IN THE SUPERIOR COURT OF JUDICATURE, IN THE HIGH COURT OF JUSTICE, DIVORCE & MATRIMONIAL COURT "2" ACCRA HELD ON 10th NOVEMBER, 2023 BEFORE HER LADYSHIP, JUSTICE MAVIS ANDOH (MRS).

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SUIT NO: DM/0407/2021

CORAM: MAVIS AKUA ANDOH (MRS.)

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BETWEEN

ENOCK ANANE	**===**	**PETITIONER**
V		
ELLEN GYAAMAH OSEI	**===**	**RESPONDENT**

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PARTIES: ***PETITIONER ABSENT.***

RESPONDENT PRESENT.

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JUDGMENT

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INTRODUCTION

In his bid to have the marriage between the parties dissolved, the Petitioner initially filed a petition for the dissolution of the marriage between him and the Respondent through his lawful attorney, Grace Anane on 31st May 2021. However, before the commencement of trial the Petitioner, in an application before this Court, informed the Court that, he would testify himself and so was granted leave to revoke the Power of Attorney granted to the said Grace Anane and to amend the title of the suit accordingly.

BRIEF FACTS OF THE DIVORCE PETITION

The facts of the case gleaned from the petition are that, the parties got married under the Marriage Ordinance on the 7th of February 2016, at the Christ Apostolic Church International in Kumasi in the Ashanti Region of the Republic of Ghana. After the celebration of the marriage, the parties cohabited briefly in Kumasi and Accra before the Petitioner left Ghana for the United Kingdom (UK) where he is ordinarily resident and he made two unsuccessful attempts to let the Respondent join him. Both parties are citizens of Ghana. There is one issue of the marriage, who was aged 5 years at the time of the petition.

The Petitioner is a Health care assistant in the UK and according to the Petitioner, before their marriage, the Respondent used to sell non-alcoholic beverages even though the Respondent says that, prior to their marriage she was supplying groceries, bags of rice and water amongst other products to her customers.

In the petition for divorce, the Petitioner averred that, the parties have had several unresolved matrimonial issues and that had culminated in the breakdown of the marriage beyond reconciliation and so the marriage should be dissolved on the ground that, the Respondent had behaved unreasonably towards him such that, the Petitioner cannot reasonably be expected to remain married to the Respondent and sought the following reliefs;

a) That the marriage between the parties celebrated on the 7th of February 2016 at the Christ Apostolic Church be dissolved.
b) That custody of the child be granted to the Respondent with unlimited access to the issue of the marriage by the Petitioner.
c) That Petitioner be allowed to name their common child who is only known as Kwame.

d) That the Petitioner shall bear all the educational and maintenance expenses of the minor child.
e) That each party will bear its own cost.

The Petitioner particularized the unreasonable behavior of the Respondent amongst which were the facts that, there was an outburst from the Respondent on the 17th of April 2016 which happened to be her birthday because, the Petitioner did not post her on his display picture (dp) on whatsapp and failure on the part of the Petitioner to do so, degenerated into a lot of problems for the parties. The crux of the Petitioner's case can be found in paragraphs 13, 14 and 15 of the Petition.

The Petition was served on the Respondent on 25th May, 2021and a conditional appearance was entered on the Respondent's behalf by her Lawyer on the 31st of May 2021. Subsequently, the Respondent filed an Answer and Cross Petition on 17th August 2021 after leave was granted her by the Court differently constituted.

The Respondent, in her Answer, denied some material particulars contained in the Petition, and also made some specific claims regarding the breakdown of the marriage.

The Respondent also crossed- petitioned and prayed for the following reliefs;

1. Dissolution of the marriage between the Petitioner and the Respondent.
2. An order granting custody of the issue of the marriage, Ethan Sam Osei to the Respondent with reasonable access to the Petitioner.
3. Alimony in the sum of Two Hundred Thousand Ghana Cedis (GH¢200, 000.00).
4. Maintenance of the issue to the marriage in the sum of Two Thousand Ghana Cedis (GH¢2, 000.00) per month.
5. Educational and related expenses of the issues to the marriage from the time of his enrollment in school.

6. Medical and related expenses of the issue to the marriage from the time of his delivery.
7. Cost including Solicitors cost.
8. Any further order or orders as this honourable Court may deem fit.

The Petitioner filed a Reply and Answer to the Respondent's Answer and cross- petition on the 7th of September 2021and the suit was set down for trial. The Parties were ordered to file their respective witness statements and pretrial checklists. Case management conference was duly held in respect of this matter and thereafter, the matter was fixed for trial.

At the case management conference, the following issues were set down to be considered for trial.

ISSUES

1. Whether the marriage has indeed broken down beyond reconciliation.
2. Whether or not the Petitioner should be given the opportunity to name the child.
3. Whether the Respondent is entitled to a financial settlement.
4. Whether or not the issue of the marriage is entitled to be given GH¢2, 000.00 a month.
5. Whether the educational and related expenses of the issue of the marriage should be borne by the Petitioner.
6. Whether the medical and related expenses of the issue of the marriage should be borne by the Petitioner.
7. Issue of Solicitor's cost.
8. Whether the Respondent is entitled to her cross petition.

ISSUE 1

Whether or not the marriage has indeed broken down beyond reconciliation.

Section 1 (2) of the Matrimonial Causes Act, (1971) Act 367, provides that, "the sole ground for granting a petition for divorce shall be that, the marriage has broken down beyond reconciliation".

Section 2(1) of the said Act, also stipulates that,

"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 such 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 man 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 of divorce under the 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.

f) That the parties to the marriage have after diligent efforts been unable to reconcile their differences.

Section 2 (2) of Act 367 supra, provides that; "on a petition for divorce the Court shall inquire, so far as is reasonable, into the acts alleged by the Petitioner and the Respondent".

Section 2 (3) of Act 367 supra, also stipulates that; "although the court finds the existence of one or more of the facts specified in subsection 1, the Court shall not grant a petition for divorce unless it is satisfied, on all the evidence, that the marriage has broken down beyond reconciliation".

Burden Of Proof

It is trite knowledge that, he who asserts must prove. In the case of ***Okudzeto Ablakwa (N0.2) V Attorney General & Obetseibi –Lamptey (N0.2) 2 SCGLR 845***, the Supreme Court in dealing with the burden of proof in civil trials, held at page 867 as follows; "He who asserts, assumes the onus of proof. The effect of that principle is the same as what has been codified in the Evidence Act, 1975 (NRCD 323) Section 17 (a) .What this rule literally means is that, if a person goes to Court to make an allegation, the onus is on him to lead evidence to prove that allegation, unless the allegation is admitted. Stated more explicitly, a party cannot win a case in Court if the case is based on an allegation which he fails to prove or establish".

In the case of ***Ababio V Akwasi [1994-1995] 2 GBR 774***, the Court held that; "The general position of the law is that, it is the duty of the Plaintiff to prove what he alleges, in other words, it is the party who raises in his pleadings, an issue essential to the success of his case, who assumes the burden of proving it". This has been given effect to by relevant Sections of the Evidence Act 1975 (NRCD 323).

Section 10 (1) provides;

"For the purposes of this Act, the burden of persuasion means the obligation of a party to establish a requisite degree of belief concerning a fact in the mind of the tribunal of fact or Court".

Section 11(1) of the Evidence Act NRCD 323 provides that the burden of producing evidence means the obligation of a party to introduce sufficient evidence to avoid a ruling on the issue against that party.

It is also trite learning that, evidence is what the Court uses in resolving the issues of facts arising from a case and a pleading of averment in proof of which no evidence is offered, virtually serves no useful purpose in a case.

It is the Petitioner who has come to Court, and has made some averments for the dissolution of the marriage who has to prove the breakdown of the marriage. Per the law, the onus is on the Petitioner to adduce evidence on the preponderance of probabilities to demonstrate to the Court that the marriage has indeed broken down as claimed by him in his Petition due to the Respondent's unreasonable behavior amongst other claims.

At the trial, the Petitioner who is resident in the United Kingdom gave evidence via video conferencing. He testified on oath and relied on his witness statement filed on the 4th of March 2022 as well as his exhibits numbered A-B respectively, to give his evidence.

Part of the grounds the Petitioner relied on to establish the breakdown of the marriage, was the fact that, the Respondent has behaved in such a way that, the Petitioner cannot reasonably be expected to continue with the marriage. The Petitioner testified that, the parties have had several unresolved matrimonial issues and that, all attempts at reconciliation by themselves, family and friends had proven futile.

It is the case of the Petitioner that, on the Respondent's birthday a few months after their marriage, there was an outburst from the Respondent that the Petitioner did not post her on his display picture on her birthday to signify his love for her and this and some financial challenges they had, led to the degeneration of every issue into anger and the many problems they had.

The Petitioner testified that, the Respondent had prevented him from having contact with their child and had refused him every opportunity for them to have discussions concerning the child. The Petitioner testified further that, they had severed all conjugal relationships and had not had sexual intercourse for the past five years and have not lived as man and wife for a continuous period of about five years. In the Petitioner's words, the marriage between the parties can no longer be rescued and prayed for his reliefs to be granted.

The Petitioner has testified that the Respondent has behaved in such a way that he cannot be reasonably expected to continue in this marriage with the Respondent and has given his reasons.

Section 2 (1) of Act 367 supra deals with the second fact of unreasonable behavior which may be used to prove that a marriage has broken down. This section makes it clear that, a Petitioner must first establish unreasonable conduct on the Respondent's part and secondly, also show that as a result of the bad conduct, the Petitioner cannot reasonably be expected to live with the Respondent.

Unreasonable behavior has been defined by English law as "conduct that gives rise to injury, to life, limb, or health or conduct that gives rise to a reasonable apprehension of such danger." ***See Gollins v Gollins [1964] AC 644.***

In establishing that the marriage has broken down beyond reconciliation on facts of unreasonable conduct or behavior of the Respondent, the Petitioner must establish that the Respondent has behaved in such a way that the Petitioner cannot reasonably be expected to live with him. The test to be applied is, whether the Respondent's behavior has been such that the Petitioner can no longer be reasonably expected to live with her, as her conduct has given rise to injury to his health, life, limb or reasonable apprehension of such danger.

In the case of ***Knudsen vs Knudsen [1976] 1 GLR 204*** the Court held that;

"The behavior of a party which will lead to this conclusion would range over a wide variety of acts. It may consist of one act if it is of sufficient gravity, or of a persistent course of conduct or of a series of acts of differing kinds, none of which by itself may justify a conclusion that the person seeking the divorce cannot reasonably be expected to live with the spouse, but the cumulative effect of all taken together would do so".

See also the case of ***Mensah v Mensah [1972] 2 GLR @ page 198***, where the Court held that; "in determining whether a husband has behaved in such a way as to make it unreasonable to expect a wife to live with him, the Court must consider all circumstances constituting such behavior including the history of the marriage. It is always a question of fact. The conduct complained of must be grave and weighty and mere trivialities will not suffice, for Act 367 is not a Casanova's charter, the test is objective".

Thus, the behavior or conduct complained of must be such as to cause danger to life, limb or bodily or mental health or such as to give a reasonable apprehension of such danger. It needs not be specifically one grievous conduct. However, where a chain of different conduct is put together and the result is the infliction of pain or cruelty on the part of the other that will suffice as unreasonable behavior.

The Petitioner, apart from his averments of his failure to post the Respondent on his "dp" on whatsapp on her birthday and other financial challenges they faced, and the Respondent preventing him from having contact with their child, did not provide any evidence to show to the Court, to prove how the Respondent's behavior caused danger to his life or limb for the Court to infer that, these acts of the Respondent amounted to a behavior resulting in apprehension of danger and grievous conduct. Counsel for the Petitioner had submitted in his written address that, the conduct of the Respondent through spoken words, such as "I don't love you",…..her insulting, disrespectful behavior towards the Petitioner and his family and the Respondent blocking the Petitioner from contacting her and other behaviors amounted to emotional trauma, the question I pose is, are these behaviors such that they put the Petitioner in an apprehension of danger and grievous harm? My answer is no.

The Court would need enough evidence to establish the unreasonable behavior exhibited by the Respondent towards the Petitioner to necessitate the dissolution of the marriage, as these behavior by the Respondent would be considered as normal wear and tear incidents within married life and this will not amount to a behavior that the Petitioner cannot reasonably be expected to live with.

As to what the Respondent did to make the Petitioner believe that the Respondent's behavior was unreasonable warranting a dissolution of the marriage, it is the view of the Court that they are not so grievous and weighty within the test defined in the above cited cases, at best they can be classified as ordinary wear and tear of a normal married life and what is intriguing considering the circumstances of the case is that, the parties only lived together as man and wife for a brief period of about 2 months. Yet they were faced with challenges in the marriage.

From the evidence adduced on these facts to establish the unreasonable behavior of the Respondent, the Court is unable to make a definite finding on how these acts asserted by the Petitioner and perpetuated by the Respondent would amount to unreasonable behavior.

The Respondent also cross- petitioned for the dissolution of the marriage. So per the law, the onus was also on her to lead evidence to demonstrate to the Court why the marriage had broken down, meriting its dissolution. The Respondent, on her part testified in person and relied on her witness statement filed by her on the 12th of January 2022 as well as her exhibits numbered "1-3" as her evidence in chief.

She testified on oath that, after their marriage she discovered that the Petitioner had a 9 month old child with another woman in addition to a four year old child that she was only aware of and that, even before their marriage, the Petitioner was engaged to another woman.

The Respondent, however, did not provide any evidence of her assertions on the Petitioner being engaged to another woman before their marriage, neither did she provide any evidence about the birth of the 9 month old child and the celebration of a purported birthday of the said 9 month old child as well as the other child of the Petitioner, for the Court to make a determination as to the truth or otherwise of her assertions aside the mere averments which she repeated in her evidence.

The Respondent failed to discharge the onus placed on her to prove that the marriage had broken down as a result of the fact that the Petitioner had other children before their marriage and was also engaged to another woman before marrying her and hid it from her, and she only got to know after the marriage. She did not support her assertions with any documentary evidence such as photographs of the said engagement to the other

woman before marrying her, or of the said other children of the Petitioner and did not also call any witnesses to prove her claim.

In the case of ***Majolagbe V Larbi & Ors [1959] GLR page 190 @ page 192,*** it was held that; ***"Proof in law is the establishment of facts by proper legal means. Where a party makes an averment capable of proof in some positive way, e.g. by producing documents, description of things, reference to other facts, instances, or circumstances, and his averment is denied, he does not prove it by merely going into the witness box and repeating that averment on oath, or having it repeated on oath by his witnesses. He proves it by producing other evidence of facts and circumstances, from which the court can be satisfied that what he avers is true".***

However, from the evidence placed before this Court, it is deduced that the parties have not lived together for a period of about 5 years prior to the presentation of the petition and according to the Petitioner, the parties have not had any sexual intercourse within this period. In the opinion of this Court, the fact that the parties who are a married couple have not lived together for about 5 years shows that, not staying together for that period and also not having had any intimacy as well, the Court is satisfied that, this is enough justification for the dissolution of the marriage as from the evidence, it does not look like the Parties are ready to patch things up to continue with the marriage.

As stated earlier, per Section 2 (1) (e) of Act 367 supra, one of the grounds that the Petitioner must prove to show that the marriage has broken down beyond reconciliation is that, the parties to the marriage have not lived together as man and wife for a continuous period of at least five years immediately preceding the presentation of this petition.

The fact that the parties were not living together created an avenue for mistrust and doubts and uncertainties to creep into the marriage.

This Court finds as a fact that the parties have indeed not lived together for at least five years now by virtue of the fact that the Petitioner lives in the UK and the Respondent lives in Ghana. This brings them under the condition stipulated under Section 2 (e) of Act 367. I am satisfied that the parties by their conduct of not staying together for this long period in their marriage put a strain on the marriage leading to the breakdown of the marriage.

From the evidence adduced, this Court holds the view that, the marriage between the parties is also plagued with many problems. Indeed, the marriage was short- lived for the parties to have nurtured the marriage to withstand the storms of married life.

Accordingly, all matters considered and on the totality of the evidence adduced by this Court, I am satisfied that the marriage celebrated between the parties has indeed broken down beyond reconciliation necessitating its dissolution. The Court will therefore be justified to dissolve the marriage on the basis of this fact.

CONCLUSION

Accordingly, I decree that the marriage celebrated between the parties at the Christ Apostolic Church International on the 7th of May 2016 with Certificate Number NC.049/01/16 per licence number NCRRM111/788 ***Be and is hereby Dissolved*** and the said marriage Certificate is cancelled.

A copy of the divorce Certificate should be served on the Registrar of marriages at the place where the marriage took place by the parties for the amendment of the records thereof.

Having dissolved the marriage, I shall now turn my attention to the other reliefs being claimed by the parties that is to say, whether or not the Petitioner is entitled to name the child, custody and maintenance of the child and whether the Respondent is entitled to some financial settlement/alimony, whether or not the Petitioner is to be ordered to bear all educational, medical and other related expenses of the child.

The Petitioner in his relief (c) is asking that he should be allowed to name the child of the marriage. I deem it necessary to deal with the Petitioner's relief (c) first before tackling the other reliefs being sought by both parties.

Per Section 1 of the Children's Act, 1998, Act 560, a child is defined as; "a person below the age of 18 years". The issue of the marriage should be aged 7 years old now and by the definition given above, he is a child. Under the welfare principle defined in Section 2 of the Children's Act, the best interest of the child shall be paramount in any matter concerning a child. The best interest of the child shall be the primary consideration by any Court, Person, Institution and other body in any matter concerned with a child.

Section 4 of Act 560 specifically provides that, "no person shall deprive a child of the right from birth to a name, the right to acquire a nationality, or the right as far as possible to know his natural parents and extended family subject to the provisions of part iv, sub part ii of this Act".

From the evidence before this Court, the Respondent admitted in her paragraph 6 of her witness statement that, "the Petitioner and I have one child, who is called Ethan Sam Osei" and continued in paragraph 7 that," after the birth of our child". It is therefore not in doubt that the Petitioner is the father of the child.

The Petitioner has also testified that, the Respondent did not make it possible for the parties to have meaningful discussions about the child and he has not been able to name the child. The Petitioner has testified that, the only name he knows the child goes by, is Kwame.

Generally, the position of the law is that, every child has the right from birth to a name and under the Ghanaian custom every child is to be named by the father. In this instant case, this has not been done as at now, as the father who is the Petitioner has not been able to name the child which is the proper thing to do. This Court is guided by the best interest and welfare principles to ensure that the child of the marriage has to be named and has the right to know his natural parents and extended family.

To this end, if the Respondent herself has admitted that she and the Petitioner have a child together, it stands to reason that being the father of the child, the Petitioner has the natural duty to name the child even though Counsel for the Respondent submitted in his written address that the mother has equal rights to name a child like the father where the marriage is celebrated under the ordinance as in this case and it would be an affront under Section 4 of Act 560 to allow the father to rename the child when he had taken steps to deprive the child the right from birth, to a name. I disagree with Counsel for the Respondent on this line of thinking.

Having satisfied myself that the Respondent herself admits that the parties have a child together who was conceived in the period that the parties were living as a married couple, the presumption is that the Petitioner is the father of the child who is only known by the Petitioner as Kwame, even though from the evidence led, he is known as Ethan Sam Osei named so by the Respondent without any input from the father.

Per the law as stated above, it is reiterated that, no person shall deprive a child of the right from birth to a name. The Petitioner as a father has a right to name the child, more so, when the Respondent is calling upon him to take up fatherly roles by maintaining the child and also taking up the role of paying the child's school fees and to be made to bear all other expenses in connection with the upkeep of the child.

In the best interest and welfare of the child, I have no hesitation in ordering that, the Petitioner takes steps to name the child. The naming of the child shall be done within 3 months from the date of Judgment, subject to the fulfilment of all customs to be required by the family of the Respondent. The Respondent is also ordered not to make it impossible or put impediments in the way of the Petitioner to name their child.

I shall now turn my attention to the issue of custody. The Petitioner, in his relief "b" is asking that, custody of the child should be granted to the Respondent and he be granted unlimited access to the only issue of the marriage. The Respondent has also asked that she should be granted custody of the same child with reasonable access to the Petitioner.

Section 22 of Act 367 supra provides that, "in proceedings under this Act, the Court shall inquire whether there are any children of the household and the Court either on its own initiative or on application by a party make an order concerning a child of the household which it thinks reasonable and for the benefit of the child. The order may include the award of custody of the child to any person.

Generally, the rule is that, children of tender ages ought to be looked after by their mothers, unless circumstances point to the contrary. The child involved in this matter herein is aged about 7 years old now. The child is in his nascent stages of life and whatever decisions are taken in respect of him, should have his best interest and welfare in mind.

In an application for custody, the paramount consideration of the Court is the best interest and welfare of the child. Therefore in awarding custody, the Court would do so in the best interest and welfare of the child. See the cases of ***Attu V Attu [1984-86] GLRD @144, and Opoku –Owusu V Opoku Owusu [1973] 2 GLR @349.***

Per the record before this Court, the Respondent is already living with the issue of the marriage in Ghana while the Petitioner lives in the United Kingdom, in the respectful view of the Court, to ensure continuity and stability in the child's care and education, it would be in the best interest of the child, to grant custody to the Respondent whom the child has lived with all this while.

As said earlier, the Respondent has been living with the child since birth and she is likely to be the only parent the child has known since his birth as there is no evidence that he has ever lived with the Petitioner and therefore may not know the Petitioner as his father. The Petitioner has not had the chance and opportunity to bond with the child as a father and son ought to bond especially in his formative years by virtue of the fact that the Petitioner has not been involved in the child's life.

In the best interest of the child who has lived with the Respondent all his life, for continuity in his care and education, I have no hesitation in granting custody of the child to the Respondent with reasonable access to the Petitioner anytime he is in Ghana. The Court cannot grant the unlimited access the Petitioner is asking for.

The child should continue living with the Respondent during the school term and the Petitioner should have reasonable access to him anytime he is in the Country. Access to the child means visitation either to where the Petitioner resides in the UK if the Petitioner can afford to have the child travel to the UK, so that arrangements would have to be made for the child to visit the Petitioner or the Petitioner getting to spend time with the child anytime he is on a visit to Ghana. The Parties should agree and arrange such visits.

In addition, the Petitioner shall have access to the child through virtual means, such as telephone and video calls every day between the times that the child is home from school and during weekends, in the evenings for about 20 minutes each day between 5pm – 8 pm.

The Respondent, having custody of the child does not mean that, the Petitioner cannot be involved in decisions to be made concerning the child. The Petitioner should be directly involved in decisions to be made in respect of the child.

I am not oblivious of the fact that, the Petitioner left Ghana when the child had not been born and so most probably the Petitioner and the child may not have bonded that much.

To this end, It is also advised that the Petitioner warms his way back into the life of the child, considering the fact that they have not stayed together for the better part of the child's growing up years and the child may not warm up to him Immediately.

Again, the Respondent as part of her reliefs, is asking that, the Petitioner be made to pay all educational and medical as well as related expenses incurred on the child since delivery. From the evidence adduced before this Court, the Petitioner testified that, the Respondent rebuffed all efforts he made to maintain the child. He furnished the Court with exhibit "A" series being receipts of various money transactions sent purportedly to the Respondent through money gram to signify attempts made by the Petitioner to get involved in the child's life by satisfying his financial obligation.

The Respondent has asked that the Petitioner reimburse her for all expenses incurred by her in the child's medical, educational and maintenance. I am not oblivious of the fact that, the Respondent has been with the child all these while and per her evidence she has taken care of the child alone even though she purportedly rebuffed attempts by the Petitioner to be financially involved in taking care of the child.

Now, if the Respondent is asking that she be reimbursed for all expenses incurred by her, the Respondent is expected to furnish the Court with evidence of the total expenses incurred on the child in his education, medical and all other expenses she is talking about to assist the Court make a determination of what she is claiming . The onus is on her to prove her monetary claim either by way of documentary evidence through receipts or other documentary proofs for the period that she is claiming to be reimbursed, but this she failed to do. The Respondent only furnished the Court with receipts of payments made in the years December 2021, which is an amount of GH¢ 8,790.00, September 2021, an amount of GH¢8,790.00 and January 2021an amount of GH¢7,273.00 totaling GH¢24, 853.00.

From the evidence, the Petitioner was not informed about all these expenses for his input or involvement for him to fulfil his financial obligations. In respect of the child's education, there was no evidence led to show to the Court that, the parties agreed or were ad idem as to the kind of school the child should attend. Neither was there any evidence led that the Petitioner was presented with the bill for school fees but he refused to pay. In the view of the Court, it would be unfair to ask that the Petitioner should be ordered to foot the educational expenses incurred by the Respondent when he had no input in the choice of school for the child nor any bills for fees presented to him.

However, the Petitioner has himself said that, he will bear all the educational and maintenance expenses of the minor child. Since the Petitioner has said that, he would pay the educational expenses, the Respondent is to furnish him with the total expenses incurred by her so the Petitioner can do the needful.

Going forward, after the Petitioner has properly named the child he shall take up the responsibility for the child's educational expenses as well as maintaining the child monthly as is required of a father.

Both parents will be responsible for the maintenance of the child as it a shared responsibility as parents. See Sections 6 and 41 of the Children's Act supra.

On the issue of alimony, I have considered the circumstances of the marriage, and in my respectful opinion, this marriage was short lived and the parties did not live together for that long to have contributed in acquiring properties together or to build a brighter happy ever after life. I am unable to accede to the prayer of the Respondent to order for the payment of alimony. However Counsel for the Petitioner intimated to Court that the Petitioner will be willing to pay an amount of GH¢20,000.00 to the Respondent as alimony.

Final orders

All matters considered and for the reasons given above, I order as follows,

1. That the marriage celebrated between the parties on 7th February 2016 at the Christ Apostolic Church in Kumasi is dissolved.
2. The Petitioner shall name their common child within 3 months from the date of this judgment, the Respondent shall not put impediments in the way of the Petitioner in naming the child and the Petitioner shall do this subject to him fulfilling all customary requirements.
3. The Respondent is granted custody of the only issue of the marriage with reasonable access to the Petitioner on terms as stated above.
4. Both parties shall be responsible for maintaining the child. The Petitioner after having named the child, will bear all the educational and medical expenses of the child.
5. The Petitioner shall maintain the child with an amount of GH¢2, 000.00. Monthly to be paid directly to the Respondent through her Momo account or other means acceptable to the parties.

6. The Petitioner shall pay an amount of GH¢20,000.00 as alimony to the Respondent.
7. Any other relief not granted is dismissed.

Cost follows event, but in this case I shall make no order as to cost. Each party shall bear their own legal costs in respect of this suit.

(SGD)

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MAVIS AKUA ANDOH (MRS)

JUSTICE OF THE HIGH COURT

DIVORCE & MATRIMONIAL COURT "2"

ACCRA.

COUNSEL:

EMMANUEL YIADOM BOAKYE FOR THE PETITIONER.

NANA OSEI TUTU FOR RESPONDENT.

AUTHORITIES

1. **SECTION 1 (2) OF THE MATRIMONIAL CAUSES ACT, (1971) ACT 367**
2. **SECTION 2(1), 2(2) AND 2 (3) OF THE MATRIMONIAL CAUSES ACT, (1971) ACT 367**
3. ***OKUDZETO ABLAKWA (N0.2) V ATTORNEY GENERAL & OBETSEIBI – LAMPTEY (N0.2) 2 SCGLR 845***
4. ***ABABIO V AKWASI [1994-1995] 2 GBR 774***
5. ***GOLLINS V GOLLINS [1964] AC 644***
6. ***KNUDSEN VS KNUDSEN [1976] 1 GLR 204***
7. ***MENSAH V MENSAH [1972] 2 GLR @ PAGE 198***
8. ***MAJOLAGBE V LARBI & ORS [1959] GLR PAGE 190 @ PAGE 192***

9. ***ATTU V ATTU [1984-86] GLRD @144, AND OPOKU –OWUSU V OPOKU OWUSU [1973] 2 GLR @349***