

**CORAM: HER WORSHIP NANA ABENA ASOH OWUSU-OMENYO (MS.),
MAGISTRATE, DISTRICT COURT '1', KANESHIE, SITTING AT THE FORMER
STOOL LANDS BOUNDARIES SETTLEMENT COMMISSION OFFICES NEAR
WORKERS' COLLEGE, ACCRA ON 8TH NOVEMBER 2023**

SUIT NO: A8/51/23

**KATE KAI KOTEI } PETITIONER
ACCRA
VRS**

**MICHAEL SACKITEY } RESPONDENT
ACCRA**

JUDGMENT

The petitioner prays a dissolution of her marriage to the respondent celebrated at the FRUITFUL GOSPEL INTERNATIONAL CHAPEL LEGON-ACCRA on the 7th Day of November 2009. The parties have no issue. The claim of the petitioner is simply that the parties separated for varied reasons in the year 2011 and have all subsequently moved on with their lives. She states that she currently has two children and the respondent informs her that he also has one of his own. She prays the court officially dissolve the marriage to enable the parties proceed with other legal entanglement. The respondent although served with all the petition and witness statements and all many a hearing notices failed to appear this court to narrate his side of events. The court therefore set the matter down for hearing to enable the petitioner prove her claims against the respondent. The law is well established that where notices of proceedings are served on a party and s/he refuses to appear, the court can go ahead with the hearing of the case. *See the case of Republic v Circuit Judge; Ex parte Dzaka [1984-86] 1 GLR 741.*

I will go ahead to make a determination on whether the petitioner merits her prayer for a dissolution. The Matrimonial Causes Act, 1971 (ACT 367), is the law governing the dissolution of marriages in Ghana. The Act, provides in section 1(2) that the sole ground for the dissolution of a marriage shall be that the marriage between the parties has broken down beyond reconciliation. The act goes further in section 2(1) to give factors that a petitioner must prove to show that her marriage to the respondent has indeed broken down beyond reconciliation. The factors are as follows:

- a. that the respondent has committed adultery and that by reason of such adultery the petitioner finds it intolerable to live with the respondent; or*
- b. that the respondent has behaved in such a way that the petitioner cannot reasonably be expected to live with the respondent; or*
- c. that the respondent has deserted the petitioner for a continuous period of at least two years immediately preceding the presentation of the petition; or*
- d. that the parties to the marriage have not lived as man and wife for a continuous period of at least two years immediately preceding the presentation of the petition and the respondent consents to the grant of a decree of divorce; provided that such consent shall not be unreasonably withheld, and where the Court is satisfied that it has been so withheld, the Court may grant a petition for divorce under this paragraph notwithstanding the refusal; or*
- e. that the parties to the marriage have not lived as man and wife for a continuous period of at least five years immediately preceding the presentation of the petition; or*

f. that the parties to the marriage have, after diligent effort, been unable to reconcile their differences.

I have read both the petition and the witness statement of the petitioner and I find myself giggling because her narration of events establishes at least three of the grounds set out in section 2(1) (a)-(f) of ACT 367.

She indicates that she currently on her own has two children with someone other than the petitioner; which constitutes adultery on her part. She further indicates that she left the matrimonial home unilaterally in the year 2011 and has never looked back; which is desertion on her part and lastly that the parties have not lived together as husband and wife for the past at least 10 years.

Based on the petitioner's own evidence, it is clear that the parties have not lived together as husband not engaged in any activities as husband and wife for a very long while. I therefore find that the petitioner has been able to prove that her marriage to the respondent has broken down beyond reconciliation.

FINAL ORDERS

1. On the totality of the evidence before me I find that the marriage celebrated between the parties at the Fruitful Gospel International Chapel Legon-Accra on the 7th Day of November 2009 has broken down beyond reconciliation and is hereby dissolved.
2. Marriage certificate with number FGIV/CM/1709 is accordingly cancelled.

**NANA A.A. OWUSU-OMENYO (MS.),
(MAGISTRATE)**