

**IN THE CIRCUIT COURT 3 OF GHANA HELD IN ACCRA ON WEDNESDAY
THE 28TH DAY OF DECEMBER, 2022 A. D. BEFORE HER HONOUR SUSANA
EDUFUL (MRS.) CIRCUIT COURT JUDGE**

SUIT NO. C5/362/2022

BRIDGET SEYRAM DZIHLORNU

PETITIONER

VS.

FRANK TETTEH

RESPONDENT

PETITIONER PRESENT AND RESPONDENT PRESENT

JUDGMENT

The parties to this suit got married under the Marriages Ordinance (CAP 127) on December 11, 2015 at the Assemblies of God – North Kaneshie, Accra. After the said marriage they resided at Spintex Accra and later to Teshie Tsui Bleo – Fertilizer. The Petitioner is a Military Medic and the Respondent is an Auditor. The parties have no child out of this marriage.

The Petitioner is seeking the dissolution of the ordinance marriage celebrated between the parties on grounds of unreasonable behaviour.

The Respondent in his response did not contest the petition, he prayed for grant of the divorce.

Section 1(2) of the Matrimonial Cause Act, 1971 (Act 367)

states that the sole ground for granting a petition for divorce shall be that the marriage has broken down beyond reconciliation. In addition, the court before which

such a petition is presented is required by law to determine as a fact that the marriage, has indeed broken down beyond reconciliation. In Support of this, **Section 2(3) of Act 367** provides as follows:

Notwithstanding that 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.

Section 2(1) of Act 367 stipulates the facts which a Petitioner or a cross-petitioner may rely on to prove that the marriage which is sought to be dissolved has broken down beyond reconciliation as follows;

- a) That the Respondent has committed adultery and by the reason of such adultery the Petitioner finds it intolerable to live with the Respondent; or
- b) That the Respondent has behaved in such a way that the Petitioner cannot reasonably be expected to live with the Respondent; or
- d) That the Respondent has deserted the Petitioner for a continuous period of at least two years immediately preceding the presentation of the petition; or
- e) 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 such 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 notwithstanding the refusal; or
- f) That the parties to the marriage have not lived as man and wife for a continuous period of at least five years immediately preceding the presentation of the petition;
- g) That the parties have after diligent effort been unable to reconcile their differences.

The parties subsequently filed terms of settlement with respect to the ancillary reliefs and prayed that the court adopts it as Consent Judgment.

Unreasonable behaviour is a conduct that gives rise to injury to life, limb or health or conduct that gives rise to a reasonable apprehension of such danger. In **Ansah v Ansah [1982-1983] GLR 1127-1133, Owusu-Addo J** held that:

“The test under the section, was whether the Petitioner could reasonably be expected to live with the Respondent in spite of the latter's behaviour. The test was therefore objective. But the answer obviously had to be related to the circumstances of the petition in question that had to be a question of fact in each case. It followed that the conduct complained of must be sufficiently serious - since mere trivialities would not suffice.”

In the case of **MENSAH V. MENSAH (1972) GLR** the Court held that ‘the conduct complained of must be sufficiently grave and weighty enough to justify the finding that the Petitioner cannot reasonably be expected to live with the Respondent. Mere trivialities will not suffice. The parties must be expected to put up with what has been described as reasonable wear and tear of married life”

In **Mensah v Mensah [Supra]**, Hayfron-Benjamin defined what amounts to unreasonable behaviour when he held as follows,

“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 behaviour 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.”

In considering whether one party has good cause for leaving the other much depends on whether the conduct of the other is of a grave or weighty character as to amount, in law, to cruelty: see **Gollins v. Gollins [1963] 2 All E.R. 966, H.L.** Conduct which is of a grave or weighty nature may sometimes fall short of cruelty if it lacks the element of injury to health as in **Edwards v. Edwards [1950] P. 8, C.A.**

ISSUE

The **main issue** for determination is;

Whether or not the marriage celebrated between the Petitioner, Bridget Seyram Dzihloranu and the Respondent Frank Tetteh on July 20, 2013, at the Assemblies of God Church, North Kaneshie Accra has broken down beyond reconciliation?

The Petitioner prayed that the marriage between the parties be dissolved on the basis of unreasonable behaviour on the part of the Respondent.

The Petitioner in her evidence to the court tendered Exhibit A the marriage certificate to prove that the parties are indeed a marriage couple under CAP 27 of the Marriages Ordinance. According to the Petitioner, the Respondent changed shortly after their marriage and had no desire to be intimate or show her any affection as is expected of married couple. The Petitioner tried the best of her ability to ensure she performed her duty as a wife but this did not yield any fruit but ultimately led to the fact that they were unable to reconcile their differences. The Respondent continually refused to have sex with the Petitioner and also on several occasions indicated that he was no longer interested in the marriage. Petitioner prayed that the court adopts the terms of settlement filed on September 1, 2022.

The Respondent also testified in court and stated that in 2018 the Petitioner vacated the matrimonial home to live with her sister at Samsam near Amasaman for a period of two weeks without prior notice to him. The Petitioner returned home after the family mediated the matter between them. In 2021 the Petitioner accompanied by her mother and twin brother came to the matrimonial home at around 11:00am to pack out all her belongings without giving the Respondent any notice. The Petitioner returned after six (6) months after another meeting with her family. Respondent further stated he had tried severally to make their marriage work but to no avail. The Respondent prayed that the marriage be dissolved and the terms of settlement filed on September 1, 2022.

Even though the parties have blamed the breakdown of the marriage on each other, the court finds that the parties have their differences in the marriage which they have been unable to resolve.

Even though it is the court's desire to maintain the sanctity of the marriage bond, some situations warrant the granting of divorce. In my opinion and on the strength of the evidence before this court, the Parties should not be compelled to stay in the relationship.

Court finds upon considering the evidence on record that the marriage has broken down beyond reconciliation and on grounds that the parties have been unable to reconcile their differences as provided under **section 2(1)(f) of the Matrimonial Causes Act, 1971 (Act 367)** - that the parties to the marriage have after diligent effort, been unable to reconcile their differences.

In the circumstances, I hold that the marriage between the parties have broken down beyond reconciliation. A decree of divorce is granted.

DECISION

1. The marriage celebrated between the Petitioner herein, Bridget Seyram Dzihloranu and the Respondent Frank Tetteh on December 11, 2015 at the Assemblies of God Church – North Kaneshie, Accra has broken down beyond reconciliation and same is dissolved. The Marriage Certificate No. NKAG/014/2015 is hereby cancelled. A Decree of Divorce is hereby granted.

The parties have filed terms of settlement on the ancillary reliefs on September 1, 2022. The court hereby adopted the terms of settlement filed as stated below as consent judgment;

2. That the Respondent pays that legal fees of GHC12,000.00 to the Petitioner being the cost of legal fees.

LEGAL REPRESENTATION

BEATICE ANNAN FIO FOR THE PETITIONER

H/H SUSANA EDUFUL (MRS.)

(CIRCUIT COURT JUDGE)