

IN THE DISTRICT COURT SITTING AT AMASAMAN ON THURSDAY THE 20<sup>TH</sup>  
DAY OF OCTOBER, 2023 BEFORE H/W STANISLAUS AMANOIPO –  
MAGISTRATE

SUIT NO. A4/158/22

**PETER O. SUNNY**

**VRS**

**MAVIS FRIMPONG**

LEGAL REPRESENTATION:  
SYLVIA AMA FOR PETITIONER  
SAMUEL ATTA FOR RESPONDENT

---

## **J U D G M E N T**

---

1. The Parties herein celebrated their marriage under Ordinance (Cap 127) on the 21<sup>st</sup> of October, 2010 at the District Court, Amasaman, Accra in the Greater Accra Region of the Republic of Ghana. Their marriage is blessed with three (3) children.
2. The Petitioner is a citizen of Nigeria and the Respondent is a Ghanaian. The Parties are both currently domicile in Ghana. The Petitioner's contention is that the marriage has broken down beyond reconciliation and prays for divorce. The Petitioner is seeking the following reliefs per his amendment petition:
  - i) That the marriage between Petitioner and Respondent be dissolved.
  - ii) That the Petitioner be given custody of the children.
  - iii) Any other reliefs as this Honourable court will deem fit.

3. On the 29<sup>th</sup> September, 2023, the Respondent filed an amended answer and counter-claim to the Petition as follows;
  - i) Custody of the issues of the marriage be granted to the Respondent with reasonable access to the Petitioner.
  - ii) An order for the Petitioner to maintain the issues of the marriage with an amount of GH¢2,000.00 every month.
  - iii) An order for the Petitioner to pay for the school fees and all other educational expenses of the children as and when it falls due.
  - iv) Lump sum of GH¢100,000.00.
  - v) That the following properties be settled in favour of the Respondent;
    - a) One plot of land with 3-bedroom house with three (3) shops and two (2) single rooms self-contained.
    - b) Share of the proceeds from the sold of uncompleted 7-bedroom house at Kuntunse Satellite.
    - c) Lexus GX470 4X4 vehicle with registration number AB-J-1470.
    - d) And order of this Court to compel the Petitioner to move out of the matrimonial home pending the final determination of the petition.
4. When the Parties ended pleadings, the Court ordered for witness statements. Counsel pleaded to attempt settlement on ancillary issues which the Court granted as prayed. Thus, on the 10<sup>th</sup> November, 2022, the terms of settlement on ancillary issues were filed together with witness statements. These terms were adopted by the Court as prayed by the parties.

Therefore, the only task of the Court is to determine whether or not the marriage indeed has broken down beyond reconciliation.

5. The Court adopts both testimonies of the Parties given on the 17<sup>th</sup> of August, 2023. The facts gleaned out of the evidence is that the marriage has broken down beyond reconciliation because according to Petitioner, the Respondent has behaved in such a way that Petitioner cannot reasonably be expected to live with the Respondent. His claim is that Respondent does not support his church activity, he being a Pastor but always undermines his church by quarrelling with the female members of the congregation. Further that, she does not cook and as a result, they are separated with each living as separate household.

More so, that Respondent has refused to join him relocate to Lagos. That Respondent does not stay at home and even come at odd times sometimes in the night. She has run down the business set up. These and many more are the grounds for the Petitioner's petition for divorce.

The Respondent's answer is not different. She similarly labeled Petitioner as being self-centered. On the church activities, the Respondent says she stopped when Petitioner filed for divorce. On the relocation to Nigeria, Respondent says when she disagreed, the Petitioner moved out living in a separate room. She is not liked by Petitioner's family. That it was out of fear the Petitioner might hurt because of a previous quarrel which made her to lodge at a hotel for the night and the allegation she went to sleep somewhere with Petitioner's friend is untrue since she was with the children. Further that, Petitioner's sister concocted that story against her. She admitted Petitioner set up a business for her. But which collapsed when they travelled to Nigeria and on their return, the finances dwindled because the workers could not maintain the shop.

6. Both Parties from their respective evidence accused each other of unreasonable behavior on the cause of the breakdown of the marriage between them.

The Evidence Act, 1975 (NRCO 323) particularly Section 11 (1) 14 and 12 thereof provides that the degree of proof in civil action is by a preponderance of probabilities Section 11 (1) provides;

“For provision of this act, the burden of producing evidence means the obligation a party to introduce sufficient evidence to avoid a ruling against him on the issue”.

In this case, both Parties have filed claims against each other. They own same obligation to adduce credible evidence. And under the Matrimonial Cause Act, 1974 (Act 367) Section 1 (2), the sole ground for granting divorce petition is that the marriage has broken beyond reconciliation. For the parties to succeed a plead for divorce, they need to satisfy the Court the essentials under Section 2 (1) of Act 367 that is adultery has been committed, that Respondent has behaved in a way not reasonably expected, that Respondent has deserted Petitioner amongst other essentials under the Act.

7. I submit that both Parties by their own admission are agreeable on the fact that their marriage has broken down beyond reconciliation and even filed terms of settlements.

The Supreme Court in the case of **Kusi vrs Bonsu (2010) SC GLR 60** held per Wood CJ that;

“When a party had made an averment and the averment was not denied, no issue was joined and no evidence be led on that averment. Similarly, when parties have given evidence of material fact and was not cross-examined upon it, he should not call further evidence of that fact”.

From the evidence, though both Parties accused each other of unreasonable behavior on different grounds, they are all unanimous that the marriage has broken down beyond reconciliation. Hence, they did not make any further cross-examination on the issue. In the circumstance, the Court finds that the marriage between the parties have broken down beyond reconciliation on grounds of unreasonable behavior on the part of both Parties under Section 2 (1) (a) of Act 367.

The marriage celebrated between them dated the 21<sup>st</sup> day of October, 2010 is therefore declared dissolved.

8. In furtherance to this, the Court adopts the terms of settlement as agreed by the parties on the ancillary issues dated the 10<sup>th</sup> day of November, 2022. No cost awarded.

**(SGD)**  
**H/W STANISLAUS AMANOIPO**  
**(MAGISTRATE)**