

**IN THE CIRCUIT COURT HELD AT KWABENYA ON MONDAY THE 27th DAY
OF FEBRUARY, 2023 BEFORE HER HONOUR MAWUSI BEDIRAH, ESQ.,
CIRCUIT JUDGE**

CASE NO. A4/03/2023

DORCAS BOAKYE ACHEAMPONG

PETITIONER

VRS

ELIJAH DZOKOTO

RESPONDENT

PETITIONER

PRESENT

RESPONDENT

PRESENT

**PRECIOUS DELASE AMEGAH-MENSAH WITH
GOLDER FLEISCHER DJOLETO, HOLDING
THE BRIEF OF YVONNE AMEGASHIE FOR
PETITIONER PRESENT**

JUDGMENT

- 1.0 Petitioner in her petition has prayed for the annulment of the Ordinance Marriage celebrated between her and respondent and any other relief that the court may deem fit to grant in the circumstance. Respondent in his answer to the petition also agrees that the marriage should be annulled.
- 2.0 Petitioner filed her witness statement in the matter on 17th November, 2022 whilst respondent failed to do so, despite being given the opportunity. Petitioner's evidence was adopted by the court as her evidence-in-chief on 3rd February, 2023. A summary of petitioner's evidence is that the marriage celebrated between her and the respondent has not been consummated due to the refusal of the respondent to have sexual intercourse with her, which has been willful and persistent since the marriage.
- 3.0 Petitioner's further evidence is that all attempts made by her to find a solution to the problem have failed and she has been very depressed and unhappy.

Respondent was present at the hearing and indicated to the court that he had no questions for the petitioner. He specifically stated as follows:

"I am not opposed to the annulment. I agree to everything in the witness statement and I do not intend to give any evidence."

- 4.0 Further, neither party applied to the court for the appointment of a medical practitioner to examine the parties and thus, same was not done.

"The law is quite well settled that where a party makes an averment and that averment is not denied no issue is joined and no evidence need be led on that averment. Similarly when a party has given evidence of a material fact and is not cross-examined upon it, he needs not call further evidence of that fact." (HAMMOND v AMUAH [1991] 1 GLR 89).

- 5.0 Per section 13 (2) (a) of the Matrimonial Causes Act, 1971 (Act 367), a marriage may be annulled if the marriage has not been consummated owing to the wilful refusal of the respondent to consummate it.
- 6.0 On the evidence, I find that the marriage was not consummated and I decree the marriage celebrated between the petitioner and the respondent on the 14th day of August 2020 at the Ga East Municipal Assembly, Abokobi with certificate number 1584/MC/2020 per licence number GEMA/3733/2020 annulled. The Marriage Certificate is accordingly cancelled.

I award cost of ₦1000.00 in favour of petitioner.

SGND

Her Honour Mawusi Bedjrah Esq.