

CORAM: HER WORSHIP AMA ADOMAKO-KWAKYE (MS.), MAGISTRATE,  
DISTRICT COURT '2' KANESHIE SITTING AT THE FORMER STOOL LANDS  
BOUNDARIES SETTLEMENT COMMISSION OFFICES NEAR WORKERS'  
COLLEGE, ACCRA ON 22<sup>ND</sup> SEPTEMBER 2023.

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A8/46/23

SETH KWARTELAI QUARTEY  
OF DIGITAL H/NO. GA-438-2128  
MATAHEKO, ACCRA

::

PETITIONER

VRS.

TSITSI MONICA MARIMBA  
OF 29 IVY GARDENS LEEDS  
LS 13 2NH, WEST YORKSHIRE, U.K.

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RESPONDENT

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### JUDGMENT

Per a Petition for Divorce filed on 19<sup>th</sup> October 2022 in this Honorable Court, the Petitioner prayed for the following reliefs:

- a. *An order by the Honourable Court to dissolve the marriage contracted by the parties on the 10<sup>th</sup> day of August 2006 be dissolved [sic] as it has broken down beyond reconciliation.*
- b. *An order by the Honourable Court for both parties to settle their respective costs as the Petitioner is not in a position to compensate the Respondent.*
- c. *Any other orders deemed fit by the Honourable Court.*

The Respondent was duly served out of the jurisdiction with Notice of the Petition and she had her Answer to the Petition filed on 1<sup>st</sup> February 2023. According to the Petition,

the parties married on 10<sup>th</sup> August 2006 at the office of the Principal Registrar of Marriages, Accra. The Petitioner is an auto mechanic whereas the Respondent is a support worker. After their marriage, the parties who previously resided at Mataheko and London respectively, settled in the United Kingdom, although the Petitioner at the time of filing the Petition had relocated to Ghana due to a separation arising out of misunderstandings. The parties have no child together.

It is the Petitioner's case that the marriage between him and the Respondent has broken down beyond reconciliation. The Petitioner averred that the parties' marriage was engulfed with misunderstandings and unhappiness, not too long after their marriage, and this had resulted in the parties having separated for about three years prior to the presentation of the petition, and he had consequently relocated to Ghana to settle. The Petitioner stated that communication between the parties had been infrequent and they had both agreed that their marriage should be dissolved.

In her Answer filed on 1<sup>st</sup> February 2023, the Respondent who stated that she had changed her name from the name she assumed upon marriage as indicated in the title of the Petition to her maiden name, averred that the parties after marriage stayed together until December 2019 when they separated. She also averred that the marriage had broken down beyond reconciliation as the marriage was characterized by frequent disagreements. She stated that she had no intention of contesting the suit as the parties had both agreed for this step to be taken. She prayed for a dissolution of the marriage.

The main issue arising from the Petition is whether or not the marriage between the Petitioner and the Respondent has broken down beyond reconciliation within the purview of the Matrimonial Causes Act, 1971 (Act 367).

The grant of dissolution of the marriage is not an automatic one which is solely based on parties consenting. It is trite that merely asserting that a marriage has broken down

irretrievably would not suffice for the Court to grant a relief for dissolution of a marriage and that the evidence before the Court should be the guiding light of the Court. See: **Charles Akpene Ameko v Saphira Kyerema Agbenu [2015] 91 G.M.J. 202 @ 221; Michael Kyei Baffour v Gloria Carlis Anaman [2018] 123 GMJ 95; Donkor v Donkor [1982-83] GLR 1158; Adjetey v Adjetey [1973] 1 GLR 216).**

**Section 1(1) of the Matrimonial Causes Act, 1971 (Act 367)** allows either party to a marriage to present a petition to the court for divorce. **Section 1(2)** of the Act further emphasizes that, the sole ground for granting a petition for divorce shall be that the marriage has broken down beyond reconciliation. In order to prove that the marriage has broken down beyond reconciliation, a petitioner shall prove to the satisfaction of the court the existence of at least one of the six facts specified in **Section 2(1)(a) -(f) of Act 367**. Those facts in a loose list are; adultery, unreasonable behaviour, desertion, not living as man and wife for two years continuously with consent to divorce, not living as man and wife for five years continuously with no consent needed and irreconcilable differences. See **Danquah vs Danquah (1979) GLR 371**. Proof of any one of these facts raises a presumption that the marriage has broken down beyond reconciliation. Once any of the facts is made out, the court must grant the dissolution unless it is satisfied that the marriage has not broken down irretrievably. See the case of **Kotei v. Kotei [1974] 2 GLR 172; Ash v Ash (1972) 1 All ER 582; Pheasant v Pheasant (1972) 1 All ER 587**.

The Petitioner testified through an Attorney, Samuel Kwarteboye Quartey, whose Power of Attorney was tendered in evidence. The original copy of the parties' marriage certificate was also tendered in evidence by him. His evidence was that prior to the parties getting married, the Petitioner resided at Mataheko, Accra whiles the Respondent resided in London. The Respondent however relocated to stay with the Petitioner at Mataheko after their marriage, and a few years thereafter, they both relocated to the United Kingdom.

The Petitioner's Attorney testified that briefly after the parties' relocation to London, the parties constantly had misunderstandings and this led to them separating from each other, with the Petitioner relocating to Ghana, and their communication becoming rare. He stated that there had been no communication and sexual relationship between the parties for the past four years. He further stated that attempts by the family to resolve the parties' differences had been futile. He added that the Respondent had indicated that she was not interested in the marriage and had even changed her marital name.

It is abundantly clear that the parties who had been separated from each other for almost three years prior to the presentation of the Petition, had both consented to the marriage being dissolved. From all indications, they are each living their lives with the Respondent having even gone further to have a change of name deed done as far back as 28<sup>th</sup> July 2019, wherein she absolutely renounced and abandoned the use of her former name, Tsitsi Monica Quartey and assumed the name Tsitsi Monica Charma. She also absolutely renounced and abandoned the use of her former title of Mrs and assumed the use of Ms. From the evidence on record, communication between the parties had become near non-existent and the parties had not had any sexual relationship for the past four years. It would not be out of place to conclude that the parties regard their marriage as being 'lifeless'.

Having inquired into the facts as alleged by the parties and from the evidence adduced by the Petitioner's Attorney, this Court finds that the marriage between the parties has broken down beyond reconciliation. This Court holds the considered stance that no useful purpose would be served by refusing to grant a decree of dissolution having regard to the present circumstances of the parties' marriage. In that light, I hold that the marriage celebrated between the parties herein on 10<sup>th</sup> August 2006 at the Office of the Principal Registrar of Marriages, Accra is hereby dissolved.

**[SGD]**  
**AMA ADOMAKO-KWAKYE (MS.)**  
**(MAGISTRATE)**