

IN THE CIRCUIT COURT HELD IN ACCRA ON 10TH DAY OF MARCH, 2023
BEFORE HIS HONOUR SAMUEL BRIGHT ACQUAH, CIRCUIT COURT JUDGE

SUIT NO. C5/185/2022

CHARLES AMPONSAH
H/NO. 3 BREKUSO ROAD
ABUOM JUNCTION
KWABENYA, ACCRA

=====

PETITIONER

VS

ALICE DUAH
H/NO. GW-0026-7566
POKUASE, AFIAMAN

=====

RESPONDENT

PARTIES WERE SELF REPRESENTED.

FINAL JUDGEMENT

The only relief filed in this petition by the Petitioner is that; the marriage between them be dissolved.

The Respondent also requested these;

- a) To dissolve the marriage contracted between the Petitioner and the Respondent on the 20th day of September, 2017.
- b) That parties to bear their own costs.

Both parties were ordered by the Court to file their Witness Statement and they both complied with the order.

Parties especially the Petitioner insisted there is disagreement between the parties and they both agreed that the marriage be dissolved.

The Respondent also filed consent to the dissolution of the marriage which was adopted and worked.

The sole ground for granting a Petition for divorce shall be that the marriage has broken down beyond conciliation, ie section 1(2) of Matrimonial Causes Act, 1971 (Act 367).

Section 2 of the same Act 367 also stipulates that grounds which guards the Court to conclude that the marriage has broken down beyond reconciliation.

Section 2(1) (a) - That the respondent has committed adultery and by reason of such adultery, the Petitioner finds it intolerable to live with the Respondent.

CHARLES ANDREW AMEKU VS SAPHIRA KWATEMA AGBENU (2015) 99 GMT 202.

The combined effect of Section 1 and 2 of the Matrimonial Causes Act 1971 (Act 367) and that for Court to dissolve the marriage, the Court shall satisfy itself that it has been proven on preponderance of probabilities that the marriage has broken down beyond reconciliation. This could be achieved after one or more of the findings in Section 2 of the Act has been proven.

ASH VS ASH (1972) 1ALLER 582 & 585.

In the instance case, Petitioner is required to adduce sufficient evidence in proof of Section 2 of Act 367 to satisfy the Court to rule that the marriage between the parties has broken down beyond reconciliation.”

KOTEI VS KOTEI (1974) 2GLR 172 per SARKODIE J as he then was:

“In order to succeed in a Petition for a divorce, a Petitioner has the burden in proving the facts of the breakdown of the marriage. There must be in existence of at least one of the Conditions in Section 2 of Act 367 justifying the exercise of a Court’s discretion to dissolve the marriage.

Also see HALL VS HALL (1982) 1GLR 1248 CA

Sections 10,11,12,13,14 and the likes of the evidence Act, NRD 323, 1975 also puts the burden on the Petitioner to prove the case that the marriage has broken down

beyond reconciliation even though consent to the dissolution filed by respondent has been filed.

In their evidence in court, the state of misunderstanding stated in the witness statement of the parties were brought to same and it has something to do with section 2(1)(a) of Act 367, that the respondent committed an adultery, this allegation was first brought before the court by the respondent herself and also confirmed by the petitioner. This behavior of the respondent has hit the foundation of their marriage and even the families from both sides of the parties, all agreed to the divorce petition, petitioner finds it intolerable to live with the respondent as a man and wife.

The court is well satisfied per section 2(1) (a) of Act 367, dissolves the marriage between the parties, marriage certificate, Exhibit A cancelled and DIVORCE CERTIFICATE issued to the parties to signify the end of the road.

However in court, parties agreed that he will pay a monthly maintenance allowance of Gh¢3,200 and also buy all the necessities of the child, take care of his education and health as well and the court endorsed same as part of the reliefs.

DECISION:

MARRIAGE DISSOLVED.

H/H. SAMUEL BRIGHT ACQUAH
CIRCUIT COURT JUDGE