply because he passed a comment. She threatened him on two occasions with a knife and kitchen stool, locked their bedroom and refused to allow him to go out because he did not have money she had demanded from him. The respondent also testified that while he was on transfer at Mankessim, the petitioner travelled on holidays and weekends with people he does not know. She would leave the children at home alone and in the care of the housemaid without his approval. She lied to him when he confronted her about her trips – for example, she told him she was accompanying her friend Ellen Tetteh to her ex-husband's hometown, but it turned out to be false. The petitioner hides everything from him – including the fact that she was admitted into the Central University. One Friday, when he returned home from Mankessim, he called the petitioner to find out where she was, and she said she would tell him all about it when she got home. The respondent thinks the petitioner was afraid he would say that he also wanted to go back to school to study for an MBA. He said the

petitioner hates to see him home on weekends, no matter how tired he is and needs rest from his work.

According to the respondent, he had to go out and find another job because the petitioner is sometimes emotionally and physically abusive. He has never started a confrontation with his wife, it is always her that is on his case because of her high expectations. One Sunday, after a misunderstanding, the petitioner told the respondent their last child was not his, but the result of a fling with a Burger. The respondent got angry and reported the petitioner to her father. The petitioner's father invited him over to his house at Oduman to talk but he could not make it the following day as it was a Monday and he had to report to work at Mankessim. He did not pick the petitioner's calls on his way to work because he was angry and devastated. The petitioner asked her friend Ellen to call the respondent to explain things to him since she was just pulling his leg. Ellen asked the respondent whether he had cheated on her friend since they were married

– a question calculated to make the parties even. When the respondent confronted the petitioner about the question and asked her whether it meant she sleeps around, she asked him not to mind Ellen as she had not told her anything about the respondent being promiscuous and she (the petitioner) does not do that.

According to the respondent, the root causes of the issues between the parties are the petitioner's quick temper, high expectation of him and finances. He tried to meet her expectations when he can and remembers putting a smile on her face by getting their first born into an International

School at Achimota. It is a husband and father's wish to see his wife and kids happy. When he has a misunderstanding with the petitioner, he always tries to make peace with her *"although in most cases she was wrong"*.

The petitioner denied this testimony and said a normal couple has misunderstandings. Most of the time, when things get *"heated up"* she tried to walk out of the door, but the respondent would lock the door, preventing her from going out. He once bit her, leaving teeth marks on her arm. In 2011 he bit her a month after she had her first child by caesarean section. His beatings would leave bruises on her – when the petitioner recounted the abuse meted out to her by the respondent she burst into tears and began sobbing in the courtroom. She said that whenever he hit her, the respondent would go *"down begging"* and she would have to forgive him. When she testified about the respondent slapping her ears after their second child was born and trying to run over her legs while she was taking the baby out of the car seat after a misunderstanding on their way back from a shop, the petitioner said she has lived in fear of him and was afraid that when he hit her one day, she would not get up. He would be put in jail, and she did not know what would happen to their children.

The petitioner averred in her pleadings that their relationship has become very toxic which has detrimentally affected her mental health, therefore she cannot be reasonably expected to cohabit with or remain married to the respondent.

In Exhibit B the parties exchanged the following Whatsapp messages:

Petitioner: *"...will let them know your work doesn't allow more time these days"*. Respondent: *"No need to lie to them, the truth. Simple, dad was angry and hit me. Even though he's sorry... I'm not cool with him"*.

Petitioner: *"they r kids n not necessary to talk about violence to them"*.

In Exhibit B2, the parties exchanged the following messages:

Respondent: *"Please stop telling people I slapped U. And it affected your ear".*

Petitioner: *"Why shd I? Didn't u???"*

Respondent: *"It makes me feel like a bad person"*

Petitioner: *"And bit my skull? Cos u r a bad person... Get it!!!"*

Respondent: *"I've my faults but I'm not a bad person."*

Despite Exhibits B series, the respondent ended his testimony by stating that he has never been cruel to his wife nor abused her physically or verbally. In Exhibit 3 series, the respondent filed WhatsApp chats and messages between the parties from 2010. In the messages, the petitioner thanks him for being kind to her although they have had disagreements. She states that she needs to *"rejuvenate"* her ways. In 2018, she asks him whether his new girlfriend is the lady in his display picture (dp). She speaks about how their problems are affecting her ability to write examinations and says, *"I've also had enough"*. She asks the respondent that they should not abuse each other, particularly verbally because it affects the children. She states that most couples have problems but do not wash their dirty linen in public and that the respondent enjoys *"blocking"* her. She also states in an undated message thread that the respondent should find a permanent place to stay because they are over. In another WhatsApp message, the respondent replies to the petitioner's question of why he is not coming home, *"To go through your constant humiliation, embarrassment...."*

One day in 2017, when he came home to spend the Christmas holidays with his family, he took the car key to get some deodorant from the supermarket in the evening. At that time, they were living at Kingsby Roundabout in Achimota in a rented home. The petitioner confronted him and tried to take the key from him, saying that he could not



go out. She insulted him with most of the insults being below the belt, twisted his wrist and hurt him while trying to get the key. After the confrontation, she asked him to leave the house because she did not want to see him. He left the house the following day to please her and because he was hurt – to give them both space to heal. When she later sent him a long message explaining how sorry she was, he did not respond because he was still hurt. He realized that she had blocked him on all her social media handles. When he followed up on the phone with her, she was harsh and unaccommodating. Emotional, verbal and physical abuse are offences under **sections 3 and 1** of the **Domestic Violence Act, 2007 (Act 732)** and the **Criminal and Other Offences Act, 1960 (Act 29)**. The court finds from the evidence adduced, particularly the respondent's admission in Exhibits B that he slapped the petitioner that he physically abused the petitioner. The petitioner telling the respondent their child was not his and recanting her statement later which caused the respondent emotional disturbance and turmoil is also emotionally abusive.

The parties' actions are a violation of the consortium that is their right in marriage, defined by WCE Daniels to include, *"The entitlement of a husband and wife to each other's society... affection, companionship and assistance of each other"*. In Place v. Searle (1932) 1 KB 497, 512, Scrutton L.J. held, *"It seems to be clear that at the present day, a husband has a right to the consortium of his wife, and the wife to the consortium of her husband..."*<sup>1</sup>.

The evidence shows that the parties engaged in fights and arguments which, though not unusual in a marriage, were escalated by the elements of physical, emotional and verbal abuse, particularly on the respondent's part. The petitioner's introspection on her actions in the marriage is reasonable and points to her willingness to apply her conscience to solve the problems in the marriage. The respondent's penchant for blaming the petitioner for their problems, and his attempts to stop her from telling other

people that he physically abused her amounts to *gaslighting*. *Gaslighting* is defined by the Encyclopaedia Britannica<sup>2</sup> as,

*“...an elaborate and insidious technique of deception and psychological manipulation, usually practiced by a single deceiver, or “gaslighter,” on a single victim over an extended period. Its effect is to gradually undermine the victim’s confidence in his own ability to distinguish truth from falsehood, right from wrong, or reality*

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.

The court will now determine whether the respondent deserted the petitioner. In **section 2(1)(c) of Act 367**, a party seeking the dissolution of a marriage in Ghana shall satisfy the court that the respondent has deserted the petitioner for a continuous period of at least two years immediately preceding the presentation of the petition.

The petitioner testified that she has lived with the children alone since November 2017 – for about 5 years. The parties have been separated *“without any form of consummation”* for four years and the respondent has failed to take care of the children since January 2019. The respondent testified that he lived at his duty post in Mankessim while the petitioner lived in Accra. He visited the petitioner at least once every two months and it is not true that the parties stayed apart for four years. The petitioner stated that the respondent made no effort to see her or the children over the last four years and has shown he is no longer interested in the marriage by deserting her.

According to the respondent, after he left Mankessim, he has lived with his parents at East Adenta since January 2020. He has a good relationship with his children and

played his role as a father in their development – bathing, feeding, and cuddling them to sleep, taking them to the hospital, particularly, taking their eldest daughter to Korle Bu for review regularly. After the incident with the car key in 2017, he decided to make amends and kept calling her and sending messages from his base at Mankessim, even at dawn, for years - although he knew he was not at fault. The petitioner clearly told him later that he could not come home as they were no longer a family. In that period, the respondent tried to pick up his children to take them out and make amends with the petitioner, but the petitioner got angry, reported him to his mother and insulted him in front of his children. When his mother spoke to him about their issues, he told her he has been trying on his own to resolve the differences with his wife.

After the respondent was transferred from Mankessim to Accra in 2020 to further his education, he stopped calling the petitioner because he got tired of her emotional abuse. The petitioner admitted the respondent came home on weekends sometimes when he was transferred to Mankessim before he left the house for good. The petitioner said the respondent has not made himself available whenever the petitioner has attempted to resolve their differences and refused to attend a meeting called by her father to settle their differences. The petitioner was assured by the respondent's mother that she would call a meeting of both families to resolve the matter – however, there has been no feedback on the meeting for over three years. The petitioner decided to get divorced after the respondent failed to attend a meeting called by her father. When she called his parents to tell them that he had moved from the house, they said they were not aware of it and would speak to him and call her. In October 2021 she called his mother again who promised to call a meeting, but the meeting never happened so she decided to get out of the marriage to save herself.

In Williams v. Williams it was held that “*The act of desertion requires two elements on the side of the deserting spouse, namely, the **factum** of separation and the **animus deserendi**; and on the side of the deserted spouse, one element, namely, the **absence of consent**”*. From this dictum, William C E Daniels therefore outlines the elements of desertion as: the fact of separation, the intention to desert and the lack of consent by the deserted spouse. He continues to state that in law, desertion is not the withdrawal from a place, but from a state of things such as the cessation of cohabitation. It is therefore possible for desertion to take place where the parties have no matrimonial home, live in different places voluntarily, are separated compulsorily or live under the same roof but cannot be regarded as sharing one household as they have set up two households in effect. Examples of desertion include “*forsaking each other’s bed, avoidance of each other’s society, seclusion of one spouse from the other and absence of cooking for the whole family*” Desertion can only be found where “*the common love and the common life have altogether ceased*” <sup>3</sup>.

The evidence shows that the respondent has deserted the petitioner for a continuous period of more than two years, immediately preceding the presentation of the petition under **section 2(1)(c) of Act 367**. The court also finds from the evidence, that 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] and Mensah v. Mensah [1972] 2 GLR 198-209].

The court will now determine the ancillary issues, beginning with custody, access, and maintenance for the children of the marriage. **Section 22(2) of the Matrimonial Causes Act, 1971 (Act 367)** empowers the court to make an order concerning a child of the household that it thinks reasonable and for the benefit of the child.

*“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 determining custody and access, the court must also consider, inter alia, the importance of a young child being with his mother, the age of the child, the need for continuity in the care and control of the child, and the fact that it is desirable to keep siblings together [sections 45(1) and

(2) of the **Children’s Act, 1998 (Act 560)]**.

(3) The respondent testified that he has spoken to his family and tried to see them countless times, but the petitioner refused to let him see them. He could not see his children until 2018 because the petitioner was keeping them from him.

The court grants custody of the children who have been with their mother while their father was on posting to Mankessim, to the petitioner, to ensure continuity in their care. However, the court notes that access belongs to the children and is their right under **sections 4 and 5 of Act 560**. In the English case of M v M (Child: access) [1973] 2 All ER 81, DC, Wrangham J held that no court should deprive a child of access to either parent, natural or adoptive, unless it is satisfied that it is in the interests of the child that access should cease – a conclusion at which the court should be very slow to arrive. **Access is a basic right of the child** rather than a basic right of the parent because the

companionship of a parent is of such immense value to a child that there is a basic right in him to that companionship.

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 the respondent has maintained the children inconsistently after deserting the matrimonial home four years ago and ceased paying maintenance in February 2022. She is currently sheltering and catering for the children. She prayed that the respondent be ordered to pay child maintenance of GH¢1,000 a month for the three children.

The petitioner averred in her pleadings that the respondent sent her GH¢1,400 for the children's school fees on January 4, 2019. On May 2, 2021, he sent GH¢2,000 for fees and GH¢400 for their upkeep for June and July. After the petition was filed, he sent GH¢1,600 as arrears for August to November and GH¢2,000 for their fees for September. The respondent admitted that he has not paid for rent, electricity, or water after he moved out in 2017 because the petitioner blocked him on all social media handles, on her phone, so he could reach her. According to the respondent, he has sent the petitioner GH¢400 a month as his contribution to the children's upkeep. He has always catered for them, paid school fees and given them maintenance allowances as and when required. The petitioner denied this and testified that from 2019 until the middle of 2021, the respondent stopped taking care of the children. He only started sending money after she pushed him.

In Exhibit C, the petitioner's payslip from ARB Apex Bank dated June 2016, she earned a net salary of GH¢4,804.39. The respondent's payslip from Opportunity International

Savings and Loans shows a net salary of GH¢2,498.04 in December 2015, GH¢2,483.38 in December 2017 and GH¢2,670.26 in July 2022. Although the petitioner failed to file her most recent payslip, she earned about double the respondent's salary in 2016.

The court finds that maintenance of GH¢400 a month for three children is negligible. This amounts to GH¢4.44 a day per child for a 30-day month in the current economic climate where the exchange rate for the cedi to the dollar is swinging between GH¢11 - GH¢15. Maintenance of GH¢400 a month for each child is not ideal, however, the court takes into consideration the petitioner's contribution to the maintenance of the three children of the parties.

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 to cover her living expenses and construct her own home as well as property settlement.

The petitioner prayed for financial provision of GH¢30,000 in her Reply. The respondent testified that he did not know that the petitioner earned a higher salary than he did – even though she worked at Opportunity International Savings and Loans (his current place of employment) before she moved to ARB Apex Bank – because she kept her financial information away from him. The court finds that considering the petitioner's financial support of the children during the marriage due to the minimal maintenance provided by the respondent, she is entitled to financial provision of GH¢30,000.

The respondent prayed that absolute title in the matrimonial property at Pantang Junction be assigned to the children, while the petitioner prayed that the court would transfer absolute title in the property to her to be held in trust for the children. In **section 20(1) of Act 367**, *“The Court may order either party to the marriage to pay to the other party a sum of money or convey to the other party movable or immovable property as settlement of property rights or in lieu of or as part of the financial provision at the court things just in equitable”*. *“Payment and conveyances under this section may be ordered to be made in gross or by instalments”* [**section 20(2) of Act 367**].

The parties have an uncompleted building on land at Pantang Junction Adenta. According to the petitioner, the land was given to the respondent by his father, and they agreed the four-bedroom roofed house they began constructing on it, would be their matrimonial home. It was 80% complete as of 2017. The petitioner testified that she contributed about 80% of the cost of construction. At that time, she earned GH¢5,000 while her husband earned GH¢1,500 a month. The respondent said the land is unregistered family land that does not belong to him, but to his extended family – the Okpoti Kodia family, at Adenta. The petitioner told him her friends said she shouldn’t invest in the land because it is family land, so she left it to him to build and he is building it for his children. He denied that the petitioner took loans and withdrew from her Provident Fund to contribute to the construction. However, he testified that she sometimes felt guilty for leaving the financing of the building on his shoulders and would give him *“minute”* amounts from time to time. When the respondent was asked how much the petitioner gave him for the building, he offered to *“...put something together and present it to the court. If that is ok”*. The petitioner shook her head during this testimony.



When respondent counsel put it to the petitioner that her husband never had an indenture over that property, the petitioner whipped her head around to the respondent sitting on the left side of the witness box in shock and said it was not true. When they got married, the respondent brought an indenture on the land bearing his name and told her it was given to him as a gift, signed by his uncle who is a chief at Adentan. The respondent denied petitioner counsel's assertion that the land was a gift to him by his father who also gifted his siblings' portions of land, which they have sold. He said, *"My lady, to the best of my knowledge, none of my siblings owns land"*.

When he was asked what his take home pay was, the respondent, who had been ordered to file his payslips, shrugged nonchalantly, and said *"I'm not privy to it"* but at the time of trial, it was around GH¢2,800. He did not know how much he earned the month before, because his salary changes based on deductions. In response to the assertion that his take-home pay was below GH¢1,500 in 2017, so he could not have singlehandedly built a four-bedroom house, the respondent testified that there were deductions to his pay and he had been taking loans from the bank since 2019. Petitioner counsel submitted that the loans could only amount to a maximum of 40% of his pay.

The petitioner tendered the following documents to prove withdrawals she made that were invested in the parties' building project: her pay slip for June 2016 (Exhibit C) showing that she earned a gross salary of GH¢6,903.14 and a net salary of GH¢4,804.49 for that period. In Exhibit D series – the petitioner's bank account statement printed on 28<sup>th</sup> March 2022 shows cash withdrawals for GH¢5,000 and GH¢6,500 in June 2014; GH¢10,000 and GH¢9,000 in August 2014; GH¢15,000 in September 2014; GH¢7,050 in January 2015; GH¢16,500 in April 2016 and GH¢6,000 in August 2016. Exhibit E series shows the transaction history of the petitioner's Enterprise Tier 3 Provident Fund

Scheme from December 2021 to March 2013 with a withdrawal of GH¢20,000 made on 14<sup>th</sup> October 2021.

The respondent testified that he took the following amounts as loans and bonuses for the building shown in Exhibits 1 – 1G: GH¢3,000 in December 2010; GH¢3,000 in 2011; GH¢7,000 in 2013; GH¢15,000 in 2015; GH¢25,000 in 2018 and GH¢23,000 in 2020. He was given a “*first quarter bonus*” of GH¢436 on 14<sup>th</sup> June 2023. An amount of GH¢1,500 purported to be a bonus on 14<sup>th</sup> June, 2023 was determined to be a cash deposit. When petitioner counsel put it to him that based on his testimony, the last time work was done to the building was in 2019, so the amounts described after that year could not have been spent on the building, the respondent testified, “*My lady it is not so, 2019 I did a major work on the house. 2020, I also worked on it – but it was not major – just minor*”. The respondent admitted that he did not provide any evidence of ownership of the land to the court but insisted the land belonged to his father. He also admitted the petitioner contributed to the building but said it was “*negligible*”.

The court notes that Exhibits 1 – 1G did not state the source of the statement of the account and person the statement was attributed to, on the face of it. The court finds on a balance of probabilities that, the petitioner’s evidence on the ownership of the land is more probable. The respondent’s testimony that the land belonged to his father is a contradiction to his earlier testimony that it belonged to his extended family. There is overwhelming evidence that the petitioner has always earned at least twice the respondent’s salary and she made large withdrawals from her bank statement and Provident Fund – contrary to the respondent’s assertion that her contribution to the construction of their matrimonial home was *negligible*.

Considering the parties seek to settle the matrimonial home for the benefit of their children, absolute title for their matrimonial home shall be transferred by the respondent or the Circuit Court Registrar to the petitioner to be held in trust for the three children of the parties.

The court finds from the evidence and law that the marriage between the parties has broken down beyond reconciliation under **sections 2(1)(b), (c) and (f) of Act 367**. The marriage celebrated on 5<sup>th</sup> March 2010 at the Office of the Principal Registrar of Marriages, Accra, by certificate number RGM/554/2010 is hereby dissolved.

The court makes the following ancillary orders:

**1. CUSTODY**

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

**2. ACCESS**

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

**MAINTENANCE**

(a) The respondent shall pay child maintenance of GH¢1,200 by the third of each month, effective February 2022.

(b) Effective January 2024 and every January thereafter, the respondent shall pay child maintenance at a rate of an additional 20% of the current maintenance payment considering the progressively increasing cost of living in the country.

**4. EDUCATION**

(a) The respondent shall pay for the children's school fees, school feeding fees and books.

(b) The petitioner shall pay for the children's uniforms and supplies.

**5. HEALTH**

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

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

**6. CLOTHING**

The respondent shall pay the petitioner GH¢900 every six months for the children's clothing.

**7. ACCOMMODATION**

(a) The respondent shall pay 50% of the accommodation expenses for the children and the petitioner by March 30, 2023.

(b) Thereafter, the respondent shall pay 50% of the accommodation expenses for the children and petitioner, 45 days before their rent is due, until 2030.

**8. FINANCIAL PROVISION**

The respondent shall pay the petitioner a lump sum payment of GH¢30,000 as financial settlement.

**PROPERTY SETTLEMENT**

(a) The respondent shall transfer absolute title of the property being developed by the parties at Pantang Junction into the petitioner's name to be held in trust for the three children of the parties by April 14, 2023

(b) Where the respondent fails to execute the transfer of the title of the property at Pantang Junction into the petitioner's name by April 14, 2023, the Registrar of the Circuit Court,

Adenta shall execute the transfer of the title of the property into the name of the petitioner to be held in trust for the three children of the parties by May 31, 2023.

**10. COSTS**

Costs of GH¢2,000 are awarded against the respondent for the petitioner.

Petitioner	–	Enoch Deegbe with Sidney
Counsel	–	Antonio Nick Afesi
Respondent		
Counsel		

(SGD)

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