

**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 6TH OCTOBER 2023**

SUIT NO: A8/165/23

**NII TETTEH NETTEY
ACCRA
VRS**

} PETITIONER

**EMERALD SASU MORI
ACCRA**

} RESPONDENT

JUDGMENT

INTRODUCTION

The petitioner seeks to dissolve his marriage to the respondent celebrated at the Accra Metropolitan Assembly on the 16th Day of August 2019. The parties have no issue.

CASE OF THE PETITIONER

The petitioner avers that the respondent has behaved in a way that he cannot reasonably be expected to continue living with her. His case is that, the respondent has on several occasions had numerous disagreements and unnecessary exchanges with him. That, the respondent has publicly informed him that she is no longer interested in the marriage and has packed out of the matrimonial home. Indeed, the parties have not lived together for past two and half years as husband and wife and all attempts by family and friends to resolve their differences has been futile. Consequently, the traditional drinks have been returned and the customary marriage dissolved. He therefore prays that his marriage to the respondent be dissolved.

CASE OF THE RESPONDENT

The respondent admitted all the facts as stated by the petitioner and states that the parties have in fact not lived together as husband and wife for the past two years after she asked him to pack out of the matrimonial home for peace. That the parties were in constant disagreement which led to her publicly stating that she is no longer interested in the marriage.

COURT ANALYSIS

The parties in their pleadings and witness statements have been very emphatic about the state of their relationship. They are very clear that they do not want to continue in the journey of marriage. In spite of this, I am under an obligation to determine if their marriage has broken down within the remits of the law.

Section 1(2) of the matrimonial causes Act, 1971 (Act 367), states that the sole ground for the dissolution of a marriage shall be that the marriage between the parties has broken down beyond reconciliation.

In order to make this determination, I am enjoined to determine the breakdown in accordance with the parameters set out in section 2(1) of ACT 367.

The petitioner must show the court that one or more of the conditions spelt out in section 2(1) supra prevails. These conditions are that:

- 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.*

The petitioner particularizes the unreasonable behaviour of the respondent as constant and unnecessary quarrels and disagreements. I wonder if these quarrels constitute unreasonable behaviour. In the case of **Mensah v. Mensah (1972) 2 GLR 198**, the Court held that “the conduct complained of must be sufficiently grave and weighty to justify a finding that the Petitioner cannot reasonably be expected to live with the Respondent; mere trivialities would not suffice. The parties must be expected to put up with what has been described as the unreasonable wear and tear of married life.”

The petitioner does not detail, neither does he particularize any specific instances of disagreement. He does not state the nature of these disagreement nor show how these disagreements have affected their marriage. He only provides a vague description, being disagreement. It is my humble view that the description of quarrels and quarrels and exchanges given by the petitioner will qualify as ordinary wear and tear of marriage, and cannot on its own qualify as unreasonable behaviour.

The parties confirm from their evidence that they have been living apart for the past two years and indeed their families have been unable to reconcile their differences even after intervention from family and friends. They also in their evidence inform the court that their customary marriage has officially been dissolved.

It is my considered opinion that on the totality of the evidence presented before me, the parties have been able to prove a breakdown of their marriage in accordance with sections 2(1) (c) *and* (f) of ACT 367. I thus hold that the marriage between the parties has broken down beyond reconciliation.

FINAL ORDERS

That the marriage between the parties has broken down beyond reconciliation and marriage certificate with number 1474/MC/2019 is hereby cancelled.

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