

IN THE HIGH COURT OF JUSTICE, ACCRA HELD ON 13TH NOVEMBER 2023,
BEFORE HER LADYSHIP JUSTICE ELFREDA AMY DANKYI (MRS), HIGH
COURT JUDGE, SITTING IN DIVORCE AND MATRIMONIAL CAUSES
DIVISION THREE.

SUIT NO: DM/0150/2023

AKOSUA K. FORI-DWUMAH - PETITIONER

VS.

MARK FORI-DWUMAH - RESPONDENT

JUDGMENT:

This is a wife's petition for dissolution of the marriage celebrated between the parties on 6th January, 2018, at the Christ the King Catholic Church, Accra under the Marriages Act, 1884-1985 (CAP 127). After the marriage, the parties cohabited at East Airport, Accra.

There is no issue of the marriage. The parties are Ghanaians and are ordinarily resident in Ghana.

The Petitioner says that the marriage has broken down beyond reconciliation and attributes it to adultery and unreasonable behaviour on the part of the respondent. The Petitioner is praying for the dissolution of the marriage between petitioner and the respondent.

The said petition was duly served on the respondent. The respondent entered appearance to the Petition and filed an Answer and a Cross -petition on 9th February, 2023. The petitioner filed a Reply and an Answer to the cross- petition on 3rd March, 2023.

The pleadings in the suit having closed, the evidence of the parties was taken on 9th October, 2023.

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 proves 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 Respondent and attempts at reconciliation has proved futile. Respondent also attributed the breakdown to the misunderstandings between parties and the inability of parties to reconcile their differences.

By Section 2 (1) (f) of Act 367, where the parties have been unable to reconcile their differences after diligent effort, the Court may proceed to dissolve the marriage. As the parties have been unable to reconcile their differences, after diligent effort, I find that the marriage celebrated between them has broken down beyond reconciliation.

Upon the evidence adduced before the Court therefore, 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 6th January, 2018 at Accra, be and is hereby dissolved. The marriage certificate is cancelled forthwith.

On 19th July, 2023, 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. That the court shall make an order of dissolution of marriage contracted by the parties on 6th day of January, 2018
- b. That the Respondent shall pay the petitioner a lump sum of Five Hundred Thousand Ghana Cedis (GH¢500,000.00) in settlement of her claims for compensation and financial settlement. That the said payment shall be made in the following manner
 - i. Payment of GH¢100,000 by 1st July, 2023
 - ii. Payment of GH¢200,000 by 1st January, 2024
 - iii. Payment of GH¢100,000 by 1st July, 2024
 - iv. Payment of GH¢100,000 by 1st January, 2025
- c. That all payments should be payable to the Petitioner and all cheques should be presented to Simon Okyere Esq. the substantive lawyer in this suit.
- d. Each party to bear their respective cost in these proceedings

- e. That this agreement is entered into by the Parties on their own free will having had the opportunity to read the content hereof and obtained clarification from their respective undersigned solicitors
- f. That the terms thereof shall accordingly be entered by the Honourable Court as consent judgment.

(SGD.)

ELFREDA AMY DANKYI (MRS)

JUSTICE OF THE HIGH COURT

COUNSEL

AKWELE BAFLOE HOLDING THE BRIEF OF SIMON OKYERE FOR THE
PETITIONER

CHARLES ZWENNES WITH ALFRED ENYAAH FOR THE RESPONDENT