

**IN THE CIRCUIT COURT HELD AT KWABENYA ON FRIDAY THE
3RD DAY OF FEBRUARY, 2023 BEFORE HER HONOUR MAWUSI
BEDJRAH, ESQ., CIRCUIT JUDGE**

CASE NO. A4/09/2023

ABRAHAM KOFI WILBERFORCE

PETITIONER

VRS

PROMISE ENYONAM ATSIAVOR

RESPONDENT

PETITIONER'S ATTORNEY

PRESENT

RESPONDENT

PRESENT

**PRECIOUS DELASE AMEGA-MENSAH WITH GOLDA
FLEISCHER**

DJOLETO HOLDING BRIEF FOR YVONNE AMEGASHIE

PRESENT

JUDGMENT

- 1.0 Petitioner, per the petition filed on 11th November, 2022 by his Lawful Attorney, avers that his marriage with Respondent has broken down beyond reconciliation and prays for a dissolution of the marriage between the parties, which was celebrated and solemnized at the Principal Registrar of Marriages Office, Accra on 5th August, 1999.
- 2.0 Respondent on the other hand, in her response filed on 21st November, 2022, also prays for a dissolution of the marriage.
- 3.0 In Petitioner's Attorney's sworn evidence, he testified that the parties upon getting married, cohabited at Nsawam and that after some time, Petitioner travelled to the United Kingdom. Whiles there, family members and friends informed the Petitioner that his wife was getting involved in adultery. This led to misunderstandings and families met to dissolve the customary marriage and that for eight (8) years now, there has not been any form of intimacy between the parties. He tendered the marriage certificate in evidence.

- 4.0 Respondent on the other hand testified that she was in agreement with the dissolution of the marriage and that the parties had not lived together as husband and wife for nearly fourteen (14) years. She further testified that both parties had agreed that the marriage should be dissolved.
- 5.0 Under the Matrimonial Causes Act, 1971(Act 367) specifically section 2, the sole ground for the grant of divorce is whether the marriage has broken down beyond reconciliation. In proving the test of the breakdown of the marriage beyond reconciliation, any of the factors under section 2 (a) to (f) could be canvassed.
- 6.0 Specifically, per section 2(e) of Act 367, a marriage may be dissolved if the parties to the marriage have not lived as husband and wife for a continuous period of at least five (5) years immediately preceding the presentation of the petition.
- 7.0 Petitioner testified that the parties have lived apart for about 8 years whilst according to Respondent, they have been apart for nearly 14 years. Notwithstanding the difference in the number years that the parties presented, it is obvious from their evidence that they have lived apart at least five years immediately preceding the presentation of the petition. Thus, they have not lived as husband and wife for a continuous period of at least five years immediately preceding the presentation of the petition.

8.0 On the evidence, I find that the marriage has broken down beyond reconciliation and I decree the marriage celebrated between the Petitioner and the Respondent on the 5th day of August 1999 at the Principal Registrar of Marriages Office, Accra with certificate number RGM. 1066/99 per licence number SL 42798 dissolved. The Marriage Certificate is accordingly cancelled. Each party is to bear his or her own cost incidental to the suit.

SGD

Her Honour Mawusi Bedjrah, Esq.