

IN THE HIGH COURT OF JUSTICE, ACCRA HELD ON 22ND NOVEMBER 2023,
BEFORE HER LADYSHIP JUSTICE ELFREDA AMY DANKYI (MRS), HIGH COURT
JUDGE, SITTING IN DIVORCE AND MATRIMONIAL CAUSES DIVISION THREE.

SUIT NO: DM/0339/2023

GIFTSON KWEKU ADZIGBO - PETITIONER

VS.

BEATRICE QUANSIMAA ADZIGBO - RESPONDENT

JUDGMENT:

This is a husband's petition for dissolution of marriage. The Petitioner and Respondent are both Ghanaian citizens and domiciled in Ghana. The parties got married on 9th June, 2007 under the Marriage Ordinance (Cap 127) at the Restoration Church at Lapaz, Accra. After the said marriage the parties cohabited at Accra. There are three issues of the marriage namely Pearl Adubea Adzigbo aged 14 years, Nora Drowaa Adzigbo aged 9 years and Kayla Robertson Adzigbo aged 5 years as at the time the Petition was filed.

The Petitioner caused this Petition to issue on 19th May, 2023, 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 6th June, 2023 and filed an Answer and Cross-petition on 23rd June, 2023.

The pleadings in the suit having closed, the evidence of the parties was taken on 24th 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 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. The evidence of Petitioner amongst others is that the Respondent has committed adultery, the conduct of the Respondent demonstrates that she does not have the interest of the Petitioner and the children at heart, the conduct of the Respondent by going to fetish priests has caused the Petitioner excessive psychological trauma and anxiety which has affected Petitioner's output in many areas of his life. According to the Petitioner the conduct of the Respondent has caused Petitioner to frequently seek counselling and therapy.

Respondent on the other hand stated in her Answer amongst others that she contacted the fetish priest for medical help and not to cause harm to the Petitioner. Respondent denies most of the averments in the petition and says that it was at a family meeting that the issue of divorce came up which caused her much mental stress. According to her efforts by family and friends to reconcile them has proved futile.

It is obvious that the parties had differences and all attempts by family and friends to reconcile them has proved futile.

By Section 2 (1) (f) of Act 367, where the parties are unable to reconcile their differences the marriage can be dissolved.

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 9th June, 2007 in Accra, under the Marriages Act (CAP 127) be and is hereby dissolved forthwith. The Marriage Certificate is cancelled.

On 14th September, 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:

1. The Petitioner shall have custody of the three children of the marriage; Pearl Adubea Adzigbo 14 years, Nora Drowaa Adzigbo 9 years and Keyla Robertson Adzigbo 5 years with reasonable access to the Respondent.
2. Upon the execution of these Terms of Settlement by the parties the Petitioner shall hand over to the Respondent the Canadian Visa issued at Accra on 27th February, 2023 with an expiry date of 5th May 2029, which the Petitioner out of goodwill voluntarily procured for the Respondent at his own expense.
3. The Respondent has no claim for alimony.

4. Either Party may seek recourse to this Honourable Court for the determination of any dispute arising out of this settlement.
5. That these Terms of Settlement shall be binding on the Parties.

6. The Parties agree that these Terms of Settlement shall be adopted by this Honourable Court as Consent Judgment between them.

(SGD.)

**ELFREDA AMY DANKYI (MRS)
JUSTICE OF THE HIGH COURT.**

COUNSEL:

**CECILIA NAA OFORLEY OTOO HOLDING BRIEF FOR SELALI WOANYA FOR THE
PETITIONER**

KWEKU KWAKYE MAMPHEY FOR THE RESPONDENT