

IN THE CIRCUIT COURT ASHAIMAN HELD ON THE 10<sup>TH</sup> DAY OF OCTOBER, 2023  
BEFORE HIS HONOUR SIMON NKETIAH GAGA CIRCUIT COURT JUDGE

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SUIT NO.C5/15/2023

CHARLOTTE AGBANYO  
SSNIT FLAT BLOCK B14,  
SAKUMONO ESTATE

..... PETITIONER

VRS

THOMAS AGBANYO  
JESUS IS LORD MEGA  
CHURCH, KPORTORBUI  
ANLOGA

..... RESPONDENT

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### JUDGEMENT

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On the 27<sup>th</sup> day of January, 2023 Petitioner herein filed this Petition against the respondent herein for the following relief.

“Dissolution of their marriage celebrated under the ordinance (CAP 127)

#### PETITIONER’S CASE

The Petitioner per her evidence before the court contends that she and the respondent got married under the Ewe Customarily law and later converted it into the ordinance marriage at the Global Evangelical Church at Banana Inn in Accra on 31<sup>st</sup> October, 1999 while she is a civil servant, the respondent is a Pastor.

According to the Petitioner after they got married, they Co-habited in Accra and that they have no issue.

The Petitioner avers that the respondent was posted to Anloga in the Volta region as the Head Pastor of the church of Conqueror International. Because of the Petitioner’s work,

they both agreed that the respondent should relocate to Anloga while the respondent would remain in Accra. That they would be visiting themselves fortnightly

According to the Petitioner the respondent on October,2 2019 committed adultery by customarily married to a woman called Shelter Amekporfor even though the ordinance marriage between the petitioner and the respondent was still subsisting. For over five years, the petitioner and the respondent have not lived together as husband and wife.

The Petitioner said that the unreasonable conduct of the respondent has caused a lot of disagreement between the two of them. And that well-meaning people from their respective families have tried to reconcile them but to no avail. She therefore prayed the court to dissolve their marriage under the ordinance. The Petitioner called one witness to buttress her case.

### **RESPONDENT CASE**

In his evidence in chief, the respondent contended that he and the Petitioner married under the customary law which was later converted into the marriage under the ordinance in 1999. There is no issue to the marriage.

According to the respondent when they married, while he was in Aloga in the Volta Region, the petitioner was at Banana Inn, Accra. They were alternating visits between Banana Inn and Anloga till somewhere in 2014 that the petitioner relocated to Sakumono.

The respondent averred that when the petitioner relocated to Sakumono, the petitioner refused to give one of the keys to her Sakumono residence to the respondent. So anytime that the petitioner left for work, the respondent was also to leave the house since he had no access to the key.

The respondent further averred that somewhere in 2016, the petitioner travelled abroad without informing him. The conduct of the petitioner had caused him a lot of pains and embarrassment.

As a result the respondent reported the unreasonably behaviour of the petitioner to her parents. All attempts by the relatives of both families to resolve their differences felled on rocks. As a result they have dissolved the customary marriage.

The respondent said he agreed to the dissolution of the marriage under the ordinance by the court.

The respondent called one witness to support his case.

### **EVALUATION**

In deed from the evidence of both parties, they have come to the conclusion that their marriage be dissolved by this court.

Section 2 (2) of the Matrimonial causes Act, (MCA) 367 of 1971 states as follows:-

“On a Petition for Divorce it shall be the duty of the court to inquire so far as is reasonable into facts alleged by the petitioner and the respondent.

Section 2 (3) of the MCA states as follows

“Notwithstanding that the court finds the existence of one or more of the facts specified in subsection (1), the court shall not grant a petition for Divorce unless it is satisfied on all the evidence that the marriage has broken down beyond reconciliation. “This explain why even though the parties have agreed to the dissolution of the marriage, the court went ahead to take evidence to that effect.

To grant divorce the court should be satisfied that one or more of the facts stated in subsection 2 (1) (a) to (f) of the MCA exist. They include the following

1. Adultery.
2. Desertion
3. Unreasonable behavior
4. The marriage has broken down beyond reconciliation.

In the instant petition, both the Petitioner and the respondent have accused each other of unreasonably behavior and also of adultery.

The evidence before the court also shows that their respective families made attempts to reconcile them as husband and wife but to no avail, this was buttressed by Thomson Amewu who testified as PW1 for the petitioner and one Francis Agbanyo who testified as PW1 for the respondent.

All these facts point to the fact that the court should decree the dissolution of the marriage.

**SEE KOTEY VRS KOTEY (1974) 2 GLR 172**

I therefore decree the said marriage under the ordinance contracted by the parties on the 31<sup>st</sup> day of October, 1999 with Certificate No. 09 and Licence No. A051060 has been dissolved. The parties can go their separate ways.

No order as to cost.

H/H SIMON NKETIAH GAGA

(CIRCUIT COURT JUDGE)

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