

**IN THE CIRCUIT COURT HELD AT AMASAMAN - ACCRA ON
WEDNESDAY THE 25TH DAY OF OCTOBER, 2023 BEFORE HER HONOUR
ENID MARFUL-SAU, CIRCUIT COURT JUDGE**

SUIT NO. C4/04/2023

BETWEEN:

MICHAEL ROGER NTIAMOAH
SUNG PER HIS LAWFUL ATTORNEY
PHILIP ABOAGYE
OF BOWIRE AYINASE ... PETITIONER

AND

DIANA OFOSU
OF SAPEIMAN ACCRA ... RESPONDENT

PARTIES: PETITIONER ATTORNEY PRESENT
RESPONDENT ABSENT

COUNSEL: FRED A OSEI-DARKO ACQUAH ESQ. FOR PETITIONER PRESENT

JUDGMENT

By a Petition filed on 22nd August, 2022, Petitioner claims against Respondent the following reliefs:

1. "That the said marriage be dissolved.
2. Other reliefs the court may deem fit."

Petitioner says that the Parties married under the ordinance on 15th November, 2019 at the Registry of the Accra Metropolitan Assembly. According to him, the parties cohabited at Respondent's sister's house at Kasoa after the marriage. Petitioner says that there are no issues to the marriage. Petitioner says that he is domiciled in the United Kingdom whilst the Respondent is domiciled in Ghana. He says that the marriage has broken down beyond reconciliation on grounds of adultery and unreasonable behaviour and all attempts to resolve differences have proved futile hence the instant petition.

The Petition was duly served on Respondent on 22nd August, 2022 but she failed to cause an appearance to be entered in the action and failed to attend court even though hearing notices were served on her.

Accordingly, Petitioner's Attorney testified on 6th October, 2023. He testified that he is called Philip Aboagye and had been given a Power of Attorney by the Petitioner to testify on his behalf in this matter. He tendered the Power of Attorney as *Exhibit A*. According to him the parties got married under the Marriages Act on 15th November, 2019 at the Registry of the Accra Metropolitan Assembly. He tendered as *Exhibit B* a copy of the Marriage Certificate. He testified that there are no issues of the marriage, and that the Petitioner is currently a student and part time customer service worker domiciled in the United Kingdom whilst the Respondent is domiciled in Ghana. He testified that the Respondent has committed adultery as she is currently living with a man whom she was in a relationship with prior to the parties getting married at Sarpeiman. He stated that the Respondent has behaved in such a way that Petitioner cannot reasonably be expected to live with her as she has caused Petitioner anxiety, distress and embarrassment.

He testified that since the marriage, Respondent has been rude to Petitioner's family and all efforts to stop her have been futile. He says that the Petitioner sent money to Respondent to get an accommodation for his mother but after she received the money, she failed to do so, and left Petitioner's mother stranded. He says that Respondent and her mother have been raining curses on Petitioner and his mother without any provocation and Petitioner has been communicating their marital affairs with Petitioner's friend which has caused Petitioner so much shame. He stated that after the marriage, the parties spent three weeks together and Petitioner travelled back to the United Kingdom but due to Respondent's attitude, the parties have not been living together for the past three years. He stated that Respondent informed Petitioner that she is no longer interested in the marriage and has requested that the marriage be dissolved.

The sole ground for divorce under Ghanaian law is found in Section 1(2) of the **MATRIMONIAL CAUSES ACT, 1971 (ACT 367)**. It states as follows:

"The sole ground for granting a petition for divorce shall be that the marriage has broken down beyond reconciliation."

In proving the breakdown of marriage, the Petitioner has a burden of proving one or more of the factors listed under Section 2(1)(a) - (f) of Act 367. Petitioner relies on the grounds of Adultery and Behaviour. Section 2(1)(a) and (b) of the Act 367 provide as follows:

“(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 a way that the petitioner cannot reasonably be expected to live with the respondent;”

Petitioner testified that Respondent is currently living with another man whilst the marriage subsists and has behaved in such a way that Petitioner cannot be reasonably expected to live with her. In the case of **MENSAH V. MENSAH [1972] 2 GLR 198**, it was held by Hayfron-Benjamin as follows:

“Under Act 367, s. 2(2) the court has to inquire into the facts alleged by the parties. However, the court does not have to hold such inquest in all cases. Where the evidence of a petitioner stands uncontradicted an inquest is not necessary unless it is suspected that the evidence is false or the true position is being hidden from the court.”

Since Petitioner’s evidence stands uncontradicted though Respondent was duly served with all processes including hearing notices, an inquest is not necessary. I find that at least one ground has been established in proof of the breakdown of the marriage. Based on the evidence, I am satisfied under section 2(3) of Act 367 that the marriage between the Parties has broken down beyond reconciliation. I therefore decree that the marriage under the Ordinance celebrated on 25th October, 2019 at the Accra Metropolitan Assembly is hereby dissolved.

Costs of Four Thousand Ghana Cedis (GH¢4,000.00) is awarded in favour of Petitioner against the Respondent.

**H/H ENID MARFUL-SAU
CIRCUIT JUDGE
AMASAMAN**

