

**IN THE CIRCUIT COURT “B”, TEMA, HELD ON FRIDAY THE 22<sup>nd</sup>  
DAY OF SEPTEMBER, 2023, BEFORE HER HONOUR KLORKOR  
OKAI-MILLS, CIRCUIT COURT JUDGE**

---

**SUIT NO.C5/125/23**

**DANIEL ATTA OPPONG**

----- **PETITIONER**

**VRS.**

**RITA OPPONG**

----- **RESPONDENT**

---

**PETITIONER**

**PRESENT**

**RESPONDENT**

**PRESENT**

**NO LEGAL REPRESENTATION**

---

**JUDGMENT**

---

**FACTS:**

On 29<sup>th</sup> June, 2023, the petitioner, a Ghanaian reverend minister resident in Ghana filed the instant petition for divorce against the respondent, a Ghanaian ordinarily resident in Tema New Town. The petitioner prays this court for the sole relief of the dissolution of the marriage celebrated between himself and the respondent under **Part III of the Marriages Act, (1884-1985)** Cap 127 on 12<sup>th</sup> November, 1999 at Tema.

The petitioner avers that he got married to the respondent on 12<sup>th</sup> November, 1999, at the Full Gospel Church, Tema. and after the celebration of the marriage, they cohabited in a rented apartment in Tema. There is no issue to the marriage between the parties. The petitioner alleges that *the marriage has more or less become like a curse to both the Petitioner and the Respondent and ever since we got married, we have not known peace, but struggles have been the bedrock of*

*the marriage.*” The petitioner states that the respondent did not treat him well and has been disrespecting him resulting in his falling out of love with her. According to the petitioner, respondent does not cook for him and denies him his conjugal rights. Petitioner further avers that for the past 10 years, they have been living as friends, and not as man and wife which has resulted in no issues in the marriage. Petitioner avers that all attempts by family and friends to resolve the issues between them has failed. Petitioner maintains that they have irreconcilable differences, making it difficult for the marriage to even work out. Consequently, the petitioner states that he is of the firm belief that the marriage celebrated between the petitioner and the respondent has broken down beyond reconciliation.

The notice to the petition for divorce and all processes in the suit were duly served on the respondent and she entered appearance on 11<sup>th</sup> July, 2023 and filed her answer to the petition on same date. Respondent maintained that Petitioner’s assertions in his petition from paragraph 1 to 8 are true: essentially admitting that the marriage has been replete with problems from its inception. Respondent avers that she always cooks for the petitioner and performs her conjugal rights with the petitioner. Respondent states that at the least provocation, the petitioner will become annoyed and begins to insult her. Additionally, respondent also states that though she has tried severally to resolve matters, they are not able to work out their differences. Respondent notes that the petitioner and his family have already returned the customary drinks to dissolve the customary marriage. Respondent, while admitting that the marriage has broken down beyond reconciliation also counter petitions that the ordinance marriage celebrated between herself and petitioner on 12<sup>th</sup> November, 1999 be dissolved.

On the burden of proof in civil cases, it is trite law and a general rule that the party who in his pleadings or writ raises issues essential to the success of his case assumes the onus of proof. Thus, a Plaintiff has the duty and / or obligation to prove his case on a balance of preponderance of probabilities and that no weakness in the Defendant's case can avoid him this obligation. **[Zabrama v Segbedzi (1991) 2 GLR 221].**

The onus of proof in civil cases is on a balance of preponderance of probabilities. This is laid down in section 12(1) and (2) of the Evidence Act, 1975 (NRCD 323).

### **LEGAL ISSUE**

The sole issue for the determination of the court is whether or not the marriage celebrated between the petitioner and the respondent has broken down beyond reconciliation.

### **ANALYSIS**

It is provided for under **Section 1** of the Matrimonial Causes Act, 1971, (Act 367), that the sole ground for granting a decree for dissolution of a marriage is that the marriage has broken down beyond reconciliation. To prove that a marriage has broken down beyond reconciliation, a petitioner is required to prove one of the facts contained in **Section 2(1)** of Act 367 on a balance of probabilities namely, 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.

The parties are also mandated to inform the court about all attempts at reconciliation and the court shall refuse to grant a petition for divorce if there is a reasonable possibility for reconciliation. See **Section 2(3)** of the Act 367. See also the case of **Adjetey & Adjetey** [1973] I GLR 216 at page 219.

The petitioner in his petition stated that after the marriage, they lived in a rented apartment and right from the onset realized that they had serious problems but decided to try and work out their issues because they are both Christians. The petitioner averred that the respondent is very disrespectful and, on some occasions, treated him badly, as though he was not a man. Petitioner adds that respondent, whom he expected to be his support system rather became his adversary. The petitioner states that as a couple they worked hard and acquired land and a taxi together, but due to their unending problems, they sold all to ease some of their burden.

The petitioner avers that the financial challenges they encountered, including sometimes going without food, whiles they were married contributed to the breakdown of the marriage. Petitioner also states that try as they may, they could not conceive a child for the whole twenty-four years they were married, regardless of the fact they consulted both orthodox and traditional means. Petitioner declined to cross examine respondent and elected to maintain his witness statement as his evidence in chief.

Respondent, in her witness statement stated that all though the petitioner had his bad sides, they tried to make the marriage a success. Respondent avers that in some moments, she believed that there were spiritual forces preventing them from having a peaceful home. Respondent further adds that the degree of financial and emotional trauma in the marriage resulted in her being depressed and resentful. Additionally, respondent indicates that the countless nights she spent praying to receive the fruit of the womb and the fact that it yielded no child did not help matters in the marriage. Respondent testifies in her statement that she consented

for the parties to separate with the hope that her petty trading would pick up and things would be improve; so they have been separated for the past years and have not lived together as husband and wife for the last 10 years. Respondent declined to cross-examine petitioner during the trial and elected to maintain her witness statement as he evidence in chief.

On the totality of the evidence led by the parties, I hold that for a continuous period of ten years preceding the presentation of the petition for divorce, the petitioner and the respondent had not lived as man and wife and that all attempts made at reconciliation have proved futile. Accordingly, the marriage celebrated between the parties has broken down beyond reconciliation. They were no ancillary issues to determine.

### **CONCLUSION**

In conclusion, I hold that the marriage celebrated between the petitioner and the respondent has broken down beyond reconciliation. I accordingly grant the petition for divorce and enter judgment in the following terms;

1. I hereby grant a decree for the dissolution of the marriage celebrated between the petitioner and the respondent on 12<sup>th</sup> November, 1999 at the Full Gospel Church, Tema.
2. The parties shall present the original copy of the marriage certificate to the registrar of the court and the registrar shall cancel the original copy of the marriage certificate number *ROM/368/2016*.
3. No order as to costs.

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

