

IN THE CIRCUIT COURT HELD IN ACCRA ON 3RD DAY OF MARCH, 2023
BEFORE HIS HONOUR, SAMUEL BRIGHT ACQUAH, CIRCUIT COURT
JUDGE

SUIT NO. C5/323/3033

GLADYS ESINAM DZANSI
H/NO. BLOCK 4,
TESHIE POLICE BARRACKS
TESHIE-ACCRA
VRS

==== PETITIONER

ANDREWS KITSI IV (aka JOSEPH MENSAH)
H/NO. C388/10
TESHIE-ACCRA

==== RESPONDENT

COUNSEL FOR RESPONDENT – G.H. QUIST ESQ.

FINAL JUDGMENT

The Petitioner in this matter is for the following reliefs;

- a) Annulment of the marriage contracted between the parties on the 18th day of May, 2006.
- b) The Parties to bear their own Costs.

On record respondent never appeared before the Court since the Petition was filed. The search conducted by the Petitioner in the case (27-7-22) showed that the Respondent has been served but never appeared before the Court, either did he respond to any of the Court processes. Petitioner kept appearing in Court alone with her counsel, even though Hearing Notices were served on him.

The Court ordered for the Parties to file their respective Witness Statements, this time too Respondent failed to comply with the orders of the Court. Petitioner was

later given the green light to adduce evidence to convince the Court to annul the said Marriage.

WITNESS STATEMENT OF THE PETITIONER, GLADYS ESINAM DZANSI.

That the Parties married under the Ordinance (CAP 127) on 18th May, 2006 at the District Magistrate Court, Nsawam in the Eastern Region of Ghana, after which the Couple co- habited at the Nsawam Police Barracks where the Petitioner was stationed and working as a Police Woman. That there was no issue in the marriage.

That one month after the marriage, Petitioner disclosed that Respondent didn't mention his actual name to her, and the Respondent's real name is **JOSEPH MENSAH and not ANDREWS KITSI**. When I got to know of it and confronted him (Respondent) he couldn't give any meaningful response.

Respondent also deceived me that he didn't have any Children, however, not long after the marriage, I got to know that Respondent had Children with another woman.

That with all these revelations Respondent was compelled to leave the matrimonial home in August 2006, and sometimes no sexual activity between the parties.

Currently, Respondent had deserted the matrimonial home and has since never visited the Petitioner.

That by the unfaithfulness of the Respondent, Petitioner cannot reasonably be expected to live with the Respondent as man and wife, hence the marriage has broken down beyond reconciliation, hence pray for the annulment of the marriage between the parties. Petitioner also said Respondent married to the woman he had children with and that marriage is still subsisting (Respondent) married her under the ordinance.

Even though Respondent didn't file any response to the petition, the burden is still on the Petitioner to prove to the Court that, the marriage between them be annulled. Per the Evidence Decree, NRCD 323 1975.

Section 10, 11, 12, 13 etc it is incumbent on the petitioner to prove her own case.

SARFO V DOMFEH (1977) IGLR 282 @ 295.

"The standard of proof in civil trial is by preponderance of probabilities.

IN RE PRESIDENTIAL ELECTION PETITION, AKUFFO ADDO, BAWUMIA & OBETSEBI LAMPTEY (THE AKUFFO ADDO CASE) (NO. 4) SCGLR (SPECIAL EDITION) 73, GBA DECREE JSC

As the case herein fight on the evidence placed before us, our task in keeping with a law as Settled line of authorities is to reach our decision on all the evidence on a scale of probabilities- See Section 10, 11, 13 and 14 of Evidence Act, NRCD 323 of 1975. That being a court case, the Petitioner bears the burden of providing evidence on a balance of probabilities.

Petitioner in her petition for annulment praying to the Court to declare that marriage a nullity, because their marriage is void.

A void marriage is one that will be regarded by every court in any case in which the existence of the marriage is in issue of NEVER have taken place and can be treated by both parties to it without the necessity of any decree annulling it.

The common law position of void marriages are;

1. when parties had attained the prohibited degree of relationship by or affinity.
2. when the parties are not biological male or female.
3. when at the time of the marriage either parties has already lawfully married.
4. when either party is under age that is 18yrs.

Section 74 of CAP 127- Marriage Ordinance of Ghana spells out the situations where marriage shall be void.

1. Where both parties knowingly and mentally acquiesce in its celebration in any place other than the office of a registrar of marriages or a licensed place of worship (except where authorized by special license).
2. When the parties celebrate the marriage under false.
3. Where the parties marry without the Registrar's Certificate of Notice in the marriage officer's Certificate of Notice or special license.
4. Where the marriage is solemnized by a person who is not a Registered Minister of some religious denomination or a Registrar of Marriages.

GENFI V GENFI I (1984)GLR 548 HC

The Petitioner has married to one Rose Amah under the Customary law in 1950. In 1959 he went through a marriage with the Respondent in Accra. The said marriage was a marriage under cap 127- Ordinance.

The Petitioner filed an annulment proceedings because as at the time of celebration of their marriage, there was a valid customary marriage in existence between Petitioner and Rose Amah.

The Court held that the marriage under CAP 127 was null and void.

The marriage in particular, Respondent was married under the Ordinance marriage and also the Respondent under a false name of ANDREWS KITSI instead of his real name of JOSEPH MENSAH which qualifies the Ordinance marriage to be declared void and therefore the court declared it void

DECISION:

MARRIAGE UNDER CAP 127 ANNULLED.

H/H. SAMUEL BRIGHT ACQUAH
CIRCUIT COURT JUDGE

