

IN THE CIRCUIT COURT OF GHANA HELD IN ACCRA ON THURSDAY THE 3<sup>RD</sup>  
DAY OF NOVEMBER, 2022 BEFORE HER HONOUR ROSEMARY BAAH TOSU  
(MRS) – CIRCUIT COURT JUDGE

SUIT NO: C5/311/2022

**DIANA DZIFA DOE**  
NO: GA-584-8359  
GBAWE, ACCRA

**PETITIONER**

VS.

**JOHN KOJO AGBOTEY**  
UNNNUMBERED HOUSE  
OFF THE TERRRAZO ROAD  
ODORKOR, ACCRA

**RESPONDENT**

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**JUDGMENT**

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Petitioner acts through her lawful attorney and seeks a dissolution of her marriage to her husband, the Respondent.

Petitioner pleads that she got married customarily in the year 2000 to Respondent. This marriage, however, was converted into an ordinance marriage on the 16<sup>th</sup> of July, 2010 at the Registrar General's Office in Accra.

Petitioner is a nurse whilst Respondent was known to work with the Ghana Immigration Service as an immigration officer. There are two issues of the marriage aged 21 and 18 years.

Petitioner pleads that the marriage is broken down beyond reconciliation because of the unreasonable behaviour of Respondent.

Petitioner pleads that there is no form of communication in the marriage because Respondent refuses to talk to her. Respondent is also quick tempered and also refuses to eat meals prepared by Petitioner.

Petitioner also pleads that Respondent unreasonably denies her sex at the least misunderstanding between them. Petitioner further accuses Respondent of engaging in extra marital affairs with other women in the course of the marriage.

After the conversion of the marriage, Respondent has gone ahead to have three children with three other women. Petitioner says that the marriage is filled with

quarrels and misunderstanding due to Respondent's unreasonable and adulterous nature.

As a result of all these, parties have not lived together as man and wife for the last nine years.

Petitioner prays for a dissolution of the marriage celebrated by the parties.

Despite being served with all processes the Respondent chose not to respond nor submit to the Court.

### **ISSUES FOR DETERMINATION.**

The issue for determination by the Court is whether or not

1. Whether or not the marriage celebrated on 16<sup>th</sup> July, 2010, is broken down beyond reconciliation.

Section 2 of Act 367 that is the Matrimonial Causes Act (1971) provides the facts to be established by a party to show that the marriage has broken down beyond reconciliation.

*2(1) For the purpose of showing that the marriage has broken down beyond reconciliation the petitioner shall satisfy the Court of one or more of the following facts:*

- (a) That the respondent has committed adultery and that by reason of the adultery the petitioner, finds it intolerable to live with the respondent*
- (b) That the respondent has behaved in such a way that the petitioner cannot reasonably be expected to live with the respondent.*
- (c) That the respondent has deserted the Petitioner for a continuous period of at least two years immediately preceding the presentation of the petition or*

*(d) That the parties to the marriage have not lived as man and wife for a continuous period of at least two years immediately preceding the presentation of the petition and the respondent consents to the grant of a decree of divorce, provided that such consent shall not be unreasonably withheld, and where the court is satisfied that it has been so withheld, the court may grant a petition for divorce under this paragraph notwithstanding the refusal or*

*(e) That the parties to marriage have not lived as man and wife for a continuous period of at least five years immediately preceding the presentation of the petition or*

*(f) That the parties to the marriage have after diligent effort, been unable to reconcile their differences.*

Petitioner led evidence by one Francis Kudjoe, her lawful attorney. He filed his witness statement on the 26<sup>th</sup> of September 2022 and gave evidence on the 7<sup>th</sup> October, 2022. As a result of Respondent's absence, the evidence led was unchallenged and the averments therein are deemed admitted.

Under section 2(1) e of the Matrimonial Causes Act (197) Act 367, one of the grounds for the grant of a dissolution of marriage is if the parties have not lived as man and wife for a continuous period of at least five years immediately preceding the presentation of the petition.

The evidence is uncontroverted, Petitioner's attorney testified that the parties have not lived together as husband and wife for nine years.

There is no evidence that between these periods the parties lived together as husband and wife. I therefore find that the marriage is broken down beyond reconciliation.

## **DECISION**

Having heard the Petitioner and considered her evidence, I find that the marriage is broken down beyond reconciliation.

It is hereby decreed that the ordinance marriage celebrated by the parties on the 16<sup>th</sup> of July, 2010 at the Principal Registrar of Marriages Office in Accra is dissolved on the grounds that the marriage is broken down beyond reconciliation.

The marriage certificate number RGN 1480/ 2010 with licence number SL 58020 is accordingly cancelled. Parties are to bear their own costs.

**(SGD)**  
**H/H ROSEMARY BAAH TOSU (MRS)**  
**CIRCUIT COURT JUDGE**

**REPRESENTATION**

Lawful Attorney present  
Respondent absent  
Moses Atiigah for Petitioner