

IN THE CIRCUIT COURT HELD IN ACCRA ON 9TH JUNE, 2023 BEFORE HIS
HONOUR SAMUEL BRIGHT ACQUAH, CIRCUIT COURT JUDGE

SUIT NO. C5/248/2022

CATHERINE DARFOUR
DAWHENYA, ACCRA

=====

PETITIONER

VRS
MICHAEL ADJEI DARFOUR
LAPAZ, ACCRA

=====

RESPONDENT

LAWYER FOR PETITIONER – JOSEPHINE OWUSU SARPONG ESQ.

FINAL JUDGMENT

WHEREFORE Petitioner humbly prays this Honourable Court as follows:

- a) Dissolution of ordinance marriage celebrated between the parties.
- b) Custody of the issues should be granted to the petitioner with reasonable access to the Respondent.
- c) An order for the Respondent to maintain the issues herein with the sum of one hundred Ghana cedis (GH¢1000) subject to an upward review from the date of judgment.
- d) An order for the Respondent to pay part of the educational expenses and medical expenses of the issues as and when it falls due.
- e) An order for the Respondent to pay part of the rent on behalf of the issues.

This petition was served on the Respondent but he never appeared in court. Petitioner kept on appearing in court, Hearing Notices were served on the Respondent but they

yielded no positive results. The court saw the action of the respondent to be very frustrating, hence a chance was given to the petitioner to state her case.

WITNESS STATEMENT OF THE PETITIONER

The ordinance marriage between the parties was celebrated on 31/08/2012 at the International Central Gospel Church, Abbosey Okai, Accra. That both parties are teachers and the marriage was blessed with three issues, two boys and a girl.

According to the petitioner the marriage has broken down beyond reconciliation, and she went ahead to particularize unreasonable behaviours of the respondent, including but not limited to bad temper, inability to communicate, he is being irresponsible, failed to maintain the matrimonial home, emotional abuse, a chain smoker of weed etc

It is also the case of the petitioner that, all attempts at reconciling their differences have all fallen on rocks, hence the petition for a dissolution of the marriage.

The petitioner, when she was asked to mount the witness box and the court conducted some few cross examination, was able to prove her case that the marriage between them has broken down beyond reconciliation as per section 1 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.
- Hence the main issue is that, whether or not the marriage has broken down beyond reconciliation.

Section 2 of Act 367, The Matrimonial Causes Act also stipulates the grounds which if one or more of them are showing in any marriage, the court can stand on it that the marriage has broken down beyond reconciliation and therefore goes ahead to dissolve the marriage which partly states.

Section 2

- (b) that the Respondent has behaved in such a way that petitioner cannot reasonably be expected to live with the respondent; or
- (f) that the parties to the marriage after diligent effort, been unable for reconcile their difference.

He who assets must prove, petitioner when in the witness box was able to prove to the court section 2 (b) and (f), the court got convinced that the marriage has broken down beyond reconciliation.

CHARLES AKPENE AMEKU V SAPHIRA KYEREMA AGBENU(2015) 99 GMJ 202

– “The combined effect of sections 1 and 2 of the Matrimonial Causes Act 1971 (Act 367) is for a court to dissolve a marriage, the court shall satisfy itself that 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”

GOLLINS V GOLLINS (1964) AC 644 – “The principle is that, the bad conduct complained of must be grave and weighty and make a living together impossible. It must also be serious and higher than normal tear and wear of married life.

ASH V ASH (1972) I ALLER 582 & 586 – “In the instant case, petitioner is requested 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 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 breakdown of the marriage. There must be in existence of at least one of the

above mentioned conditions justifying the exercise of the court's discretion to dissolve the marriage.

The petitioner having satisfied the court that the marriage has broken down, beyond reconciliation, the court orders for the dissolution of the marriage, marriage certificate cancelled and in its place, Divorce Certificate issued to parties to determine the end of the ordinance marriage between the parties.

Petitioner, as a female teacher, and no opposition was filed by the Respondent in respect of granting a custody of the issues to the petitioner, the court was therefore satisfied that, petitioner can take good care of the issues, hence custody is given to the petitioner with reasonable access to the Respondent.

BRAUN V MALLET (1979) I GLR 81-95 – “The natural right of the mother of a young child to its custody ---- the affection of a mother for her child must be taken into consideration and poverty per se is no reason for depriving a mother of custody when her character had in no way been impeached”

AIKINS V AIKINS (1979) GLR 223- 233 – “The wishes of an unimpeachable parent should stand high”

Both parents are teachers, hence both should contribute in respect of maintenance of the three issues of the marriage and as same was prayed by the petitioner that the court should order the Respondent to contribute to the maintenance of the issues. One Thousand Ghana Cedis (GH¢1000) requested by the petitioner for her contribution for the welfare of the three issues of the marriage is reasonable, the court also confirms that the Respondent should contribute Gh¢1000 a month for the maintenance of the issues. This includes their medical, educational etc.

The court also orders the Respondent to pay half of the rent for the issues of the marriage.

DECISION:

MARRIAGE DISSOLVED.

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