

IN THE CIRCUIT COURT HELD IN ACCRA ON 17TH DAY OF MARCH, 2023
BEFORE HIS HONOUR SAMUEL BRIGHT ACQUAH, CIRCUIT COURT JUDGE

SUIT NO. C5/102/2022

JOYCELYN AMRKIE AMENGOR
4TH STREET. CHIKATA ROAD, TESANO
HSE. NO. 64, ACCRA

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PETITIONER

VRS

KWAKU MENSAH NIMAKO
HSE. NO. 30 POLICE POST STREET
TESHIE NUNGUA ESTATE
GPS ADDRESS – GE-049-7701
ACCRA

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RESPONDENT

PARTIES WERE SELF REPRESENTED.

FINAL JUDGMENT

PETITION

- i. Dissolution of the Marriage
- ii. Custody of the child with reasonable access to the Respondent
- iii. Refund of Forty-five Thousand Ghana Cedis (GH¢45,000)
- iv. Another payment of Six Hundred Ghana cedis only per month as maintenance allowance.
- v. Payment of Hospital bills
- vi. Payment of school fees and necessities of life.

Respondent also prayed to the court to compel petitioner to return his Diamond Wedding ring to him

Parties were advised to file their respective witness statement and they both complied.

Petitioner claimed respondent filed a custody petition in another court and the court granted custody to the petitioner, because of their marriage is saddled with a lot of problems. Church and family members have tried to reconcile them but all to no avail.

It is the case of the petitioner that respondent has on numerous occasions informed her he was no more interested in the marriage and for the past three (3) years parties havethose years.

The petitioner claims respondent has other woman in his life and he spends all his time with that woman. That respondent is too quarrelsome, abusive, quick tempered, and doesn't maintain the issue of the marriage. Respondent shows a lot of disrespect towards petitioner and the which has brought a lot of tension between the marriage. The marriage has broken down beyond reconciliation.

That respondent borrowed forty-five thousand Ghana cedis (GH¢45,000) from the petitioner which he has refused to pay.

The unreasonable behavior of respondent makes it very difficult for petitioner to live with him as man and wife. He was ill-treatment to the petitioner has made petitioner to be in constant fear.

However respondent also states that he rather filed maintenance and access order at Family and Juvenile Court but not custody order. The respondent case is that it is rather the petitioner who has behaved unreasonably – very abusive, rains insults and curses on the respondent. Respondent also claims it is rather the petitioner who has another men in her life. Respondent claims he maintains the issue of the marriage with Three Hundred Ghana Cedis (Gh¢300.00) monthly. It is rather the petitioner who is disrespectful towards respondent and his family. respondent says it is rather the petitioner who owes him Seventy-Five Thousand Ghana Cedis (Gh¢75,000) which she promised to pay back but never did. That it was petitioner who left the Matrimonial

home because she fell in line with another man. Respondent also denied ever maltreating petitioner. That petitioner demands are outrageous, plaintiff pressure on me to rent five-bed room apartment which drained my coffers.

Petitioner don't cook for respondent, she always buys food from town when she closes from work, petitioner attitude forced me to employ a house help to do the house chores. Respondent denied he never borrowed from the respondent and also pays to the court to compel the petitioner to pay back the petitioner to pay back the Seventy-Five Thousand Ghana Cedis (Gh¢75,000.00) she owed him.

Respondent avers that he pay comfortably pay Gh300 a month as maintenance fees as ordered by the Family & Juvenile Court. Respondent also pays the Hospital bills, school fees and other necessities of life be shared among the parties.

The issue before the court for determination is whether or not the marriage between both the parties has broken down beyond reconciliation as per section 1(2) of the Matrimonial Causes act 1971 (Act 367) –

The sole ground for granting a petition for a divorce shall be that the marriage has broken down beyond reconciliation.

The parties blame each other for being abusive, disrespect, autocratic, seeing another person behind the marriage,tension between them which has led to the parties unexpected to live with each other, no communication, no sex, separated for over 2 years etc, or more to the point, they have tries as much as possible to reconcile their differences but to no avail.

Section 2 (a) of Act 367 also spells out the circumstances which will satisfy the court that the marriage has broken down beyond reconciliation which section 2 (1) (f) stated that:

Section 2(1) (f) – that parties to the marriage have, after diligent effort, been humbly to reconcile their differences.

According to the fact before the court, parties by their own reason conducts have plugged themselves in unnecessary tension and that has developed a serious cracks into their marriage, leaving to instant and both agreed to live separate lives for over 2 years and agreed also to dissolve their marriage.

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

The combined effect of section 122 of the Matrimonial Causes 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 or more of the grounds in section 2 of the Act has been proved.

GOLLINS V GOLLINS (1954) AC 644.

The principle is that, the bad conduct complained of must be grave and weighty and not make living together impossible. It must also be serious and higher than the normal hear and fear of married life.

HALL V HALL (1982) 1 WCR 1246 @ page 1256 – CA PER DIPLOCK J – “First the conduct must be such that a reasonable spouse in the continues and environment of these spouses could not be expected to continue to endure.

ASH V ASH (1972) 1 ALLER 582 & 560

KOTEI V KOTEI (1974) 2 GLR 172

Parties have by themselves created their own problems which they couldn't reconcile their differences, satisfying the court that the marriage between them has broken down beyond reconciliation, hence the marriage is thereby dissolved, marriage certificate issues between the parties signifying the ordinance bond as cancelled and in its place, divorce certificate is issued to the parties signifying each of them is single and can go ahead and re-marry.

The issue of custody to the petitioner was not contested by the respondent, hence custody granted to the petitioner with the reasonable access to the respondent, holidays, weekends, vacations etc.

Respondent in his submission complained of access to the child, hence he went to Family and Juvenile Court for Access. Petitioner is ordered to give reasonable access to the respondent without any hindrances.

In the petition, petitioner prayed to the court to compel respondent to pay maintenance allowance of six hundred Ghana cedis (Gh¢600,00) per month and also pay medical bills, school fees and all the necessities of the child of the marriage.

Both parties to the marriage are income earners added to the fact that maintenance of the issue has become a share responsibility, the court orders for payment of five hundred Ghana cedis (Gh¢500) as monthly maintenance allowance, school fees, medical bills as they fall due, the rest be taken care of by the petitioner

Petitioner claiming respondent owes him forty five thousand Ghana cedis (Gh45,000) which the respondent denied, then respondent also says that petitioner owes him seventy thousand Ghana cedis (Gh75,000) which petitioner also denied. The court orders no payment from each party to the other, parties could not prove enough the basis for other party to pay any money to the other. The receipt filed in this court to support petitioner claim of the Gh45,000 amount was not enough.

On record the Diamond Wedding ring was bought by the Respondent to the petitioner after the wedding day, that is, during the subsistence of the marriage, if the court understands it well it was a gift, if so then petitioner cant reclaim same. Respondent prayer that the court compels the petitioner to return the Diamond wedding ring is refused. Given on the same day of the marriage ceremony took place should be returned to the respondent, that was given for the engagement ring.

DECISION:

Marriage Dissolved.

H/H. SAMUEL BRIGHT ACQUAH

CIRCUIT COURT JUDGE