

**IN THE DISTRICT COURT ONE, TEMA ON 23RD NOVEMBER, 2023 BEFORE H/W
NAOMI AKYIANO ESQ. (MS.), SITTING AS DISTRICT MAGISTRATE.**

A4/77/2023

MERCY AGYAPONG

PETITIONER

VRS.

ERIC JOSEPH ONUMA

RESPONDENT

JUDGMENT

This is an uncontested divorce petition. The Petitioner, Mercy Agyapong, filed a divorce petition against Eric Joseph Onuma, the Respondent, praying for the dissolution of the marriage.

The parties are both Ghanaians and were lawfully married under Part Three of the Marriages Act, 1884-1985 (CAP 127) and there is one issue of the marriage known as Elijah Kwabena Nhyira Onuma.

According to the Petitioner, she and the Respondent got married on 12th October, 2012 and cohabited at Nungua. However, in 2013, they moved to Gbetsile near Michel Camp, Tema and after the birth of their child, the Respondent left the matrimonial home and has since not returned since 2013. His whereabouts are unknown to the Petitioner and the Respondent's family members as well. Under the circumstances, the Petitioner prayed for a dissolution of the marriage.

As indicated, the Respondent's whereabouts are unknown and attempts to serve him by substituted service through his former place of employment, through the current head Pastor of Glorious International Church, Nungua proved futile.

The only issue for determination is whether or not the marriage had broken down beyond reconciliation.

Section 1(2) of the Matrimonial Causes Act, 1971 (Act 367) provides:

The sole ground for granting a petition for divorce shall be that the marriage has broken down beyond reconciliation.

Section 2 of Act 367 provides facts for which the proof of the breakdown of marriages can be ascertained.

For the purpose of this instant petition the relevant section is reproduced below:

...

e) That the parties to the marriage have not lived as husband and wife for a continuous period of at least five years immediately preceding the presentation of the petition.

Applying the facts and evidence of this case to the section above, according to the Petitioner, she and the Respondent have been living apart since 2013 when the Respondent suddenly without any provocation left the matrimonial home and has since not returned. On this fact alone, I find that the marriage between the parties does not exist and has broken down beyond reconciliation on grounds that the parties have not lived as husband and wife for over 5 years immediately preceding the presentation of this petition.

The marriage contracted between the Petitioner and the Respondent is hereby dissolved.

Certificate of marriage number RM/688/2012 is cancelled. The only issue of the marriage is to remain in the custody of the Petitioner however, as the Petitioner prayed anytime the Respondent appears he is granted access to the child.

No orders as to costs.

(SGD)

.....
H/W NAOMI AKYIANO ESQ. (MS.)
DISTRICT COURT MAGISTRATE