

IN THE HIGH COURT OF JUSTICE, ACCRA HELD ON 1ST NOVEMBER, 2023,
BEFORE HER LADYSHIP JUSTICE ELFREDA AMY DANKYI (MRS), HIGH
COURT JUDGE, SITTING IN DIVORCE AND MATRIMONIAL CAUSES
DIVISION THREE.

SUIT NO: DM/308/2019

SELEGBE KWAMW MANCHIE - PETITIONER

VS.

EMMANUELA EDEM AGBEMAVA - RESPONDENT

JUDGMENT:

This is a husband's Petition for dissolution of marriage. The Petitioner and Respondent who are Ghanaian citizens domiciled in Ghana, got married on 19th April, 2008 under the Marriage Ordinance (CAP 127), at the Evangelical Presbyterian Church, Mamprobi, Accra. After the said marriage the parties cohabited at Ashalley-Botwe and Ashongman Estate, Accra. There are three issues of the marriage namely; Sedem Adzoa Manchie aged ten (10) years, Fafali Adzoe Manchie aged four (4) years and Dormenyo Kwaku Manchie aged six (6) years as at the time that the petition was filed.

The Petitioner caused this Petition to issue on 19th June, 2019 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 21st October, 2019 and filed an Answer and Cross-petition on 20th November, 2019. By her Answer, she denied the Petitioner's assertions and cross petitioned for the reliefs as stated below:

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 Petitioner filed a Reply and Answer to Cross-Petition on 16th December, 2019. 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 respondent has

on several occasions put up a quarrelsome behavior in public. The Respondent engages in both vile verbal and physical abuse. The respondent on one occasion physically attacked the

Petitioner in the presence of her auntie. On another occasion the respondent hit the head of the Petitioner with a metallic fan causing the Petitioner to seek medical attention. The Respondent does not keep the matrimonial home in good condition and neglects the upkeep of the children. His further testimony is that when the Respondent gets into her tantrums she destroys properties such as the windscreen and tail light of the Petitioner, louver blades in the matrimonial home and smashing the car into the gate.

The evidence of Respondent is that the marital problems started immediately after the birth of their third child when the Petitioner started verbally and physically abusing the Respondent. After the birth of their third child the respondent developed post partum depression and the petitioner started avoiding her and emotionally abusing her. Her further testimony is that after the birth of the third child the Petitioner drove her and the baby out of the house. During one of their arguments the Petitioner poured hot water on respondent and she attached exhibit E which are pictures of the wounds she sustained. She further testified by her witness statement that when they got a maid the petitioner told the maid in Respondent's presence that Respondent is mentally unstable. According to Respondent after this incident she moved from the bedroom into the children's bedroom. On one occasion the Petitioner got some thugs to come into the matrimonial home and threw all of Respondent's belongings unto the street.

It is obvious that the parties had several disagreements and efforts by family to assist the parties to reconcile their differences, proved futile.

By Section 2 (1) (f) of Act 367, supra, where the parties have been unable to reconcile their differences after diligent the Court may proceed to dissolve the marriage.

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 19th April, 2008 in Accra, under the Marriages Act (CAP 127) be and is hereby dissolved forthwith. The Marriage Certificate is cancelled.

On 10th 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:

- i. The marriage celebrated between the parties on the 19th of April 2008 be dissolved.
- ii. The Petitioner pay the sum of Fifteen Thousand Cedis (GH¢15,000.00) to be Respondent by way of financial provision, in full and final settlement of all monetary claims to the Respondent upon execution of the terms of settlement.
- iii. That the Petitioner agrees to convey to the Respondent a fully furnished two-bedroom house situate as Oyibi, Accra immediately upon the adoption of the terms by the court.
- iv. The Petitioner agrees to maintain the issues of the marriage and pay for their school fees, hospital fees and feeding
- v. The petitioner agrees to give to the Respondent a Kia Sorento Vehicle for her personal use.

- vi. The Petitioner shall immediately return to the Respondent the title documents of the Toyota Echo vehicle which is already in the names of the Respondent to the Respondent upon the adoption of the terms of the Court.
- vii. That the Petitioner shall have custody of the three children of the marriage with reasonable access to the respondent. Particularly, the Respondent shall have undenied access to the children, every weekend and half of the duration of all vacations and holidays.
- viii. That the Petitioner undertakes to grant the Respondent who is the mother of the children of the marriage undenied access to the children of the marriage
- ix. That the Respondent shall have access to the children of the marriage anytime they fall ill and are with the Petitioner.
- x. That the Respondent shall on notice to the Petitioner be able to visit the children of the marriage when they are ill and are with the Petitioner
- xi. This document embodies the entire understanding of the parties in respect of the matters contained or referred to herein and there are no promises, terms, conditions or obligations, oral or written express or implied other than those contained in this documents.
- xii. That the terms of settlement contained herein shall constitute the full and final settlement of all the reliefs endorsed in the Petition and cross petition save relief (a) of the petitioner and (i) of the cross petition of the Respondent.
- xiii. This agreement shall be entered by the court as consent judgment.

(SGD.)

ELFREDA AMY DANKYI (MRS)

JUSTICE OF THE HIGH COURT.

COUNSEL:

OBENG SAKYI WITH SELASSIE ATTACHIE FOR THE PETITIONER PRESENT

COUNSEL FOR THE RESPONDENT ABSENT