

IN THE CIRCUIT COURT HELD IN ACCRA ON 5<sup>TH</sup> DAY OF MAY, 2023 BEFORE  
HIS HONOUR SAMUEL BRIGHT ACQUAH, CIRCUIT COURT JUDGE.

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SUIT NO. C5/308/2022

MOSES KWAME DELASE BETSOE  
YAW POKU PREMPEH HOUSE  
MENSAH BAR  
DODOWA

==== PETITIONER

VRS

CYNTHIA ODONKOR  
TESHIE

==== RESPONDENT

COUNSEL FOR PETITIONER – NANA KWAME ATUMENE-WADD ESQ.  
COUNSEL FOR RESPONDENT – LINDA AMPONSAH ABOAH ESQ.

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**FINAL JUDGMENT**

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**PETITION**

- a. That the marriage contracted between the parties on the 14<sup>th</sup> day of May, 2016 and celebrated at the Accra Metropolitan Assembly Office, Accra be dissolved.
- b. That the custody of the two issues of the marriage be awarded to the Respondent with reasonable access to the petitioner.
- c. That a change in location of the issues of the marriage should be an agreement between parties.
- d. An order that the container be valued at a price and one of the parties buys the other out.
- e. An order that each party bears his/her own cost of litigation including solicitor's fees
- f. Any other order(s) as this Honourable Court shall deem fit and proper.

## CROSS PETITION

- i. The dissolution of ordinance Marriage contracted between the parties as having broken down beyond reconciliation.
- ii. An order awarding custody of the issues of the marriage to the Respondent with reasonable access to the petitioner.
- iii. An order for the petitioner to maintain the issues of the marriage with one thousand and five hundred Ghana cedis (GH¢1,500) monthly subject to an upwards review every year from the date of judgment.
- iv. An order for the petitioner to pay the issues medical bills, school fees and other educational expenses as and when they fall due.
- v. An order for the petitioner to provide a suitable accommodation for the Respondent in favour of the issues.
- vi. An order for equitable distribution of the following matrimonial properties which were acquired during the pendency of the marriage between the parties.
- vii. An uncompleted building at Abokobi, Accra
- viii. Toyota Corolla with Registration No. GR-479-20
- ix. Lump Sum financial settlement of Fifty Thousand Ghana Cedis (GH¢50,000)
- x. An order for the petitioner to return Respondent's commercial ice cream machine, commercial juice dispenser, a freezer and a refrigerator to Respondent.
- xi. Any order(s) as this Honourable Court may deem fit.

It is the case of the petitioner that Respondent has behaved in such a way that the petitioner cannot reasonably be expected to live with the Respondent, hence the marriage has broken down beyond reconciliation and petitioner gave particulars of Respondent's unreasonably behavior as:

- a) That petitioner funded catering services for respondent to run, but misused the funds on each occasion

- b) Respondent abused the petitioner without any provocation even including his friends and neighbours as well.
- c) Peddling false allegations that petitioner wanted to kill her.
- d) Respondent used the petitioner's name in contracting a loan without his consent and when confronted she picked up quarrel with him.
- e) She is found of creating panic and fear
- f) That respondent has refused to perform her duties as a wife by denying the petitioner of conjugal rights, leaving the house and returning to the house at odd hours.
- g) That respondent unilaterally sent the issues of the marriage to her mother, putting more financial stress on petitioner.

Also the petitioner claims respondent has on several occasions not been cooperative in settling their differences. That the only jointly acquired property in the marriage is the 20ft container at LEKMA,

That there is no communication between the parties.

That there are series of misunderstanding between the parties and parties have failed to reconcile their differences on numerous occasions.

Respondent however also tabulated unreasonable behaviour on the part of the petitioner as follows:

1. Petitioner engages in persistent fights and quarrels with respondent without any provocation.
2. Very abusive and physically attacked me even when pregnant
3. He instructed me not to talk to my mother for no tangible reason

4. petitioner easily abandoned matrimonial home, stay at an unknown place for months before returning.

Parties to the marriage have failed on several occasions to reconcile their differences.

Petitioner on 15/2/22 parked his bag and baggage including my own equipment and left the matrimonial home and since then I have single handedly maintained the home, hence the divorce.

The parties to the marriage however filed Terms of Settlement which the court adopted as per the other reliefs

The only issue left for the court is whether or not the marriage has broken down beyond reconciliation.

- Section 1(2) of the Matrimonial Causes Act 1971 (Act 367) – The sole ground for granting the petition for divorce shall be that the marriage has broken down beyond reconciliation.

The issues raised by both parties has a clear indication that parties per their own conducts separated for a very long time, it is very ripe for the marriage to be dissolved, simply because the marriage has broken down beyond reconciliation.

Allegations and counter allegations stated by both parties has caused a lot of cracks in the marriage which is not helping at all.

Allegations of unreasonable behavior raised by both parties, unable to settle differences, separated for a long time are enough and also satisfy section 2 of Act 367 for the court to dissolve the marriage.

MATRIMONIAL CAUSES ACT 1971 (ACT 367)

Section 2 (1)

- (b) that the respondent has behaved in such a way that the petitioner cannot reasonably be expected to live with the respondent.
- (c) That the respondent has deserted the petitioner for a continuous period of at least two years immediately preceding the presentation of the petitioner.
- (f) that the parties to the marriage have after diligent effort, been unable to reconcile their differences.

**HAPPE V HAPPE (1971) IGLR 104**

A cross petition like a counterclaim is, in my view, to all intents and purposes an action by the Respondent against the petitioner. It is an independent and separate action ----- the true mode of considering the claim and counterclaim is, that they are for convenience of procedure, and are combined in the action.

**ALEX BORKETTEY APLORH – DOKU V GEORGETTE ADUBEA APLORH – DOKU (DM/0481/2016) DATED 22<sup>ND</sup> MARCH 2017 HC** - More importantly, section 2(3) of the Act reiterates that the sole condition for granting a petition for a divorce is that the court must be satisfied on all the evidence adduced that the marriage has broken down beyond reconciliation. The importance of this provision is that, in spite of the fact that any of the above listed fact or section 2(1) of the Act has been proven, the court has a discretion to refuse a petition for a divorce if it is not satisfied 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&2 of the Matrimonial Causes Act 1971 (Act 367) is that for a 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. 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 must make a living together impossible. It must also be serious and higher than the normal wear and tear of married life.

From the conduct of both parties before coming to court, having proven section 2(1) (b) (c) of the MCA, 1971 (ACT 367), the court is satisfied that the marriage has broken down beyond reconciliation on the bases that the unreasonable behavior of the parties are grave and weighty, the court therefore dissolves the marriage, the marriage certificate filed in court is thereby cancelled, and in its place, a divorce certificate is issued to the parties to signify the end of their marriage, declaring the parties to the marriage singles and can therefore go ahead and marry.

Parties also filed Terms of Settlement to deal with the other reliefs. The court therefore adopts the Terms of Settlement as consent judgment of the court. All the provisions in the Terms of Settlement shall be strictly be respected by both parties.

DECISION:

Marriage dissolved, other reliefs, as per the Terms of Settlement filed and signed by both parties and their respective counsels.

H/H. SAMUEL BRIGHT ACQUAH  
CIRCUIT COURT JUDGE