

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 10TH NOVEMBER, 2023.

SUIT NO. A8/181/23

WILLIAM OFORI

ACCRA

::

PETITIONER

VRS.

RUBY ASAAH BEDIAKO

ACCRA

::

RESPONDENT

JUDGMENT

The Petitioner commenced this action against the Respondent on 3rd May 2023. Per an Amended Petition filed on 24th May 2023, the Petitioner prayed this Court for dissolution of the marriage between him and the Respondent and for any other order(s) deemed fit by the Court. According to the Amended Petition, the parties, a Businessman into carpentry and a Teacher respectively, married on 9th December 2017 at the Presbyterian Church of Ghana, Redemption Congregation, Kokomlemle. The parties' marriage has produced no child.

The Petitioner alleged that the parties' marriage had broken down beyond reconciliation due to the unreasonable behaviour of the Respondent for which reason he would not be expected to live with her as man and wife. He averred that the parties had never enjoyed peace in their marriage and they had not lived together as husband and wife for some

years with sexual intercourse having also ceased for some years now. He averred that they were ad idem that their marriage had broken down beyond reconciliation and consequently, he had paid an alimony of GH¢ 40,000.00 to the Respondent in satisfaction of tradition in respect of a customary dissolution of the marriage. He stated that all attempts at reconciliation had been futile.

The Respondent was personally served with the Amended Petition, Hearing Notice as well as Witness Statement of the Petitioner but she neither filed any process nor ever appeared in Court. The Court proceeded to hear the Petitioner pursuant to **Order 25 Rule 1(2)(a) of the District Court Rules, 2009 (C.I. 59)**.

The main issue for determination by this Court is whether or not the marriage between the parties has broken down beyond reconciliation.

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. To prove that a marriage has broken down beyond reconciliation, the law requires a petitioner to plead and prove to the satisfaction of the court, one or more of the six facts set out under **Section 2(1) of the Matrimonial Causes Act (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.

The Court must be satisfied on all the evidence that the marriage has indeed broken down beyond reconciliation. See the case of **Kotei v. Kotei [1974] 2 GLR 172**. The onus lies on the party making allegations to adduce sufficient, cogent and reliable evidence to support

the allegations contained in the petition for the court to arrive at the decision that the acts alleged exist.

The Petitioner testified by relying on his witness statement filed on 29th August 2023. His evidence was that the parties after their marriage on 9th December 2017 cohabited at Old Barrier, Kasoa and they have no children together. He testified that the Respondent had been untruthful to him in the marriage and that he once saw her on television at a church although she had told him she was going to visit her parents. He further testified that the Respondent was disrespectful and that she had manifested same even through her refusal to come to Court although served. He stated that the Respondent was not receptive to his workers and exhibited repugnant behaviour towards them such that some of them did not want to come around.

According to the Petitioner, the parties had not lived together as husband and wife for almost a year and even when they were living together, he had to stay in another room for about one and a half years. His testimony was that all attempts made to reconcile their differences had been futile. He stated that the Respondent consented to the marriage being dissolved and that he had paid alimony of GH¢ 40,000.00 to her.

As earlier stated, the Respondent did not react to any of the averments in the Petition by way of an Answer to debunk the allegations. In the absence of an Answer, it is presumed that the matters contained in the Petition are admitted by her. The law is that there is even no need for a Plaintiff [Petitioner] to call further or any evidence to prove allegations or assertions of fact in his/her claim where there is no joinder of issues. See the cases of **Fori v Ayerebi [1966] 2 GLR 627; Total Ghana Ltd v Thompson [2011] 1 SCGLR 458; Air Namibia (Pty) Ltd v Micon Travel and Tours & Others [2015] 91 G.M.J. 173 @ 194**. The Respondent also failed to appear to subject the Petitioner to any form of cross examination to dispute any of the allegations made in his evidence.

From the evidence before the Court, the parties have had a strained relationship for some time now, being unable to have their differences reconciled. As a matter of fact, these irreconcilable differences have been such that the parties have had to live separately for over a year now, doing nothing to suggest that they still regard each other as a spouse. I find that if settlement attempts had yielded any good results, the parties would not have been living apart and more profoundly, they would not have gone further to have a customary act of dissolution where the Petitioner has already paid alimony of GH¢ 40,000.00 to the Respondent. Indeed, they do not regard themselves as a married couple. I therefore find as a fact that the marriage between the parties has broken down beyond reconciliation.

Having found that the marriage between the parties has broken down beyond reconciliation, this Court decrees that the marriage celebrated between the parties on 9th December 2017 at the Presbyterian Church of Ghana, Redemption Congregation, Kokomlemle North, Accra is hereby dissolved. There shall be no order as to cost.

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