

IN THE DISTRICT COURT SITTING AT AMASAMAN ON THURSDAY THE 7TH
DAY OF SEPTEMBER, 2023 BEFORE H/W STANISLAUS AMANOIPO –
MAGISTRATE

SUIT NO. A4/157/23

**CHARLES YAO NYARKO
PER LAWFUL ATTORNEY
ABRAHAM OFFEI**

VRS

VICTORIA MENSAH

J U D G M E N T

1. The Petitioner filed this action for the following reliefs;
 - i) An order for the dissolution of the marriage since the marriage has broken down beyond reconciliation.
 - ii) A further order directing the matrimonial home which is the property of the Petitioner be given to their daughter, Emmanuella Nyarko or should the Petitioner come for the child, then the parties will meet to decide on how to manage the property.
 - iii) Alimony of GH¢15,000.00 to the Respondent as agreed by both parties a family meeting held recently to dissolve the customary marriage.

2. On the 10th May, 2023, the Respondent upon service of the petition, filed a reply and counter-petitioned to wit;
 - a. An order for the dissolution of the marriage since it has broken down beyond reconciliation.
 - b. An order for the Petitioner to provide maintenance for the child, pay her school fees and provide her with all the basic necessities of life as and when they fall due.
 - c. Alimony of GH¢20,000.00.

- d. An order for the sharing of the 2-bedroom self-contained situate and being at Adjen Kotoku which is the matrimonial home in a ratio of 50:50.
3. The Parties married under Ordinance Cap 127 at the Accra Metropolitan Assembly on 14th December, 2013. Thereafter, they cohabited at NIC – Ablekuma, a suburb of Accra, then to Adjen Kotoku, their own apartment till Petitioner travelled out of the country. The Petitioner visits home occasionally. They have one daughter, now 7years old.
4. The Court adopts both testimonies of the parties. What is evident in the testimony is that the Petitioner is married to another wife in Ireland which evidence that Petitioner, through the Attorney has not denied. The reason being that it was in furtherance to obtaining Petitioner's residual documentation in Ireland. The Respondent's case is that due to that, the Petitioner requested a divorce of her. That when she objected to the demands of the Petitioner, he blocked her lines.

Further that, Petitioner during the Easter festivities, came down and initiated the divorce proceedings by ending the customary marriage in the presence of both families.

They called no witness but filed terms of settlement on the ancillary issues for adoption by the Court.

5. DIVORCE LAW

In the case of Kotei vrs Kotei (1974) 2 GLR 172, it was held that the Petitioner was entitled to a grant of dissolution. SarkordieJ said, once the facts are proved bringing the case within any one of the facts set out in Section 2 (1) of Act 367, a decree of dissolution should be pronounced unless the Court thinks otherwise. In other words, the burden is not on the Petitioner to show that special grounds exist justifying the exercise of the Court's power. Once he or she comes within any one of the provisions in Section 2 (1), the presumption is in his favour proving one of the provisions in Section 2 (1) without more is proof of the breakdown of the marriage beyond reconciliation.

6. In the instant case, the parties no doubt admitted the cause of the breakdown of the marriage is that, Petitioner committed adultery when he

married another woman whilst his marriage to the Respondent is subsisting. By reason of this, the parties in the presence of the family members dissolved the customary marriage.

7. It is the findings of the Court that the marriage between the couple under ordinance is violated under Section 2 (1) (a) of Act 367 on grounds of adultery on the part of the Petitioner. The petition is granted as prayed.

On the ancillary issues of compensation, custody and maintenance of the child, the Court adopts the terms of settlement filed on the 24th May, 2023 as judgment of the Court with cost of GH¢2,000.00 for the Respondent.

(SGD)
H/W STANISLAUS AMANOIPO
(MAGISTRATE)