

**IN THE CIRCUIT COURT HELD AT KWABENYA ON FRIDAY THE 7th
DAY OF JULY, 2023 BEFORE HER HONOUR MAWUSI BEDJRAH, ESQ.,
CIRCUIT JUDGE**

CASE NO. A4/22/2023

FINNEGAH ESSUMAN-MENSAH **PETITIONER**

VRS

GABRIELLA E. ASIEDU **RESPONDENT**

PETITIONER **PRESENT**

RESPONDENT’S ATTORNEY **PRESENT**

**PRINCESS AKWELEY KONEY-DRAVIE, HOLDING
THE BRIEF OF YVONNE AMEGASHIE FOR RESPONDENT** **PRESENT**

JUDGMENT

Petitioner, a Ghanaian citizen by birth, states that he is a photographer whilst Respondent, an American citizen but on holidays in Ghana, is a Talent Acquisition Specialist. Petitioner, per petition filed on 8th February, 2023, prays for the annulment of the Ordinance Marriage celebrated between him and Respondent as having not been consummated. Respondent in her answer to the petition filed on 27th February, 2023, agrees that the marriage should be annulled.

Petitioner states that the parties got married under the Marriages Act, 1884-1985 (Cap 127) on 1st June, 2021, which marriage was registered at the Principal Registrar of Marriages Office in Accra. After the celebration of the marriage, the parties cohabited at Ashalley Botwe in Accra and that on the night of the marriage, he tried severally to have sexual intimacy with Respondent but was not successful, as Respondent kept giving excuses. In the end, the couple never had sexual intercourse until Petitioner travelled back to the United States of America. Petitioner further states that Respondent, in December, 2022, travelled down to Ghana and still refused his sexual advances. It is Petitioner’s case that the parties, since the celebration of their marriage, have not had sexual intercourse with each other and as such the marriage has not been consummated.

Respondent in her answer gives her reason for the annulment, being that she realized she had made a mistake in getting married to Petitioner immediately after the celebration of the marriage. Respondent also says that she froze anytime Petitioner tried to touch her and she was sexually turned off anytime Petitioner tried to make advances towards her. Respondent further says that she has explained severally to Petitioner that she was mentally and physically not ready to have their marriage consummated but petitioner was very aggressive in his demands and would want to have his way with her. She is therefore agreeable to the prayer for annulment to enable the parties move on with their lives.

The case was set down for trial on 10th March, 2023.

EVALUATION OF THE EVIDENCE AND APPLICATION OF THE LAW

Petitioner testified by himself, whose witness statement was filed on 29th March, 2023. His evidence is basically a rehash of his petition. Respondent, per the witness statement filed on the same date, that is 29th March, 2023, testified through her Attorney, Emefa Ababio. She tendered the following documents;

- i. A copy of the Power of Attorney given to her by Respondent, marked as Exhibit 'A'
- ii. A copy of the marriage certificate, marked as Exhibit 'B'

Her evidence was also a rehash of Respondent's answer to the petition.

From the evidence led before this Court, the parties do not deny that their marriage has not been consummated.

“The law is quite well settled that where a party makes an averment and that averment is not denied, no issue is joined and no evidence need be led on that averment. Similarly when a party has given evidence of a material fact and is not cross-examined upon it, he needs not call further evidence of that fact.”
(HAMMOND v AMUAH [1991] 1 GLR 89).

Per section 13 (2) (a) of the Matrimonial Causes Act, 1971 (Act 367), a marriage may be annulled if the marriage has not been consummated owing to the wilful refusal of the respondent to consummate it.

DECISION

On the evidence, I find that the marriage was not consummated as a result of the wilful refusal of Respondent to consummate it. I hereby decree the marriage celebrated between Petitioner and Respondent on the 1st day of June 2021 at the Principal Registrar of Marriages Office, Accra with certificate number RGM 893/2021, per licence number SL 2350622 annulled. The marriage certificate is accordingly cancelled.

Each party is to bear his or her own cost.

Her Honour Mawusi Bedjrah Esq.