

IN THE HIGH COURT OF JUSTICE, ACCRA HELD ON 20<sup>TH</sup> NOVEMBER 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/0223/2018

LT. COL. GEORGE BOAMAH - PETITIONER

VS.

EWURAMA MENSIMAA MENSAH - RESPONDENT

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**JUDGMENT:**

This is a husband's petition for dissolution of marriage. The Petitioner and Respondent are both Ghanaian citizens and resident in Ghana. The parties got married on 5<sup>th</sup> January, 2006 under the Marriage Ordinance (Cap 127) at the Methodist Presbyterian Church at the 37 Military Hospital, Accra. After the said marriage the parties cohabite at the Military Officers Flats, Switchback Road, Accra. There is no issue of the marriage.

The Petitioner caused the Petition to issue on 25<sup>th</sup> June, 2018, 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 18<sup>th</sup> July, 2018 and filed an Answer and Cross-Petition on 26<sup>th</sup> September, 2018.

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 on 17<sup>th</sup> 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*

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 is that the parties have not lived as husband and wife for a period of 6 years preceding the filing of the petition. Petitioner testified amongst others that parties have been unable to resolve their differences. According to Petitioner the parties are unable to take decisions together nor have a conversation since the least misunderstanding between them results in quarrels which are characterized by verbal and sometimes physical abuses. The Respondent's general upkeep, comportment and quarrelsome behavior embarrasses the Petitioner and has on several occasions created problems with Petitioner's superiors at his workplace. His further testimony is that in 2012, he had to leave home for deployment to Ivory Coast on official duties. Upon Petitioner's return to Ghana to perform some official duties he learnt that Respondent had left the matrimonial home in the care of her mother and packed out. Petitioner subsequently learnt that the Respondent had taken up an appointment in Burkina Faso and relocated to that country without the prior knowledge of Petitioner.

Respondent on the other hand testified amongst others about the unreasonable behavior of the Petitioner that the Petitioner uses offensive language against the Respondent and verbally attacks her personality, assaulting the Respondent constantly, threatening to kill Respondent, locking the apartment doors whilst meting out severe beatings to the Respondent, travelling out of the matrimonial home several times without telling

Respondent and locking her out of matrimonial home since 2012. Efforts by family and friends to reconcile them has proved futile.

It is obvious that the parties have not lived as husband and wife for six years preceding this petition and all attempts by family and friends to reconcile them has proved futile.

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

Upon the evidence adduced before the Court therefore, I find that parties have lived apart for six years preceding the Petition and 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 5<sup>th</sup> January, 2006 in Accra, under the Marriages Act (CAP 127) be and is hereby dissolved forthwith. The Marriage Certificate is cancelled.

On 31<sup>st</sup> August, 2023, after a successful mediation, the parties filed Terms of Settlement praying that same be adopted by this Court. This Court hereby adopts the said Terms and Settlement and enters Consent Judgment between the parties as follows:

1. Both parties have agreed the court should dissolve the marriage because it has broken down beyond reconciliation.
2. Petitioner has agreed to compensate Respondent with an amount of GH¢90,000.00.
3. The Petitioner has agreed to pay GH¢30,000.00 as an initial deposit on or before 30<sup>th</sup> September, 2023 and the balance of GH¢60,000.00 will be paid by installments over a period of five months effective 30<sup>th</sup> October, 2023 to 29<sup>th</sup> February, 2024.

4. The money will be paid into Respondent's Ghana Commercial Bank account number 120112000449 with the name Ewurama Menssimah Mensah at Kaneshie Industrial Area Branch.
5. Default of payment will attract current bank interest.
6. Respondent has agreed to collect her belongings from Petitioner's house on or before 31<sup>st</sup> December, 2023.

**(SGD.)**

**ELFREDA AMY DANKYI (MRS)**

JUSTICE OF THE HIGH COURT

**COUNSEL**

MANESSAH OSEI-BOAKYE WITH EUNICE SERWA OTENG DAPAH HOLDING THE  
BRIEF OF DANIEL MENSAH GORMAN FOR THE PETITIONER

COUNSEL FOR RESPONDENT ABSENT