

IN THE DISTRICT COURT SITTING AT AMASAMAN ON THURSDAY THE 31ST
DAY OF AUGUST, 2023 BEFORE H/W STANISLAUS AMANOIPO –
MAGISTRATE

SUIT NO. A4/146/22

ISAAC DZANSI

VRS

EMMA AGBANATOR DZANSI

J U D G M E N T

1. The Petitioner via a petition commenced this action against the Respondent praying for dissolution of the ordinance marriage under Cap 127 at the Ga West Municipal Assembly on 1st September, 2018.
2. According to the Petitioner, he got married to the Respondent on the 1st September, 2018 at Ga West Municipal Assembly after the traditional marriage which took place in the family house of the Respondent at Dansoman after the period of dating.

Petitioner contends that right after the first week of their marriage, the Respondent started to abuse him verbally accusing him of womanizing and disgracing him in public. She restricted who should get in the car especially women. She would also insist on midnight video calls when Petitioner is in trek. Even when Respondent attended University of Ghana, she had issues at the hostel. The result being that she moved from one hostel to another which the Respondent says it was a drain to his finances. That at a point in time, the Respondent started staying outside the matrimonial home without Petitioner's consent.

On one occasion, he had picked a co-worker in his car who went his direction. That the Respondent followed them in a taxi, came to abuse the lady in public and even followed her up to her house to warn her with threats.

Then on a faithful day, the Respondent announced she was pregnant. The Petitioner says it summated strange since they at the time, had decided not to start a family till Respondent completes her studies. That despite his doubt of paternity of the child, he looked after Respondent. The Respondent however, went through caesarian section without his knowledge. However, he paid all the bills at the hospital.

That Respondent invited him in the quest to solve the issues but at the meeting, Respondent's father verbally abused Petitioner and to stepping Petitioner's elder brother who had accompanied to see the in-laws. The Petitioner says there has never been peace of mind right from the beginning of the marriage. That he had gone through depression due to the abuse from Respondent and family which is affecting the Petitioner at work. Hence the petition for divorce.

- 3.** The Respondent on the 25th day of May, 2022 filed an answer to the petition. And made a counter-petition to wit;
- i) That Petitioner grants her 10% ownership of the car business.
 - ii) That Petitioner should be responsible for the upkeep of the child till he becomes an adult.
 - iii) That Respondent should be compensated for her time wasted in the last four (4) years of marriage.
 - iv) Any further reliefs which this Court may deem fit.

The Respondent admitted the marriage is under ordinance celebrated at Ga West Municipal Assembly. She admitted accusing Petitioner of womanizing but her following Petitioner publicly as claimed. That Petitioner was discreet with his phone which affirms her concerns. However, that on one occasion she walked out of a shop leaving Petitioner behind when Petitioner romantically made dancing moves with the store attendant. That, her insistence on video calls was without notice. She denied moving from one hostel to another because she was sacked. But that she chose to leave the hostel because of her early stages of pregnancy. Respondent denies the allegation of raining down the shop rather that Petitioner borrowed the money to run his car business.

On her delivery bills, that Petitioner only paid one-third and threatened her not to call him for any money and that he was not her bank. Finally, she denied the alleged assault by his father on Petitioner's brother. However, that she rather suffered psychological and mental trauma as a result of Petitioner's infidelity to her. Thus causing the disgrace before the two families. She prays for the dissolution of the marriage since the marriage has broken down beyond reconciliation.

4. From the petition and the pleadings filed, the issues for determination in the opinion of the Court include;
 - i) Whether or not the marriage celebrated on 1st September, 2018 has broken down beyond reconciliation.
 - ii) Whether or not Respondent is entitled to her reliefs:
 - a) 10% of the car business
 - b) Petitioner to be responsible for upkeep of the child till adulthood.
 - c) Compensate the Respondent.
5. In the course of trial, the parties on their own filed terms of settlement on the ancillary issues. This would be considered after determination of substantial issue of divorce.
6. Section 1 (2) of the Matrimonial Causes Act, (Act 367) provides that the sole ground for granting a petition for divorce shall be that the marriage has broken down beyond reconciliation.

In proving that the marriage has broken down beyond reconciliation, a Petitioner must establish one of six (6) causes that is unreasonable behavior, desertion for a period of two years; consent of both parties where they have not lived together as husband and wife for a period of two years; not having lived together as husband and wife for a period of five years; and finally, inability to reconcile differences after diligent effort.

7. The Petitioner's basis for arriving at the conclusion that the marriage has broken down beyond reconciliation is unreasonable behavior; infidelity and the inability to reconcile their differences.

In evidence, the Petitioner accused the Respondent of disrespect and who suspected her of amorous relationship with other men. Further that, he was surprised when Respondent suddenly announced her pregnancy. This made the Court to order for paternity test of the child. The evidence also is that when the family attempted settlement on the issues, it deepened the misunderstanding and further widened the already bad situation resulting in the petition before the Court.

Though the Respondent denied the accusations of disrespect, she also listed different set of facts forming the basis of their respective claims of unreasonable behavior. She also accused the Petitioner of being discreet and that she has suffered psychological and mental trauma as a result of Petitioner's infidelity to her which has caused her disgrace before the two families.

8. The law in evidence require each party to lead evidence on the facts they allege before the Court. The Supreme Court in **Acka vrs Pergah Transport Ltd. (2010) SC GLR 728 held per Atingah JSX** thus;

"It is trite that matters that are capable of proof must be proved by producing sufficient evidence so that on all the evidence, a reasonable mind could conclude that the existence of the fact is more reasonable than its non-existence. This is a requirement of the law on evidence under Section 10 and 11 of the Evidence Act".

In this instance, the couple testified without any witnesses. They are however, agreeable in evidence that their marriage has broken down beyond reconciliation. Thus, they have filed terms of the ancillary issues and determined alimony and maintenance of the child.

The Court admits that divorce is by means of enquiry and that a Court must satisfy itself by way of evidence that indeed the marriage has broken down beyond reconciliation. Therefore, that although the Respondent in her counter-petition admitted that the parties agreed to dissolution to the marriage, the Court is still to satisfy itself that the marriage has broken down beyond reconciliation.

In evidence, the Court ordered paternity of the child. This was necessary because of the accusation of infidelity. The results of paternity test confirmed the child is on product of the couple. But as in the evidence of Respondent, this

created psychological and mental trauma before both families. To the extent that the Respondent had to relocate without the knowledge of Petitioner where she suffered ceasarean section (CS) at a hospital unknown to the Petitioner. This certainty is at the light of disagreement between the couple. As if that was not enough, the Petitioner filed the instant petition still in doubt of the paternity of this child.

In these circumstances, the Respondent admits that the marriage has broken down and should be dissolved. In these circumstances, I find that the marriage between the couple have broken down beyond reconciliation and therefore dissolved this date the 31st day of August, 2023.

The terms of settlement reached adopted as judgment of the Court. In addition on the terms reached, the Court awards cost of GH¢2,000.00 for Respondent.

(SGD)
H/W STANISLAUS AMANOIPO
(MAGISTRATE)