

IN THE CIRCUIT COURT HELD IN ACCRA ON 15<sup>TH</sup> JUNE, 2023 BEFORE HIS  
HONOUR SAMUEL BRIGHT ACQUAH, CIRCUIT COURT JUDGED

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SUIT NO. C5/209/2021

BEATRICE KESEWAA  
H/NO. UNNUMBERED  
AMANHIA-ADENTA  
ACCRA

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PETITIONER

VRS

PADMORE JOSHUA SEFA  
ACCRA

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RESPONDENT

PETITIONER – SELF REPRESENTATED  
COUNSEL FOR RESPONDENT – EDITH MENSAH – ESQ.

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**FINAL JUDGMENT**

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**PETITION**

- (1) The said marriage be dissolved
- (2) that the Respondent be ordered to provide accommodation and maintain the children
- (3) that the custody of the children be granted to the petitioner with reasonable access to the Respondent.
- (4) The Respondent be ordered to pay the cost of this petition

**CROSS-PETITION**

- (1) Dissolution of Ordinance Marriage celebrated between the parties as having broken down beyond reconciliation.

- (2) Custody of the issues be granted to the petitioner with reasonable access to the Respondent.
- (3) Petitioner should be ordered to pay the cost of this petition.

The court ordered both parties to file their respective witness statement and this order was complied with by both parties.

**WITNESS STATEMENT BEATRICE KESEWAA – PETITIONER HEREIN.**

That the marriage was celebrated on 5<sup>th</sup> July, 2007 at the Registrar General's Department, Accra and there are three (3) issues of the marriage.

It is the case of the petitioner that Respondent is not expected to live with him as man and wife. That Respondent beat up petitioner at the least provocation which had caused injury to petitioner's eye. That respondent has vacated the matrimonial home and only visits as and when he wishes. Respondent has also on number of times made attempt to kill the petitioner and the first son, Terry. Respondent insults the petitioner in the presence of the children and that Respondent has stopped maintaining the issues of the marriage.

That all attempts to reconcile their differences have fallen on rocks, hence this petition.

**WITNESS STATEMENT OF PADMORE JOSHUA SEFAH – RESPONDENT  
HEREIN**

That the marriage has broken down beyond reconciliation and that because of petitioner quarrelsome behavior, whenever we rent, they ejected us, even she quarreled with my church members, leading to the collapse of my church.

It is also the case of the Respondent that petitioner once told him he fell like killing the Respondent. Petitioner has blocked respondent line so Respondent has no access to the

issues of the marriage. I remit the issues with Gh¢600.00 every month till date. I also used to pay the issues school fees until the lockdown.

It is also the case of the respondent that several attempts to resolve their differences have failed, hence the cross-petition.

HAPPEE V HAPPEE (1971) IGLR 104

**“A cross petition like a counterclaim is in my view, to all intents and purposes, an action by the respondent against the petitioner. It is an independent and separate action ---the true mode of considering the claim and counterclaim is, that they are wholly independent suits which for convenient of procedure, are combined in one action”**

This means both parties can be referred as petitioner and respondent at the same time depending on whether the court is referring to the main petition or the cross-petition.

Section 1(2) of the Matrimonial Causes Act, 1971 (Act 367) – The sole ground for granting a petition for a divorce is that the marriage has broken down beyond reconciliation and section 2 of the same Act 367 gives the grounds for which the court can satisfy itself that the marriage has broken down beyond reconciliation.

**CHARLES AKPENE AMEKU V SAPHIRA KYEREWAA AGBENU (2015) 99 GMJ 202 – “The combined effect of sections 1&2 of the Matrimonial Causes Act 1971 (Act 367) is that for a court to dissolve the marriage, the court shall satisfy itself..... it has been proven on preponderance of probabilities that the marriage has broken down beyond reconciliation. That could be achieved after one or more of the grounds in section 2 of the Act has been proved”**

The main issue left for determination is whether or not the marriage has broken down beyond reconciliation.

This both parties stated categorically in their respective witness statement that, their marriage has broken down beyond reconciliation, hence they are in court to formalize the dissolution of their marriage.

Accusation and counter Accusation from both parties in the main petition and the counter petition leads to that part that yes indeed the marriage has broken down beyond reconciliation. Tension has risen to a fact that, each of the party can be expected to live with one another and the best option is for the court to confirm the dissolution of the marriage. Parties also stated that several attempts to reconcile their differences has fallen on rocks.

Section 2 (1) (b) and (f) testifying to that:

Section 2 (1) (b) – That the Respondent has behaved in such a way that the petitioner cannot reasonably be expected to live with the respondent, or

(f) that the parties to the marriage have, after diligent effort, been unable to reconcile their differences.

**GOLLINS V GOLLINS (1964) AC 644-** The principle is that, the bad conduct complained of must be grave and weighty and must make living together impossible.

It must also be serious and higher than the normal wear and tear of married life”

The tension between the parties is very serious to the extent that it is way above normal wear and tear of a normal married life.

**KOTEI V KOTEI (1974) 2 GLR 172 –** “ In order to succeed in a petition for a divorce, a petitioner has the burden in proving facts of the break down of the marriage. There must be in existence of at least one of the above mentioned conditions justifying the existence of a court’s discretion to dissolve the marriage.

**HALL V HALL (1962) 1 GLR 1246 – per DIPLOCK J** – First the conduct must be such that a reasonable spouse in the circumstances and environment of these spouses could not be expected to continue to endure”

There are clear signs on the walls that this very marriage has long broken down beyond reconciliation, hence the court orders for its dissolution. Marriage Certificate issued to the parties during the celebration of the marriage cancelled, Divorce Certificate issued to the parties, hence both parties are declared single and can go ahead and remarry.

Custody of the children did not become an issue since both parties agreed that it be granted to the petitioner but with a reasonable access to the Respondent.

The issues of access was raised by Respondent to the effect that he doesn't have access to the issues as well as even doesn't know the school the issues are attending. Petitioner is thereby ordered the open up to the Respondent, but the Respondent knows where the children are, Respondent should have real access to the issues of the marriage.

Both parties are income earners so the maintenance of the issues has become shared responsibility of both parties – **DONKOR V ANKRAA (2003-2005) 2 GLR 205**, and added to the fact that the respondent stated in his witness statement that he was remitting the three issues with GH¢600 a monthly till Covid 19, things are hard now so the court orders the Respondent to remit the petitioner with a monthly sum of Gh¢1000 which includes medical, education etc for the issues of the marriage.

For the rent for the issues of the marriage, petitioner stated and confirmed by the respondent that she has an apartment for herself, at where her mother stays, so with had economic situation in Ghana, added to the fact that Respondent's ministry has gone down, petitioner can make do with that apartment for the time being till things get better.

Each of the parties should bare his/her own legal cost.

No order as to cost.

**DECISION:**

Marriage dissolve.

**H/H. SAMUEL BRIGHT ACQUAH  
CIRCUIT COURT JUDGE**