

**IN THE HIGH COURT OF JUSTICE, ACCRA HELD ON 30<sup>TH</sup> OCTOBER 2023,  
BEFORE HER LADYSHIP JUSTICE ELFREDA AMY DANKYI (MRS), HIGH COURT  
JUDGE, SITTING IN DIVORCE AND MATRIMONIAL CAUSES DIVISION THREE.**

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SUIT NO: DM/0075/2023

**BRIGITTE NAA KOOKO EDUFUL                      .... PETITIONER**

**VS.**

**ERNEST KOJO EDUFUL                      .... RESPONDENT**

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**JUDGMENT:**

This is a wife's Petitioner for dissolution of marriage. The Petitioner and Respondent who are Ghanaian citizens domiciled in Ghana, got married on 5<sup>th</sup> August, 2016 under the Marriage Ordinance (Cap 127) at the Ledzokuku Krower Municipal Assembly Teshie Nungua, Accra. After the said marriage the parties cohabited at Spintex and later at Adjei Kojo. There are no issues of the marriage.

The Petitioner caused this Petitioner to issue on 22<sup>nd</sup> November, 2022 on the ground that the marriage between the parties has broken down beyond reconciliation. She attributed the breakdown of the marriage to the unreasonable behaviour of the Respondent and attempts at reconciliation has proved futile.

The Respondent entered appearance on 16<sup>th</sup> December 2022, and filed an Answer and Cross Petitioner on 12<sup>th</sup> January, 2023, by his Answer, he denies most of the averments made in the petition.

The pleadings in the suit having closed, the suit was set down for trial. The parties filed Witness Statements, pursuant to the order of the Court. Case Management Conference was conducted on 20<sup>th</sup> July, 2023. The evidence of the parties was taken thereafter.

In view of the Terms of Settlement filed on 25<sup>th</sup> April, 2023, 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 he 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 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 not dispute that the parties had differences. Petitioner attributed the breakdown of the marriage to the unreasonable behaviour of the Respondent and attempts at reconciliation has proved futile. Petitioner testified by her witness statement amongst other that Respondent subjects Petitioner to verbal and physical abuse on countless occasions. Respondent locked Petitioner up during one of the aggressive episode and tried to prevent Petitioner from going to work. Respondent is extremely controlling and wants to know control every little thing the Petitioner does, the Respondent monitors and tracks everything the Petitioner does. She further testified that Respondent on some occasions call her friends colleagues at work and family and warns them not to get in touch with the, Petitioner because he does not sanction the friendship much to the embarrassment of Petitioner. Petitioner has endured humiliation from Respondent’s family due to childlessness.

The evidence of Respondent is that the Petitioner is quick tempered and gets angry at the least instance and she will throw stones at Respondent or use stick to hit his rib and head. On several occasions Respondent stumbled across several compromising messages between the Petitioner and one of her colleagues. His further testimony is that at some point in the marriage the Petitioner did not love him anymore and Petitioner stopped cooking, never spoke to him for two weeks at a time. Sometimes the Petitioner will leave the house unceremoniously, without informing respondent, comes home late and never holds conversation with him. Attempts mutual friends and clergy to reconcile them have proved futile due to Petitioner's recalcitrance. It is obvious that the parties had several disagreements and efforts by family and pastors to assist the parties to reconcile their difference, proved futile.

By Section 2(1) (f) of Act 367, supra, where the parties have been unable to reconcile their differences the Court may proceed to dissolve the marriage. As the parties have been unable to reconcile their difference, 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 Respondent on 5<sup>th</sup> August, 2016 at Teshie-Nungua, Accra under the Marriages Act (CAP 127) be and is hereby dissolved forthwith. The Marriage Certificate is cancelled.

On 28<sup>th</sup> April, 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 Judgment between the parties as follows:

1. That the marriage between the parties contracted on 5<sup>th</sup> August, 2016 at the Ledzokuku Krowor Municipal Assembly, Teshie Nungua, Accra be dissolved.

2. That each party bears his/her own cost including legal fees.
3. Any other Order or Orders as the Honourable Court may deem fit

**(SGD.)**

**ELFREDA AMY DANKYI (MRS)**

**JUSTICE OF THE HIGH COURT**

**COUNSEL**

JACQUELINE ASANTE MENSAH FOR THE PETITIONER

SHADRACK TETTEH HOLDING THE BRIEFOF DAVID ASUMDA