

IN CIRCUIT COURT '1' HELD AT TAKORADI, WESTERN REGION ON FRIDAY 24<sup>TH</sup> FEBRUARY, 2023 BEFORE HIS HONOUR MICHAEL K. AMPADU, CIRCUIT COURT JUDGE.

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SUIT NO. C5/34/2022

BETWEEN

FELIX AVEVOR ..... PETITIONER

AND

PATIENCE AWUTTEY a.k.a.  
(PATIENCE AVEVOR) ..... RESPONDENT

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JUDGMENT

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The Petitioner filed this petition on the 28<sup>th</sup> day of April, 2022 for a single relief of Dissolution of their Ordinance Marriage which was celebrated between them on the 7<sup>th</sup> day of December, 2013 at the Koforidua Municipal Assembly. The Petitioner could not attach the marriage certificate because he claimed it was in the possession of the Respondent.

The Petitioner stated that he is a driver while the Respondent is Business woman / a trader. That after their marriage, he lived at Assin Fosu while the Respondent lived at Apollo in Takoradi. There is no issue or child between them. According to him the marriage has broken down beyond reconciliation and he cites the reasons for the breakdown as follows:

- (a) Respondent has on several occasions told the Petitioner that she is no longer interested in the marriage.

- (b) That the Petitioner took the above issue to Respondent's pastor of Abundant Faith Ministries at Effiakuma New Site, Takoradi for the issue to be resolved but to no avail.
- (c) Petitioner has repeatedly been apologizing to the Respondent in the presence of Respondent's father so that if he has offended her, she will forgive him and stop threatening him of leaving the marriage.
- (d) That the only time they lived together as husband and wife is when the Petitioner visits the Respondent in Takoradi on weekends.
- (e) The Petitioner on a number of occasions asked Respondent to move from Takoradi and come and live with him at Assin Fosu where he works but Respondent has refused and later visited him at Assin Fosu one day only to park her personal belongings and left him till date.
- (f) That the Respondent takes decisions and acts on her own accord without consulting the Petitioner, neither does she involves the Petitioner in her life matters.
- (g) That on the 17<sup>th</sup> of February, 2016, the Respondent told him on phone that "where we have reached in the marriage, it is enough so we should end it" and that "anytime he was ready, she herself will transport him to Koforidua to end the marriage in the presence of her family members" which said statement, the Respondent repeated on 2<sup>nd</sup> of November, 2017.
- (h) That the Petitioner cannot recollect the last time the couple had sex and further that due to the fact that the marriage was not held according to the Catholic Doctrine, the Petitioner is unable to partake in Holy Communion as a Catholic faithful.
- (i) That the Respondent does not wash Petitioner's clothes nor cook for him and that she has changed the door locks to her house at Takoradi making it impossible for him to have access to the place when he visits on weekends and that by the reason of the above, the marriage cannot be sustained and so prayed that the marriage be dissolved.

In his evidence-in-chief to the Court, the Petitioner repeated the averments on his petition and added that the Respondent on numerous occasion show gross disrespect to his family members and on one occasion said that, "if his father was not an elderly man, she would have dealt with him very well" just because his father noticed tension between them and tried to intervene.

It is noted that the Respondent failed to appear in Court to respond to anything concerning this petition. Because it is a Matrimonial Cause, the Court hesitated in granting the petition and gave numerous opportunities for the Respondent to appear but she failed. A clear indication that the Respondent was not interested in the marriage any longer and did not care how it ends.

Section 2(1)(d) of the Matrimonial Causes Act, Act 367 of 1971 provides that:

- 2(1) "For the purpose of showing that the marriage has broken down beyond reconciliation, the Petitioner shall satisfy the Court of one or more of the following facts:
- (d) That the parties to the marriage have not lived as husband and wife for a continuous period of at least two years immediately preceding the presentation of the petition and the Respondent consents to the grant of a decree of divorce provided that the consent shall not be unreasonably withheld and where the Court is satisfied that it has been so withheld, the Court may grant a petition for divorce under this paragraph despite the refusal".

The Petitioner has shown both in his petition and his evidence-in-chief that, they have not been living as husband and wife since 2016 when the Respondent told him on phone that they should end it all between them. The Respondent is alleged to have told the Petitioner to get ready so that she, Respondent will transport the Petitioner to their respective families in Koforidua and Suhum to have the marriage dissolved.

When the petition was filed, the Court gave every opportunity to have the Respondent appear but she failed to appear. These opportunities were granted when the Petitioner applied for ruling in default of appearance on 05/12/22.

It is clear from the conduct of the Respondent that even though she appears not to be interested in the marriage, she has refused to come to Court to have the marriage dissolved.

The Court finds that the marriage between the parties has broken down beyond reconciliation due to the conduct of the respondent and so dissolves the ordinance marriage that was celebrated between the parties on the 7<sup>th</sup> day of December, 2013 at the Koforidua Municipal Assembly. A decree of divorce is hereby ordered to that effect.

(SGD)

H/H MICHAEL K. AMPADU

CIRCUIT COURT JUDGE