

HER WORSHIP ADELINE OWUSUA ASANTE (MS.), SITTING AS MAGISTRATE, DISTRICT COURT, AKIM ODA ON 8TH DECEMBER, 2023.

A4/25/23

KORKOR DORIS
OF AKIM WENCHI

PETITIONER

VRS

PETER ARTHUR MENSAH
OF TEMA KPONE

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RESPONDENT

JUDGMENT

Introduction

This suit was commenced by a Petition for Divorce filed on 3rd May, 2023, wherein the Petitioner prayed for the following reliefs;

- (1) *An order dissolving the marriage*
- (2) *An order for GHS 30,000 as alimony*
- (3) *An order for arrears of housekeeping money for a period of one year at GHS 900 a month totaling GHS 10,800*

Pleadings of Parties

According to the Petition, the parties herein married under the Ordinance on 1st May 2021 at the Christ Apostolic Church, Bibiani. The Parties lived separately at Kpone and Akim Wenchu respectively after the celebration of the marriage. There are no issues of the marriage at the time of filing the Petition. However the Respondent has three (3) issues from a previous relationship. The Petitioner and Respondent is a mid-wife and Electrical Engineer respectively. It was averred that the marriage has broken down beyond reconciliation and that the only alternative is a dissolution of the marriage.

It is the Petitioner's case that in the early days of the marriage both parties agreed to visit each other occasionally which went on well for quite some time. One day the younger brother of Petitioner visited her at her station, Akim Wenchi wherein she informed Respondent about it however Respondent became offended and said she does not respect him. That in the course of the misunderstanding, the Respondent accused her of hiding some issues from him. Petitioner further stated that prior to this misunderstanding that ensued, Respondent would engage her in unnecessary confrontation. Petitioner averred that communication between the Parties has broken down and there has been no sexual intercourse for more than a year as the Respondent is not ready to welcome Petitioner at his end, has failed to provide housekeeping money and has on numerous occasions informed Respondent of wasting her time as he is not ready to continue with the marriage.

On 31st December 2022, their families met and Respondent again maintained that he is not ready to continue with the marriage.

In his Answer filed on 17th May, 2023, the Respondent averred that it was the Petitioner who used to visit him at Tema but suddenly stopped and that had been the case since September 2022. He further stated that indeed Petitioner informed him of her brother visiting but when he questioned the Petitioner as to why his brother in law failed to say hello to him the Petitioner became offended and started calling him names.

Respondent says that prior to the marriage, Petitioner knew that he had three (3) children from his previous relationship yet agreed to marry him but after the celebration of the marriage her conduct, attitude and behaviour towards him and the children changed, would engage him in unnecessary fights and confrontation, is quick tempered and usually in an angry mood, does not respect him as a husband and this has caused him to distance himself from Petitioner.

Respondent averred that they were in debt after the celebration of the marriage due to the Petitioner and had to pay GHS 1,000.00 for a period of 18 months to defray the debt and

therefore came to an agreement with Petitioner that since he was defraying the debt, Petitioner should use her salary to maintain herself which she agreed to.

Respondent also agreed to the dissolution of the marriage stating that it is the bad conduct, impatience and attitude which has caused the marriage to fall on the rocks

Issues

From the pleadings of the parties, the only issue for this Court's consideration is;

Whether or not the marriage between the Petitioner and the Respondent has broken down beyond reconciliation?

The burden of Proof

The proof prescribed in civil trials is provided under **section 11 (1) and 11(4) of the Evidence Act, 1975 (NRCD 323)**. A party who bears the burden of proof is to produce the required evidence of facts in issue that has the quality of credibility short of which his claim may fail. See **Ackah v Pergah Transport Limited & Ors [2010] SCGLR 736**

Evaluation of evidence/Resolution of Issues

Whether or not the marriage between the Petitioner and the Respondent has broken down beyond reconciliation

Section 1(1) of the Matrimonial Causes Act, 1971 (Act 367) allows either party to a marriage to present a petition to the court for divorce. The section further emphasizes that, the sole ground for granting a petition for divorce shall be that the marriage has broken down beyond reconciliation.

A Petitioner in demonstrating that his or her marriage has broken down beyond reconciliation has a duty to prove to the Court's satisfaction that there is in existence at least one of the six

facts specified in Section 2(1) (a) - (f) of Act 367. Where the Court finds that any of the facts has been made out, a presumption is raised that the marriage has broken down beyond reconciliation. See the case of **Kotei v. Kotei [1974] 2 GLR 172**

The Petitioner testified by relying on her witness statement filed on 11th August, 2023 which is a recount of the averments in her Petition. The Respondent also testified on his witness statement filed on 16th August 2023 which was essentially a recount of his averments in his Answer.

The Parties were referred to the CCADR in a bid to salvage the marriage as it was believed the parties could settle their differences. After diligent efforts, the parties could not reconcile their differences. The Court finds as a fact that the marriage between the parties has broken down beyond reconciliation. The parties resolved the ancillary reliefs pursuant to the terms of agreement dated 19th September 2023 as follows;

- 1) That the Respondent pays an amount of GHS 1,500.00 to the Petitioner to off-set part of the filing and transportation fare incurred.**
- 2) That the Respondent is to pay the amount stated above in two (2) instalments; GHS 750 on or before the 30th September 2023 and the remaining on or before 31st October 2023.**

Conclusion

Having come to the conclusion that the marriage between the parties has broken down beyond reconciliation, the marriage celebrated between the parties on 1st May 2021 is hereby dissolved. The terms of agreement in respect of the ancillary reliefs entered into by the parties at the CCADR on the 19th September 2023 are hereby adopted as consent judgment of the parties.

(SGD)

ADELINE OWUSUA ASANTE (MS.)
(MAGISTRATE)

Parties

Petitioner Present

Respondent Present