

**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 22<sup>ND</sup> DECEMBER 2023**

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**SUIT NO: A8/031/24**

**ROGER TAMENYAH  
ACCRA**

**} PETITIONER**

**VRS**

**EUNICE AMENGAH  
ACCRA**

**} RESPONDENT**

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## **JUDGMENT**

### **INTRODUCTION**

On the 3<sup>rd</sup> December 2016, the parties were married at the International Central Gospel Church, Christ Temple, Accra. They have no child.

### **CASE OF THE PETITIONER**

The petitioner prays for a dissolution of his marriage to the respondent based on unreasonable behaviour. He particularizes the unreasonable behaviour as the respondent being quarrelsome, verbally and physically abusive. He says there is no communication between the parties and further the parties currently do not share a matrimonial room. He sleeps in the living room whilst the respondent sleeps in the bedroom and the respondent seems unbothered by this arrangement further, she persistently criticizes him although he tries his best to maintain the household and has finally stopped cooking for him. He says the respondent has threatened divorce and has even agreed to the instant dissolution.

### **CASE OF THE RESPONDENT**

The respondent in her response, denied every averment made by the petitioner except to say that the petitioner moved to the living room by choice as he cannot seem to stand being in the same room with her. That she has never been physically abusive towards the petitioner, it is rather the petitioner who restrains her by pinning her down with his hands and knees making it difficult for her to breathe. She says that the petitioner on her blind side went to her village to dissolve their marriage. She is thus agreeable to the dissolution of the marriage between the parties as the petitioner has throughout the pendency of the marriage subjected her to emotional abuse and has frustrated all attempts at settlement.

### **COURT ANALYSIS**

**Section 1(2) of the Matrimonial Causes Act, 1971 (ACT 367)** states that *“The sole ground for granting a petition for divorce shall be that the marriage has broken down beyond reconciliation.”* To establish that their marriage has broken down beyond reconciliation, the petitioner must show any one or more of the grounds set out in **Section 2(1) of (ACT 367)** which states: *For the purpose of showing that the marriage has broken down beyond reconciliation the petitioner shall satisfy the court of one or more of the following facts: —*

- 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 seeks to rely on unreasonable behaviour on the part of the respondent per section 2(1)(b) of ACT 367. To prove unreasonable behaviour, the petitioner must by his evidence show that the respondent has behaved in such a way that the petitioner cannot reasonably be expected to live with her. I must thus look at the actions complained of by the petitioner in relation to the definition of unreasonable behaviour and make a determination of same. Unreasonable behaviour has been defined in *Mensah v. Mensah* (1972) 2 GLR 198, *as a conduct 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 says that the respondent is quarrelsome, physically and verbally abusive. He says that she has refused to cook for him and constantly criticizes him. Indeed, the respondent in her response denies the verbal and physical abuse except to say that she only becomes physical when the petitioner pins her down and she has to release herself as she cannot breathe. She also says that she has stopped cooking for the respondent because he consistently refused to eat the food she cooked.

Counsel for petitioner through cross-examination sought to establish the physical abuse meted out the petitioner, the respondent confirmed this but she insisted that it was only because she was trying to free herself from the grips of the petitioner who was rendering her breathless.

I have looked at the evidence of the parties and they both have a myriad of allegations against each other, what I glean is that the parties were faced with the usual vastitudes and challenges that face marriage but have refused to work through their issues. I therefore do not believe the petitioner has been able to prove unreasonable behaviour on the part of the respondent.

The respondent has also been unable to properly substantiate any of the allegations made she made against the petitioner

One thing that is very clear is that both parties do not want to remain married. Their pleadings and witness statements make this fact apparent. The petitioner has actually taken steps to dissolve his customary marriage to the petitioner.

I am thus of the opinion that the parties cannot remain married. I find that the marriage between the parties has broken down beyond reconciliation in accordance with section 2(1)(f) of ACT 367, per the evidence presented before this court by both parties.

**FINAL ORDERS:**

1. The marriage celebrated between the parties at the International Central Gospel Church on the 3<sup>rd</sup> Day of December 2016, has broken down beyond reconciliation and is hereby declared dissolved.
2. Marriage certificate with no: ICGC 79/2016 is hereby cancelled.
3. Each party is to bear their own cost.

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

