

IN THE CIRCUIT COURT HELD AT DANSOMAN ON TUESDAY, THE 17TH DAY OF OCTOBER 2023 BEFORE HER HONOUR HALIMAH EL-ALAWA ABDUL-BAASIT, THE CIRCUIT COURT JUDGE.

SUIT NO. CCD/C4/34/23

MRS RUBY ARTHUR

SUING PER HER LAWFUL ATTORNEY --- PETITIONER

CLIFFORD QUARTEY PAPAPIO

20, ADEPA STREET, DANSOMAN

VS

ISAAC KOFI ARTHUR

1072 E WILLOW OAKS,

PASEDNA, TX 77506

SUING PER HIS LAWFUL ATTORNEY --- RESPONDENT

RIVULET QUARTEY PAPAPIO

JUDGMENT

Background:

The Petitioner herein filed a Petition at the Registry of this Court on the 12/7/2023 stating that she was lawfully married under the Ordinance to the Respondent on 18th December, 2015 at the Accra Metropolitan Assembly, Accra. She stated further that the parties upon the celebration of the marriage stayed at Dansoman in Accra but there are no issues in the marriage. The Petitioner is a Nursing Attendant whilst the Respondent is Security officer and there have not been any proceedings in respect of the marriage in this or any other Court. It is the Petitioner's claim however, that the Respondent has behaved in such a way that the Petitioner cannot reasonably be expected to live with him as her husband and prayed for the following reliefs;

- i. Dissolution of ordinance marriage celebrated between the parties as having broken down beyond reconciliation.
- ii. That each party should bear his or her own cost.

The basis of the Petition is that prior to the presentation of this Petition, the parties have been separated for more than Two (2) years because some few years into the marriage, the Respondent deserted the Petitioner and travelled to the United State of America. On several occasions, the Respondent, at the least provocation accuses the Petitioner of being barren and cannot deliver a child for him over the past 7 years. The Respondent is disrespectful towards Petitioner's parents and family, and does not hesitate to insult them parents for not bringing up their child well. The Respondent, at the least provocation, states that he was no longer interested in the marriage as he has regretted marrying the Petitioner and a couple of meetings arranged by the families of the parties to resolve the differences, did not yield any positive results as the Respondent has always proved intransigent. Consequently, at a final meeting held on the 10th February, 2021, the families of both parties dissolved the marriage at custom, hence her Petition.

In an Answer to the Petition filed by the Respondent through his Lawful Attorney on 23/08/2023, the Respondent denied most of the averments made by the Petitioner and stated that it is the Petitioner who has conducted herself in a way that he cannot live with and her behavior has affected him physically, emotionally and psychologically. He averred he has been a good, faithful and lovely husband to the Petitioner just that she is not submissive and always want to control the house. He concluded by stating that he has no intention of prolonging matters and prays for the dissolution of the marriage.

Analysis:

Under section 1(2) of the **Matrimonial Causes Act, 1971, (Act 367)**, the sole ground for the grant of a decree of divorce is that the marriage has broken down

beyond reconciliation. Section 2(1) of Act 367 supra, specifies facts, one or more of which a Petitioner must establish for the purposes of showing that the marriage has broken down beyond reconciliation. The Petitioner averred in the Petition that the Respondent has behaved in such a way that she cannot reasonably be expected to live with him. Section 2(1) (b) of Act 367 which is one of the facts specified in Section 2(1) of Act 367 provides the Petitioner must show *“that the Respondent has behaved in such a way that the Petitioner cannot reasonably be expected to live with the Respondent.”*

From the evidence, the Petitioner, through her Lawful Attorney testified by repeating the averments contained in the Petition and considers the marriage as broken down beyond reconciliation. Unreasonable behaviour has been defined in the case of **Mensah v. Mensah (1972) 2 GLR 198**, as *“the conduct complained of must be sufficiently grave and weighty to justify a finding that the Petitioner cannot reasonably be expected to live with the Respondent; mere trivialities would not suffice. The parties must be expected to put up with what has been described as the reasonable wear and tear of married life.”* In the instant case, the Petitioner averred that few years into the marriage, the Respondent deserted her and travelled to the United State of America. Additionally, the Respondent, at the least provocation accuses the Petitioner of being barren and cannot deliver a child for him over the past 7 years. The Respondent is also disrespectful towards Petitioner’s parents and family, and does not hesitate to insult them parents for not bringing up their child well. I am of the opinion that the Respondent’s constant referral to Petitioner’s inability to produce a child is unreasonable behavior in terms of section 2(1) (b) (supra) and cannot be described as a mere triviality.

It must be stated that the Respondent’s Lawful Attorney elected not to cross-examine the Petitioner’s Lawful Attorney. The Respondent however also testified through his Lawful Attorney and stated on oath that the marriage has been bedeviled with a lot of tension as a result of disrespect and childlessness. He testified further that the parties are not

compatible and have decided to go their separate ways for peace to prevail and he has no objection to the dissolution of the marriage by the instant court. Again, the Petitioner's Lawful Attorney opted not to cross-examine the Respondent's Lawful Attorney. Section 2 (1) (d) also provides that the Petitioner must show *"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..."*. The evidence on record shows that the parties have not lived together as man and wife for a continuous period of at least 2 years immediately preceding the filing of the Petition and the Respondent, per the testimony before this court consents to the dissolution of the marriage in accordance with section 2(1) (d) of Act 367 (supra). Besides, the Petitioner further testified that the marriage has since been dissolved at custom by both families. Thus in terms of section 2 (1) (f) of Act 367, I find that the parties after diligent effort have been unable to reconcile their differences.

Conclusion

On the totality of the evidence, I find that the marriage has broken down beyond reconciliation. I decree the marriage celebrated between the parties under the Marriage Ordinance at the Accra Metropolitan Assembly, Accra on the 18th December, 2015 is hereby dissolved this 17th day of October 2023. There shall be no orders as to costs.

HALIMAH EL-ALAWA ABDUL-BAASIT
CIRCUIT COURT JUDGE

