

IN THE HIGH COURT OF JUSTICE, ACCRA HELD ON 16TH OCTOBER 2023,
BEFORE HER LADYSHIP JUSTICE ELFREDA AMY DANKYI (MRS), HIGH
COURT JUDGE, SITTING IN DIVORCE AND MATRIMONIAL CAUSES
DIVISION THREE.

SUIT NO: DM/0257/2022

ABEL OHENE ACQUAYE

.... PETITIONER

VS.

LYNDA ACQUAYE

.... RESPONDENT

JUDGMENT:

This is a husband's Petition for dissolution of marriage. The Petitioner and Respondent who are Ghanaian citizens domiciled in Ghana, were married by custom on 23rd November, 2019 at Krobo in the Eastern Region and subsequently got married on 30th November, 2019 under the Marriages Ordinance (CAP 127) at the Church of Pentecost, Obuasi. After the said marriage the parties cohabited at Ashalley-Botwe Accra till the Respondent moved out of the matrimonial home in June, 2021. There is no issue of the marriage.

The Petitioner caused this Petition to issue on 21st February, 2022 on the ground that the marriage between the parties has broken down beyond reconciliation. He attributed the breakdown of the marriage to the unreasonable behavior of the Respondent and attempts at reconciliation has proved futile. The Respondent entered appearance on 16th March 2023 and filed an Answer and Cross-petition on 13th April, 2022. By her Answer, she denied the Petitioner's assertions and cross petitioned for the reliefs as stated below:

- a. An order for the dissolution of their ordinance, marriage on the 30th day of November 2019.

- b. An order that the Petitioner pays the Respondent a lump sum of Seventy Thousand (GHC 70,000.00) as financial provision.
- c. Cost of legal fees.
- d. Any other relief this Honourable Court deems just and equitable.

The Petitioner filed a Reply and Answer to Cross -petition on 2nd June, 2022.

The Respondent by her answer and cross-petition averred that the marriage between the parties has broken down, due to the unreasonable behaviour of the petitioner, and irreconcilable differences between the parties. The pleadings in the suit having closed, the suit was set down for trial. The parties filed Witness Statements, pursuant to the orders of the Court. The evidence of the parties was taken.

In view of the Terms of Settlement filed, the only issue for determination is whether or not, the marriage between the parties has broken down beyond reconciliation. By **Section 1 (2) of the Matrimonial Causes Act of 1971 (Act 367)**, the sole ground upon which an order for dissolution of a marriage can be made is that the marriage has broken down beyond reconciliation. Section 2 (1) of the said Act, however, requires that the Petitioner prove one or more of the facts set out in the said section as follows:

(1) 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 the adultery the Petitioner finds it intolerable to live with the Respondent;

(b) That the Respondent has behaved in a way that the Petitioner cannot reasonably be expected to live with the Respondent;

(c) That the Respondent has deserted the Petitioner for a continuous period of at least two years immediately preceding the presentation of the Petition;

(d) that the parties to the marriage have not lived as husband 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 the 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 despite the refusal;

(e) That the parties to the marriage have not lived as husband 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.”

Being a Matrimonial Cause, the Court is duty bound, regardless of the Terms of Settlement filed and in accordance with sections 2 (2) and 2 (3) of the Matrimonial Causes Act, 1971 (Act 367), to inquire into the marriage of the parties, by hearing their testimony, for a determination, as to whether or not, the marriage celebrated between the parties, has broken down beyond reconciliation.

From the evidence adduced before the Court by the Petitioner, there is no dispute that the parties had differences. Petitioner attributed the breakdown of the marriage to the unreasonable behavior of the Respondent and attempts at reconciliation has proved futile. Petitioner testified by his witness statement amongst others that the Respondent has committed adultery with his best man, the parties are incompatible and cannot agree on matters resulting in constant arguments and misunderstandings between them. Furthermore parties have not lived together as man and wife for a year, and Respondent has refused to perform her marital duties including cooking and taking care of the home. In addition, respondent has blocked petitioner's number on her phone preventing access to her.

The evidence of respondent is that sometime after the marriage she and petitioner started having marital issues and communication between them started breaking down.

Petitioner refused to have any marital discussion with her in relation to finances, goals and direction as a couple. Issues bothering on intimacy and the possibility of having children were taboos for him to discuss. Petitioner is autocratic and refuses to have discussions with respondent but expects Respondent to accept these arbitrary decisions which also affects her as a wife. Petitioner does not provide money to purchase food items and supplies and expects respondent to do so.

It is the testimony of the Respondent that Petitioner always invites his friends to their one bedroom apartment without notice to Respondent and expects Respondent to cook and play hostess to his friends which was a constant source of conflict between them. It is the further testimony of the Respondent that shortly after the marriage, Petitioner was disinterested in any form of sexual intimacy and would get abusive both physically and verbally any time she tried to initiate any form of intimacy. Petitioner sometimes gets abusive and assaults the Respondent. Respondent further testifies that Petitioner is a jealous and possessive person by nature and would often accuse Respondent of flirting with his own best man.

It is obvious that the parties had several disagreements and efforts by family and friends to assist the parties to reconcile their differences, proved futile. The parties have not lived as husband and wife for about a year as at the time the petition was filed.

Upon the evidence adduced before the Court therefore, as I find that the marriage celebrated between the parties has broken down beyond reconciliation, it is hereby decreed that, the marriage celebrated between the Petitioner and the Respondent on 30th November 2019 in Obuasi, under the Marriages Act (CAP 127) be and is hereby dissolved forthwith. The Marriage Certificate is cancelled.

On 14th October, 2022, the parties filed Terms of Settlement praying that same be adopted by this Court. This Court hereby adopts the said Terms of Settlement and enters Consent Judgment between the parties as follows:

- a. An order for the dissolution of their marriage.
- b. The Petitioner shall pay to the respondent alimony of Twenty Thousand Ghana Cedis (GH¢20,000.00).
- c. The Petitioner shall pay to the Respondent the sum of Ten Thousand Ghana Cedis (GH¢10,000.00) as refund of rent for the year July, 2022 to July, 2023.
- d. The Petitioner shall in addition pay the sum of Fifteen Thousand Ghana Cedis (GH¢15, 000.00) as rent for the respondent for a further year from July 2023 to July, 2024.
- e. The petitioner shall pay the sum of Ten Thousand Ghana Cedis (GH¢10,000.00) towards the respondent's legal fees.
- f. That by the execution of these Terms of Settlement, the parties shall forego all claims in their respective claims in their petition and cross-petition.
- g. The parties agree that the executed Terms of Settlement shall be entered as Consent Judgment by the High Court, Accra in this suit and shall be in full and final satisfaction of all and any claims.
- h. The entry of the Terms of Settlement herein as consent judgment between the parties and the performance thereof of these terms fully resolve all and any outstanding issues between the parties in relation to this suit and for the avoidance of doubt shall render a full and final determination of this suit.

(SGD.)

ELFREDA AMY DANKYI (MRS.)

JUSTICE OF THE HIGH COURT

COUNSEL:

AUGUSTINA BAFFOE HOLDING THE BRIEF OF CANDY FRIMPONG BAIDOO FOR
THE PETITIONER

COUNSEL FOR THE RESPONDENT ABSENT