

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

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**SUIT NO. C5/29/2023**

IDA AHINEY AMARQUAYE  
SKDTD 17,17  
REGIMANUEL GRAY ESTATE  
COMMUNITY 15, TEMA

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PETITIONER

VRS

DOUGLAS ADOFO DENKYI  
SKDTD 17,17  
REGIMANUEL GRAY ESTATE  
COMMUNITY 15, TEMA

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RESPONDENT

COUNSEL FOR PETITIONER – NAA AMONOR ESQ  
COUNSEL FOR RESPONDENT – DAVID WILLIAM AMOAKO ESQ.

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**FINAL JUDGMENT**

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WHEREFORE the petitioner prays as follows: that

- (i) The ordinance marriage contracted between the parties on 1<sup>st</sup> March, 2013 be dissolved
- (ii) Full custody of all three (3) children be granted to the petitioner with reasonable access to be granted to respondent.
- (iii) An order for the respondent to continue praying for the maintenance and educational expenses of the three children until they complete their tertiary education.
- (iv) Any other order(s) the court may deem fit

This petition when served on the respondent also responded that he doesn't want to contest the reliefs of the petitioner.

The court ordered for witness statement to be filed which the parties complied.

The story of the petitioner is that, respondent is very abusive, demeaning to the petitioner as a woman, even to the extent of telling her that smells, he also engages in sexual adventures even with our house help. These issues they have tried on several occasions to resolve but to no avail. That respondent can even tell her, she is not a type of woman he had wanted to marry. The constant insinuating behaviours of the respondent has caused her much pain, anxiety, degrading as a human being and has caused parties to call it off because the marriage has broken down beyond reconciliation, hence prays for the marriage to be dissolved. Terms of Settlement adopted by the court and marked as Exhibit B was filed by the parties. Also filed is a marriage certificate as Exhibit A.

However in the witness statement of the respondent he admitted committing adultery in a marriage of three children, hence their marriage has broken down beyond reconciliation. That despite the broken down of communication between them, respondent also admitted he has behaved unreasonably towards the petitioner. Almost all the allegations petitioner made in her witness statement were admitted by the respondent even including the failed attempts at reconciling their differences.

Respondent also admitted the custody of the children be with petitioner and he would continue to maintain them.

The burden put on the petitioner per sections 10, 11, 12, 13 and 14 and the likes were discharged easily by the petitioner since the respondent almost admitted all of them.

The main and only issue for the petitioner to prove is that the marriage has broken down beyond reconciliation per section 1(2) of the Matrimonial Cause Act, 1979 (Act 367) – that being the sole ground for granting a portion for a divorce.

But for the court to be satisfied to rule in favour of the petitioner that the marriage has broken down beyond reconciliation, section 2 of the same Act 367 gives the instances which partly states:

Section 2(1) (a) that respondent has committed adultery and that by reason of such adulterous the finds it intolerable to live with the respondent; confirmed by respondent himself.

(b) That the respondent has behaved in such a way that the petitioner cannot reasonably be expected to live with the respondent – The abusive nature of the respondent on the petitioner to the extent of insulting the petitioner in the presence of others.

(d) that the parties to the marriage have not lived as man and wife for a continues period of at least two years immediately preceding the presentation of the petition.

This the petitioner said they have separated for over two years before the presentation of the marriage and this allegation the respondent didn't deny.

(f) That the parties to the marriage have, after diligent effort, been unable to reconcile their differences:-

Same was confirmed by both parties that several attempts to reconcile their differences fell on the rock.

**CHARLES AKPENE AMEKU V SAPHIRA KYEREMA AGBENU(2015) 99 GMJ 202 –**  
“The combine effect of sections 1 and 2 of the Matrimonial Cause Act 1971 (ACT 367) is that 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 of more of grounds in section 2 of the Act has been provided”

**KOTEI VRS KOTEI (1974) 2 GLR 172** – In order to succeed in a petition for a divorce, a petitioner has the burden of proving facts of the breakdown of the marriage.

There must be in existence of at least one of the grounds /conditions in section 2 of Act 367 justifying the exercise of a court's discretion to dissolve the marriage.

**Also see ASH V ASH (1972) 1 ALLER 582 and 586.**

**HALL V HALL (1962) 1 WLR 1246 – CA**

Petitioner made the stated allegations which were confirmed by the respondent in section 2(1) (a), (b), (d) & (f) of Act 367.

The court upon the proven condition stated above was satisfied that the marriage has broken down beyond reconciliation, hence declared the marriage dissolved, the marriage certificate, Exhibit A cancelled and Divorce Certificate issued to the parties.

The parties also filed Terms of Settlement in court which was adopted by the court and marked as Exhibit 2, which partly stated custody of the three children be given to the petitioner with reasonable access to the respondent; respondent paying a monthly allowance of Gh¢2000.00 until the children complete tertiary education and gainfully employed with yearly upward adjustment of 20%; medical expenses and provide clothing allowance for the children of the marriage.

DECISION:

MARRIAGE DISSOLVED

(SGD)

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