

IN THE DISTRICT COURT HELD AT AKIM ODA ON 30TH NOVEMBER 2023 BEFORE HER
WORSHIP ADELINE OWUSUA ASANTE (MS.) SITTING AS THE DISTRICT MAGISTRATE

A4/44/22

SAMPSON OWUSU MENSAH
OF GHANA POLICE SERVICE
AKIM ODA

-

PETITIONER

VRS

NAOMI ATTAFAUAH -
AKIM ODA

RESPONDENT

JUDGMENT

Introduction

This suit was commenced by Petition filed by the Petitioner on 28th September 2022 against the Respondent for the following reliefs;

(a) An order dissolving the Ordinance marriage between the Parties.

(b) An order for Respondent to return all the petitioner's items in her custody stated in paragraph 19 of the petition.

The parties herein married customarily on 30th November 2013, at Akim Oda and the marriage was subsequently solemnized at the District Court, Akim Oda on 2nd December 2013. There are no issues of the marriage at the time of filing the petition. The Petitioner however has a child from his previous relationship. The Parties cohabited at No. 9 Police Barracks, Akim Oda after the celebration of the marriage. The Petitioner is a policeman with the Ghana Police Service whilst the Respondent is unemployed.

It is the Petitioner's case that the Parties lived peacefully until the year 2017 when a sister of the Respondent became ill and one, Ibrahim of Agona Swedru promised to assist her but unfortunately died. After this occurrence the said Ibrahim and Respondent became close to

the extent that Ibrahim dictates to the Respondent to perform some rituals in their matrimonial home to his displeasure.

Petitioner stated that Respondent is rude, arrogant and impatient and further alleged the Respondent has been threatening his life and on one occasion assaulted him whilst in his police uniform. On 27th March 2022, the Respondent left the matrimonial home with the excuse that someone was coming from overseas to marry her. Respondent has insinuated on several occasions that he is impotent although he has one child from a previous relationship. The Respondent has uttered ugly words to him and does not respect him as a husband. He averred that what broke the camel's back was when Respondent told him that his life was in her hands and would kill him if he dared her. Respondent without his consent, knowledge or approval took away some of his belongings which comprise a set of kitchen knife, DSTV Decoder, NEA Sauce (3) and one (1) set of Ice Chest.

Petitioner avers he cannot be reasonably expected to live with the Respondent due to her behaviour as same has caused him much anxiety and stress.

In Answer to the Petition filed on the 20th December 2022, Respondent stated that she normally uses red and white candles to pray for Petitioner as she is spiritually gifted and this was not a ritual direction from the said Ibrahim whom the Petitioner has not seen before. She also alleged that it is the Petitioner who is fond of resorting to spiritualists. She averred that Petitioner has behaved unreasonably and also cannot be expected to live together with Petitioner as his behaviour has caused her anxiety, stress and embarrassment. She listed the following conduct exhibited by Petitioner as unreasonable;

- (a) Petitioner removed her belongings and left them in the rains and it is as a result that she went to stay with her mother.
- (b) Petitioner threatened Respondent and her mother with a pistol that if he were not a policeman, he would have shot Respondent and her mother to death.

Respondent averred that although she is not against the dissolution of the ordinance marriage the Petitioner should compensate her with an amount of GHS 50,000.00 for being with Petitioner for nine (9) years so as to enable her set up her business. That since Petitioner has failed to maintain her for the past 8 months, Petitioner should be ordered to pay her maintenance arrears of GHS 2,400.00. She stated that upon Petitioner's request she gave an amount of GHS 1,000.00 to the Petitioner being money she saved at the SG Bank and Petitioner promised to pay back.

Issues

The main issue for determination by this court is ***whether or not the marriage between the Petitioner and the Respondent has broken down beyond reconciliation***

The burden of Proof

The petitioner bears the burden of proof of producing evidence on a preponderance of probability that the marriage has broken down beyond reconciliation. See **sections 11 (1) and 11(4) of the Evidence Act, 1975 (NRCD 323); section 1(2) of the Matrimonial Causes Act, 1971 (Act 367).**

The law requires the petitioner to plead and prove to the satisfaction of the court , one or more of the six marital offences set out in **Section 2(1)(a)-(f) of Act 367.**

The Petitioner testified by way of Witness Statement filed on 16th March 2023. His evidence was virtually a repetition of his petition for divorce. He alluded further under cross examination that clearly the marriage between him and Respondent has broken down beyond reconciliation.

The Respondent filed her Witness Statement on the 2nd October 2023 and relied on same as his evidence in chief. Her evidence was also essentially a repetition of the averments in her Answer to the Petition and therefore it be needless for this Court to reproduce same.

Petitioner opted not to cross examine her in respect of the evidence led. Where a party fails to challenge the testimony of a witness on material aspects of a case through cross examination, it amounts to an admission of the veracity of that testimony. See ***Ghana Ports and Harbour Authority & Anor vs. Nova Complex Ltd [2007-2008] GLR 806***

The Court finds as a fact the Parties have both behaved in an unreasonable manner and one cannot be expected to live in a marriage premised on threats of death and as such the marriage between the parties has broken down beyond reconciliation and it would not be in their best interest to resume consortium.

Respondent during the hearing indicated that she wished to abandon the reliefs she had sought the court for. The Respondent is therefore not entitled to the reliefs she sought from the Petitioner and same is hereby struck out as withdrawn.

Conclusion

It is this court's opinion that the marriage between the parties has broken down beyond reconciliation and hereby orders that;

- (1) The marriage celebrated between the parties on 2nd December 2013 at the District Court, Akim Oda is hereby dissolved.***
- (2) Respondent is to return all the petitioner's items in her custody.***

(SGD)

**ADELINE OWUSUA ASANTE (MS.)
(MAGISTRATE)**