

**IN THE GENDER-BASED VIOLENCE CIRCUIT COURT AT SEKONDI-WESTERN  
REGION, HELD ON THURSDAY, 17<sup>TH</sup> AUGUST 2023 BEFORE H/H NAA AMERLEY  
AKOWUAH (MRS)**

.....  
**C4/32/2022**

**RUTH QUAYE**

**PETITIONER**

**ESSIKAFOANBANTEM NO. 3**

**TAKORADI**

**v**

**MICHAEL TIEKU**

**RESPONDENT**

**1327 SOUTHERN BOULEVARD**

**APT. 5L BRONX**

**10459 NEW YORK, USA**

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*PARTIES: ABSENT*

*C/PET.: VICTOR OWUSU, Esq.*

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**JUDGMENT**

In a one-sided hearing, Petitioner gave evidence that her marriage to the Respondent had broken down beyond reconciliation on the grounds of unreasonable behavior, particularized as Respondent suddenly deserting the Petitioner and their children when he emigrated to the United States of America without recourse to Petitioner. The resulting lack of communication between the parties has further led to the breakdown of the

marriage for which, according to her, she should not be expected to continue living. In support of her claims, Petitioner tendered a copy of the marriage certificate issued to the parties after the celebration of their marriage at the Mt. Sinai Methodist Church, Accra (Exh. A).

Prior to Hearing, Respondent was personally served with all processes filed in this suit at the New York address endorsed on the petition and subsequently, on his attorney, Francis Tieku via a Power of Attorney executed on 6/06/2023. Through Francis Tieku, Respondent entered an appearance in accordance with Or. 9 of the High Court (Civil Procedure) Rules, 2004 (C.I. 47). However, he did not file an Answer, Witness Statement (as ordered), Disclosures, or any other process. Respondent's attendance, on a few occasions, was via his Attorney who did not cross-examine the Petitioner after she gave her Evidence-in-chief. When it was his turn to testify for his Principal, Francis Tieku told the Court that his brother who was living in the United States of America consented to the claims of the Petitioner.

After hearing, the sole issue settled for determination was **whether or not Petitioner proved the grounds on the basis of which she wants a dissolution of the marriage**

For the examination of the instant case, s. 2(1) (b) of the Matrimonial Causes Act, 1971 (Act 367) is relevant and reproduced as follows;

*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:*

*(b) that the respondent has behaved in such a way that the petitioner cannot reasonably be expected to live with the respondent; or*

S. 2(1) (b) of Act 367 implies that a Petitioner must prove the conduct constituting the unreasonable behaviour on the part of a Respondent and the fact that she cannot

reasonably be expected to live with him as a result of the alleged bad behaviour. The case of *Andrew v Andrew* [1974] 3 ALLER 64 refers. To prove these two requirements, Petitioner had to lead evidence in support of her claim and the court had the duty to objectively determine, on the facts presented, whether she cannot reasonably be expected to live with Respondent.

In accordance with s. 11 of the Evidence Act, 1973 (NRCD 323) and the cases of *Zabrama vrs. Segbedzi* (1991) 2 GLR 221@223 and *Ackah v Pergah Transport Ltd. & Ors* [2010] SCGLR 728, she carried the burden to prove that Respondent's behavior, enumerated in her pleadings and Witness Statement did in fact happen, was unreasonable, have affected her negatively and as such the court should make a positive finding in her favour and cancel the marriage contract between her and Respondent.

I have read through Petitioner's testimony and find them proved on the authority of a plethora of decisions by the courts. Some of these are; *Edmund Danso v Moses Adjei* [2013] 58 GMJ 71@89-91 where Amadu JA referred to the case of *Krus v Saoud Brothers* [1975] 1 GLR 46 CA and reiterated that "*the testimony of a single witness was sufficient basis to found a judgment, the only condition being the credibility of the person testifying*"

In *Takoradi Flour Mills v Samir Faris* [2005-2006] SCGLR 882, at holding 3 it is stated that:

*"A tribunal of fact can decide an issue on the evidence of only one party. A bare assertion on oath by a single witness might in the proper circumstances of a case be enough to form the basis of judicial adjudication. The essential thing is that the witness is credible by the standard set in s. 80(2) of the Evidence Decree, 1975"*

At page 34 of his book 'Essentials of the Law of Evidence', Justice S.A. Brobbey noted;

*“If the Defendant fails to lead evidence, judgment may be given on the case made by the plaintiff. If the plaintiff’s case (without the defendant’s evidence) is sufficient to be granted his relief, the court will proceed to give him judgment”*

The finding of proof made in favour of the Petitioner is further grounded on the authority of Or. 23 r. 1&6 of C.I. 47 and the case of *Ewusie-Mensah v Ewusie-Mensah [1992]1GLR 271*, which held that upon the admission of a fact by a party, neither party had to lead evidence to support the admission and a finding of fact may be made in reliance of the admission. Accordingly, I make a finding of fact that Petitioner has proved the ground of unreasonable behavior on the part of the Respondent and therefore entitled to a dissolution of the marriage.

## **DECISION**

On the preceding, the petition for divorce filed on 23/6/2022 is granted on the finding that the marriage between the parties has broken down beyond reconciliation upon proof of s. 2(1) (b) of Act 367.

Accordingly, the marriage contracted on 14/05/2016 at Mt. Sinai Methodist Church, Kwabenya-Accra between Ruth Quaye and Michael Tieku is hereby dissolved and a certificate of divorce shall issue.

## **ANCILLARY ORDERS**

- i. Custody of the children, namely Royal Tieku and Elizabeth Queeny Tieku is granted to the Petitioner
- ii. Costs of GHC5, 000 is awarded in favour of the Petitioner.

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**H/H NAA AMERLEY AKOWUAH (MRS.)**