

**IN THE CIRCUIT COURT '2' ADENTAN BEFORE HER HONOUR
SEDINAM AWO BALOKAH
(MS) THE PRESIDING JUDGE ON THE 2ND DAY OF JUNE, 2023**

TIME: 11:55 AM

SUIT NO. C5/29/2022

IRENE HONAM TSEY
HOUSE NO. DDFO 28,
BEHIND EP CHURCH
FOREST CITY ESTATES DODOWA
ACCRA
GPS ADDRESS: H90 CAROL ST. GO-0019-2851

PETITIONER

VS.

WILLIAM BENSON
HOUSE NO. DDFO 28
BEHIND EP CHURCH
FOREST CITY ESTATES, DODOWA,
ACCRA
GPS ADDRESS: H90 CAROL ST. GO-0019-2851

RESPONDENT

Parties

Petitioner: Present

Respondent: Absent

Representation

Babonyire Adafula Present for Petitioner

Senanu Ashiagbor Absent for Respondent

BY COURT - JUDGMENT

Brief Background;

The Petitioner herein issued the instant Petition for Divorce on the 22nd day of November, 2021. Upon notice of same having been brought to the Respondent's

attention, the Respondent caused learned Counsel Senanu Ashiagbor, Esq. to enter an Appearance for him and same was filed on the 9th day of December 2021.

On the 29th day of December, 2021, the Respondent caused his Counsel on record to file for him an Answer to the Petition. The Court on Application by Counsel for Petitioner, set the suit down for hearing on the 19th day of May, 2022. The parties were ordered by this Court to file their respective Witness Statements and Petitioner's Documentary Evidence for hearing to proceed.

This date, **19/05/2022** was the only date on record that the Respondent was present in Court albeit without his lawyer. Apart from the said date, the Respondent has abstained from proceedings even till the date given for judgment (today, 02/06/2023).

It must also be noted that Counsel for Respondent has never been present for the proceedings in this matter. Due notice of all sitting dates via Hearing Notice were always served on the Respondent through his Counsel on record since there was no indication in writing or otherwise that the said counsel for Respondent has ceased representing the Respondent as the latter's legal representation in the matter.

Regardless, the Respondent as well as the Petitioner filed their Witness Statement and Petitioner's Documentary Evidence as ordered by the Court on 19/05/2022. Apart from filing an Entry of Appearance, Answer to Petition, Witness Statement and Petitioner's Documentary Evidence, the Respondent did nothing else by way of Participating in the proceeding herein. The Respondent and his Counsel were absent from hearing. The Court however proceeded to hear and conclude hearing regardless of the absence and lack of participation of the Respondent and his Counsel on records essentially because the Court deem having had due notice of the pendency of proceedings, the Respondent had evidently elected to waive his right to participate in the hearing and to be heard in the matter.

The Petition:

Now, in deciding on whether or not the marriage between the parties herein has broken down beyond reconciliation, the Court gave due regard to the evidence presented by the Petitioner via her Witness Statement and attached documentary evidence. The evidence of the Petitioner on record established the following facts;

1. The fact that the Respondent has behaved in a manner as to render it unreasonable for the Petitioner to continue to be married to him. (See

paragraphs 18, 19, 20, 21, 22, 23, & 24 of the Witness Statement of the Petition which is part of the evidence in Chief. Also see 'Exhibit F series')

2. The fact that the parties have irreconcilable differences.

Upon this facts and in light of **Section 2(1)(b) and (f) of the Matrimonial Cause Act, 1971 (Act 367)**, I find and hold that the Ordinance marriage celebrated between the parties on the 7th day of November 2019 at the Principal Registrar of Marriages Office in Accra as evidenced by 'Exhibit A' has broken down beyond reconciliation.

I accordingly dissolve the said marriage this 2nd day of June 2023.

The Registrar of this Court shall issue to the parties a Divorce Certificate after canceling their Marriage Certificate (**Exhibit A**).

Ancillary Issues

The first ancillary issue is to determine;

Whether or not the properties listed at Paragraph 15 (ii) of the Petition which is repeated at Paragraph 18 a), b), c) and d) of the Witness Statement of the Petitioner are Marital Properties?

Now, from Petitioner's testimony, it is gleaned that the properties listed at **paragraph 16 a), b), c), and d)** of the Witness Statement of the Petitioner were acquired during the pendency of the marriage under consideration. The Court therefore finds the same are Marital Property and thus subject to equitable distribution between the parties. Therefore, in lieu of the Petitioner's equitable share in the properties listed in **paragraph 16 a), b), c), and d)** of Petitioner's Witness Statement, the Court orders the Respondent to pay to the Petitioner, **GHC750,000**.

The second ancillary issue is;

Whether or not the Petitioner is entitled to compensation of GHC250,000 for the reasons she states?

The evidence on record as to the behavior of Respondent as per **paragraphs 18,19,20,21, 22, 23, 24** of the Petitioner's Witness Statement (Evidence in Chief)

make it more probable that the Petitioner has suffered emotionally owing to the behavior of the Respondent. The parties were first married customarily in 2012 before converting their marriage to one under **CAP 127** on 7th November, 2019. Therefore the Petitioner has lived her adult years as the Respondent's wife under the unpalatable circumstances that coloured the parties' marriage. There should be some compensation to serve as a soothing balm to mend the broken heart of the Petitioner after 11 years with the Respondent who throughout the marriage had subjected the Petitioner to emotionally tortuous behavior.

In the circumstances, the Court deems it appropriate to order the Respondent to compensate the Petitioner with a lump sum. The Respondent is thus ordered to pay to the Petitioner **GHC200,000** in compensation for the emotional and psychological trauma he caused the Petitioner.

I award cost of **GHC5,000** in favour of the Petitioner having due consideration especially of the numerous Hearing Notices Petitioner had to cause to be served on the Respondent through his Counsel on Record.

(SGD)
H/H SEDINAM A. BALOKAH (MS).
CIRCUIT JUDGE.

Sarafina/