

IN THE CIRCUIT COURT “B”, TEMA, HELD ON THURSDAY THE 24<sup>TH</sup> DAY  
OF OCTOBER, 2023, BEFORE HER HONOUR KLORKOR OKAI-MILLS,  
CIRCUIT COURT JUDGE

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SUIT NO.C5/90/23

BRENDA JOYCE PRICE

PETITIONER

SUING PER HER LAWFUL ATTORNEY

CHRISTIANA DENSO

VRS.

FRANCIS ABUKARI NAPARI

RESPONDENT

PETITIONER LAWFUL ATTORNEY

PRESENT

RESPONDENT

PRESENT

VERONICA ASAFU-ADJAYE, ESQ. FOR THE PETITIONER PRESENT

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### **JUDGMENT**

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#### **FACTS:**

On 15<sup>th</sup> March, 2023, the Petitioner filed the instant petition for divorce against the Respondent claiming the following reliefs;

- a. An order for the dissolution of the marriage we contracted on 12<sup>th</sup> November, 2018 at the Principal Registrar of Marriage Office in Accra for us to go our separate ways and lives.
- b. No alimony wanted.

The Respondent upon service of divorce petition entered appearance on 12<sup>th</sup> April, 2023 and filed an answer and cross-petitioned for the following reliefs:

- a. Dissolution of the Ordinance marriage contracted between the parties at the instance of the Petitioner.
- b. Any other order as this Honorable court may decide.

It is the case of the Petitioner that she got married to the Respondent under Part III of the Marriage Act, 1884 – 1985 (Cap 127) on the 12<sup>th</sup> November, 2018 at the Principal Registrar of Marriage Office in Accra. Thereafter, they cohabited in Accra. The Petitioner is a Ghanaian citizen by birth and also a citizen of the United States and Respondent is a Ghanaian. The Petitioner has three issues from adoption. The Petitioner avers that the Respondent has behaved in such a way that she cannot reasonably be expected to live with him as his wife when he caused her so much distress, anxiety and embarrassment. According to the Petitioner, within a year of the marriage, the Respondent resigned from his employment to engage in business but to date, has never made any financial contribution to her upkeep. Additionally, the Petitioner states that while she had to finance their total living expenses because he refused to work, the Respondent also became abusive verbally, emotionally with lots of pains and embarrassment in the presence of her family and known friends. Again, the Petitioner avers that the Respondent fought with her in the presence of her children and on one occasion, during an altercation, struck her 10-year-old daughter.

Petitioner adds that after several occasions where the Respondent would lock her and her children out of the house and sometimes lock her inside the room to prevent her from leaving the house, she fled the house when she got the chance. Also, the last two years of the marriage has become the most unbearable as all the Respondent wanted to do was sleep, demand money and smoke weed, instead of working to help support the family. The Petitioner avers that the Respondent by his conduct and behavior has made it impossible for her to live with him as a partner; that the marriage has broken down irretrievably beyond reconciliation.

The Respondent in his answer and cross-petition to the petition for divorce did not deny that the marriage has broken down beyond reconciliation but maintains that it is rather the Petitioner who becomes both verbally and physically abusive anytime he rebukes her and that she even slapped him once after a confrontation. The Respondent denied the allegation of unreasonable behaviour and states that contrary to the averment made by Petitioner, they met online and they got married, but given that Petitioner is ordinarily a US-resident, he lives alone and Petitioner only visits him occasionally when she is in Ghana. Respondent averred that he has never indicated to the Petitioner that he was interested in a white-color job; rather he states that he ventured into selling beverages, arts and crafts and disposable cups. However, business was difficult hence his challenge in adequately financing the home. The Respondent further denies ever restraining the Petitioner

from leaving the house and explained that on one occasion, whiles Petitioner and her children were out, he locked the door for security reasons and fell asleep before they returned hence denies the delay in opening the door for them when they returned. The Respondent alleges that it is rather the Petitioner and her children who attacked him after a misunderstanding and he has never attacked the children. Respondent averred that whiles he has not behaved unreasonably to Petitioner to cause her emotional distress, the Petitioner has not been a submissive wife and has behaved unreasonably towards him. The Respondent added that he has never met any of Petitioner's family and friends.

### **ISSUE**

Whether or not the marriage celebrated between the petitioner and the respondent has broken down beyond reconciliation.

### **ANALYSIS**

Under the **Matrimonial Causes Act, 1971 (Act 367)**, the sole ground for granting a petition for divorce is that the marriage has broken down beyond reconciliation. To prove that the marriage has broken down beyond reconciliation, the petitioner is required to establish at least one of the facts set out in **section 2(1) of Act 367**, which are, adultery, unreasonable behaviour, desertion, failure to live as man and wife for two years, failure to live as man and wife for five years and irreconcilable differences.

To encourage reconciliation as far as may be practicable, **section 8** enjoins the petitioner to inform the court of all attempts made to effect reconciliation. A court shall refuse to grant a petition for divorce notwithstanding the fact that a petitioner has proved any of the facts in **section 2(1)**, if there is reasonable possibility of reconciliation. In the case of **Donkor v. Donkor** [1982-1983] GLR 1158, the High Court, Accra, per Osei-Hwere J, held that:

*“...the petitioner is under a duty not only to plead any one or more of those facts in section 2(1) of the Act but he must also prove them. Equally the court is under a statutory and positive duty to inquire so far as it reasonably can, into the charges and counter-charges alleged. In discharging the onus on the petitioner, it is immaterial that the respondent has not contested the petition, she must prove the charges and, flowing from all the evidence before the court, the court must be satisfied that the marriage has irretrievably broken down.”*

The petitioner testified that she has been married to the respondent by special license in accordance with Ordinance law marriage on 12 November, 2018 in Accra. That soon after their marriage, the financial burden of maintaining the house fell on her as Respondent resigned from his employment and started his business but to date, gave her no financial support. Petitioner averred that she cannot reasonably be expected to live with the Respondent since he has caused much distress, anxiety and embarrassment. Petitioner alleges that the Respondent

became physically and emotionally abusive to her in front of her friends and family, striking her child on one occasion. The Petitioner asserts that she supported financially all Respondent's business ideas to the extent of giving him \$5000 to build and supply arts but she has never received any profits. Petitioner adds that she had to seek counselling because the repeated emotional abuse at the hands of the Respondent negatively affected her health. Petitioner admits that during one altercation, she did slap the Respondent because he had already locked her in the house, hid the key and then refused to give her money he took so she could not catch a taxi to get away from the house because she feared for her life that night in the house. The Petitioner further testifies that it was in response to an attack launched on her daughter by Respondent that Petitioner and her other children stepped in to protect the child; that her children, who had arrived in Ghana for less than 10 days were traumatized by Respondent's behavior. The Petitioner adds that for the Respondent, a submissive wife meant having total control over her and her finances. The petitioner, in her final submission stated that:

*"I never thought my marriage was for financial gain, but the way he has behaved and treated me suggest that maybe it was of finances. It is unreasonable to provide for a husband a loving wife, one who has compassionate, patient and encouraging? One who made sure we had nicer shelter, one who provided transportation for her husband during Covid 19 so he wouldn't have to travel with others. One who made sure food was available, give business opportunities, medical needs provided, support to his family and an opportunity to*

*migrate to her hometown for more opportunities. It is unreasonable for a wife to visit her husband in another country and leave her kids in the care of others? I gave of myself the best way I knew. It was Respondent's lack of trust and love that unfortunately broke the marriage into small irreconcilable pieces."*

Petitioner therefore concludes that the marriage celebrated between herself and the Respondent has broken down irretrievably and ought to be dissolved.

The Respondent in his answer to the petition for divorce agreed that the marriage has broken down beyond reconciliation. The Respondent states that he is a gentleman and has always had the interest of the Petitioner at heart and has never raised a finger at the Petitioner adding that she slapped him on one occasion. The Respondent contends that the Petitioner has been disrespectful in various ways and does not give him due recognition as her husband; demeaning him and behaving in an unreasonable manner towards him. The Respondent also asserts that the Petitioner is retired military officer in the US, he was entitled to a monthly payment of One Thousand US Dollars (\$1000.00) from the US government by virtue of being Petitioner's spouse. Respondent further alleges that the Petitioner only ever handed him Five Hundred US Dollars (\$500.00) once. The Respondent also stated that the Petitioner would visit Ghana without his knowledge and spend time with her friends and even when she visited him, she would still leave him to visit her friends

but her friends never came to visit her at home. Subsequently, the Respondent indicates that the Petitioner introduced some friends of hers to him and these people, when they called her would address her as 'beautiful' and 'honey'. The Respondent testified that the Petitioner hid her text messages from him and he overheard Petitioner on the phone with her ex-fiancé a couple of times.

On the totality of the evidence led by both the Petitioner and Respondent, I hold that the marriage celebrated between the parties has broken down beyond reconciliation. I accordingly grant the petition for divorce and decree for the dissolution of the ordinance marriage celebrated between the parties.

### **CONCLUSION**

In conclusion, I hold that the ordinance marriage celebrated between the Petitioner and the Respondent has broken down beyond reconciliation. I accordingly enter judgment as follows;

1. I hereby grant a decree for the dissolution of the marriage celebrated between the Petitioner and Respondent on 12<sup>th</sup> November, 2018 at the Principal Registrar of Marriage Office in Accra.
2. The license number SL 1859206 is hereby cancelled
3. The Petitioner shall present the original copy of the marriage certificate for cancellation by the Registrar of the court.
4. No order as to costs.



**H/H KLORKOR OKAI-MILLS (MRS)**  
**CIRCUIT COURT JUDGE**