

IN THE CIRCUIT COURT HELD AT TARKWA IN THE WESTERN REGION ON
MONDAY THE 5TH DAY OF JUNE, 2023 BEFORE HER HONOUR HATHIA AMA
MANU, ESQ., CIRCUIT COURT JUDGE

SUIT NO. C4/02/2020

BETWEEN:

STEPHEN BOATENG	PETITIONER
H/NO. 52/2		
AHWETIESO		
AND		

GIFTY ANDOH	RESPONDENT
H/NO. 52/2		
AHWETIESO		

JUDGMENT

Petitioner – Present.

Respondent – Present.

Bright Baiden, Esq. for Petitioner.

Samuel Ahorlu-Adinkrah, Esq. for Respondent.

The parties were customarily married with two issues as at the time of filing of this divorce proceedings. The petitioner prayed for a dissolution of their marriage on grounds that the respondent had exhibited an unreasonable behaviour in the course of their marriage. The petitioner outlined the unreasonable behaviours to include being assaulted, injured by respondent and verbally abuse on his person. The petitioner asserts that despite numerous attempts to resolve their differences by family member, the respondent has refused to stop this bad behaviour and that has put a tint on their marriage. The petitioner therefore prayed for the following:

- (i) *An order for dissolution of the customary marriage between the parties.*
- (ii) *Custody of the children to be granted to petitioner.*
- (iii) *An order to push off the respondent with GHC5,000.00.*

The respondent was in consensus with the petitioner about the dissolution of their marriage except that she claimed that it was the petitioner who was rather abusive. The respondent on her part also prayed the Court for push off of GH¢50,000.00 as well as half of the property acquired during the substance of the marriage. The respondent also denied the petitioner's claims of unreasonable behaviour and claimed that it is rather the petitioner who acted unreasonably towards her.

Although the suit is matrimonial parties are expected to prove their claims on a preponderance of probabilities. Thus for the assertions made especially in respect of the unreasonable behaviour by both parties against themselves. The petitioner called witnesses and also gave evidence by himself on the happenings in the marriage. The petitioner's brother and Ebusuapanyin all gave evidence that the respondent was reported to always drink and in her drunkard state causes mayhem. Both witnesses gave evidence that the parties had attempted reconciliation and despite having been successful the respondent continued in her ways. Although questioned during cross-examination, I find that the evidence was unwilted and on a preponderance of probabilities the Court is satisfied that the respondent played an integral part to the journey leading to the break-down of their marriage by her unreasonable acts. On her part the respondent also called her brother and Abusuapanyin to give evidence in support of her claims. According to the evidence presented it is clear the petitioner presented the family with reasons why he could no longer stay with respondent and attempts at settlement failed.

The respondent cross-petitioned for half of the petitioner's assets. The respondent did not adduce any evidence to prove she contributed financially or substantially to the petitioner building the matrimonial home. The property settlement era in matrimonial has travelled through a developed path. The Supreme Court in the case of **Peter Adjei Vrs. Margaret Adjei (Civil Appeal No. J4/64/2021)** held that, "a spouse claiming an interest in a property acquired either in part or in whole during the

subsistence of a marriage must prove that he or she contributed in some measure towards the acquisition of the property". Thus the previous view of equal shares in matrimonial assets has evolved and the respondent in the course of trial did not establish in the court's mind any financial contribution in building the matrimonial home.

Again the issues of the marriage have been staying with the petitioner all through the trial. The petitioner through his witnesses and their evidence convinced the Court of how he acquired the land and also built the house from his own finances. The petitioner also established that he has been solely responsible for taking care of the children's education.

The Respondent prayed the court for alimony. Both parties presented amounts which led a substantial gap. As the grant of alimony is discretionary I have considered the length of their marriage and the fact that the amount should be reasonable to cater for the respondent's well-being in terms of accommodation and other necessities of life.

I hereby hold that the customary marriage celebrated between the parties is hereby dissolved as same has broken down beyond reconciliation due to the unreasonable behaviour of the respondent and the petitioner's refusal to allow another attempt at reconciliation. I hold that the property which was classified as matrimonial home is the personal acquired property of the petitioner.

The customary marriage celebrated between the parties is hereby dissolved. Custody of the issues are given to the petitioner with reasonable access to the respondent. I award alimony of GHC50,000.00 to the respondent, the petitioner is to pay the amount by 30th August, 2023. The respondent was unable to prove her contribution to the building she claimed was their matrimonial home. The petitioner is to rent for an additional two (2) years for the respondent. Issues of the children's maintenance and health care is already being cared for by the petitioner, same should continue.

(SGD.)

H/H. HATHIA AMA MANU, ESQ.

(CIRCUIT COURT JUDGE)