

**IN CIRCUIT COURT '1' HELD AT TAKORADI IN WESTERN REGION ON FRIDAY,
7TH OCTOBER, 2022 BEFORE HIS HONOUR MICHAEL KUDJO AMPADU, CIRCUIT
COURT JUDGE**

SUIT NO. C5: 15/2022

BETWEEN

IVY DORINDA ESSIEN

.....

PETITIONER

AND

FRANCIS ESSIEN

.....

RESPONDENT

JUDGEMENT

Petitioner: Present

Respondent represented by Theresa Essien

Counsel: Lawyer J. K. M. Asempa for Respondent – present

This petition was filed on the 28th Day of October, 2021 for a single relief of dissolution of the marriage between the Petitioner and the Respondent.

Petitioner stated that they were married under the Ordinance on the 9th Day of January, 1991 at the Office of the Registrar of Marriages, Sekondi Takoradi Metropolitan Assembly (STMA), Sekondi.

The Petitioner alleged she used to be a caterer but now unemployed and the Respondent, she alleged was formally a factory hand in Italy. That after the marriage they cohabited at Sekondi Asafo Street and at Tanokrom which was the matrimonial home. They have three (3) children; Palma Essien 38 years, Clarice Essien @ Mrs. Clarice Taylor 35 years and Ivy Essien 32 years. She stated that the marriage between them has broken down beyond reconciliation because the Respondent has behaved in such a way that has caused her grave suffering and hardship and the Petitioner cannot reasonably be expected to live with him. She stated the unreasonable behavior as follow; that sometime in 2009, the Respondent took a decision and resolved not to have anything marital, to do with the Petitioner. That the Respondent neglected his duty to pay the school fees of the three (3) children of the parties from crèche to completion of junior high but assisted in their tertiary education. They have not had sex since 2010 due to the promiscuous lifestyle of the Respondent. That Respondent has committed adultery and has had amorous relationships with numerous women and continue to do so. That attempts to salvage the marriage by their respective families have proved futile wherefore she prayed for the dissolution of the marriage between them.

In his reply, the Respondent denied most of the averments made by the Petitioner and stated that he is in full occupation of the matrimonial home at West Tanokrom, Takoradi and that it was rather the Petitioner who deserted the matrimonial home and the Respondent for several years now and now lives in Accra. Respondent also cross petitioned for a dissolution of their marriage.

When the parties were ordered to file their respective witness statements, the Petitioner filed but the Respondent failed to file since he said he was not opposed to the only relief of the petition which was for a dissolution of their marriage. The Petitioner who filed a witness statement ended up repeating the statement on her petition.

Section 2(1)(d) of the Matrimonial Causes Act, 1971, Act 367 provided that;

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;
 - 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 when the Court is satisfied that it has been so withheld, the Court may grant a petition for divorce under this paragraph despite the refusal.

The records and pleadings show that the parties have been living their separate ways for the past ten (10) years. The Petitioner, in her petition, stated at paragraph 8(xii) that “the parties last had sex somewhere in 2010 due to the promiscuous lifestyle of the Respondent. She also stated that she has been living in Accra for the past ten (10) years while the Respondent lives in Takoradi.

The Respondent also cross petitioned for dissolution of the marriage which cross petition is the only relief of the Petitioner also.

The Court therefore grants the sole relief of the petition and hereby dissolves the marriage which was celebrated between the parties on the 9th day of January, 1991 at the office of the Registrar of Marriages, Sekondi – Takoradi Metropolitan Assembly and orders a decree of divorce to that effect. Parties are to bear their respective costs in this litigation.

SGD

H/H MICHAEL KUDJO AMPADU

CIRCUIT COURT JUDGE