

**IN THE CIRCUIT COURT 3 OF GHANA HELD IN ACCRA ON FRIDAY THE 24<sup>TH</sup>  
DAY OF FEBRUARY, 2023 A. D. BEFORE HER HONOUR SUSANA EDUFUL (MRS.)  
CIRCUIT COURT JUDGE**

**SUIT NO. C5/160/2022**

**PEACE MAWUSE QUARSHIE**

**PETITIONER**

**VRS.**

**MICHEAL MAWULI KWAME QUARSHIE**

**RESPONDENT**

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**PARTIES PRESENT AND REPRESENTED**

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**JUDGMENT**

The Parties to this suit got married in under with the Marriages Ordinance (CAP 127) on September 28, 2008, at the Principal Registrar of Marriage Office Accra. There are two children in this marriage. The Petitioner is seeking the dissolution of the ordinance marriage celebrated between the parties on grounds of desertion the part of the Respondent.

1. The Petitioner prayed the marriage between the parties be dissolved.
2. Custody of the issues of the marriage be granted to the Respondent with reasonable access to the Petitioner.

3. That the Respondent be ordered to pay the Petitioner a lump sum of  
GHC100,000.00.

The Respondent did not attend court but was represented by his lawful attorney. The Respondent on the other-hand did not contest the dissolution of the marriage, he has however cross-petitioned for the following reliefs:

- a. That the marriage celebrated between them be dissolved
- b. Financial settlement of Thirty Thousand Cedis to the Petitioner.

On November 8, 2022, they filed terms of settlement on the ancillary reliefs for the court to adopt as terms of settlement.

**Section 1(2) of the Matrimonial Cause Act, 1971 (Act 367)** states that the sole ground for granting a petition for divorce shall be that the marriage has broken down beyond reconciliation. In addition, the court before which such a petition is presented is required by law to determine as a fact that the marriage, has indeed broken down beyond reconciliation. In Support of this, Section 2(3) of Act 367 provides as follows:

Notwithstanding that the court finds the existence of one or more of the facts specified in subsection (1) the court shall not grant a petition for divorce unless it is satisfied, on all the evidence that the marriage has broken down beyond reconciliation.

**Section 2(1) of Act 367** stipulates the facts which a petitioner or a cross-petitioner may rely on to prove that the marriage which is sought to be dissolved has broken down beyond reconciliation as follows;

- a. That the Respondent has committed adultery and by the reason of such adultery the Petitioner finds it intolerable to live with the Respondent; or
- b. That the Respondent has behaved in such a way that the Petitioner cannot reasonably be expected to live with the Respondent; or
- c. That the Respondent has deserted the Petitioner for a continuous period of at least two years immediately preceding the presentation of the petition; or
- d. That the parties to the marriage have not lived as man 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 such 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 notwithstanding the refusal; or
- e. That the Parties to the marriage have not live as man and wife for a continuous period of at least five years immediately preceding the presentation of the petition;

- f. That the parties have after diligent effort been unable to reconcile their differences.

The sole ground for granting a petition for divorce shall be that the marriage has broken down beyond reconciliation. Under section 2(1)(C) of the *Matrimonial Causes Act, 1971 (Act 367)* "For the purpose of showing that the marriage has broken down beyond reconciliation the petitioner shall satisfy the court that the respondent has deserted the Petitioner for continuous period of at least 2 years immediately preceding the presentation of the petition." Rayden defines desertion as "the separation of one spouse from the other with an intention on the part of the deserting spouse to bring cohabitation permanently to an end without reasonable cause and without the consent of the other spouse...". The Petitioner would consequently have to prove that there is a defecto separation of the spouses; with the intention to bringing cohabitation to an end, lack of consent and lack of reasonable cause on the deserting party for the withdrawal. The Petitioner would also have to satisfy the court that the Parties 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. The Petitioner would also have to convince the Court that she and the Respondent have, after diligent effort, been unable to reconcile their differences.

At the close of the trial, the legal issue that fell for determination by the court was

1. Whether or not the marriage celebrated between parties on June 28, 2008 has broken down beyond reconciliation.

The issue is whether or not the marriage celebrated between parties on June 28, 2008 has broken down beyond reconciliation. The Petitioner tendered in evidence exhibit A which is a certified copy of marriage certificate of the parties to prove that she was in fact married to the Respondent. According to the Petitioner there are two children of the said marriage namely Ruth Enam Afia Quarshie 13 years, Carl Elikem Quarshie 10 years. According to the Petitioner three years after their marriage the Respondent travelled to the United States of America and has since not been ordinarily resident in Ghana. The Respondent after he travelled abroad has visited the country on 3 occasions but on all the 3 occasions he failed to stay with his children and the Petitioner. He did not also show the Petitioner where he was staying in Ghana. The Reason the Respondent gave to the Petitioner for doing so was that they were no longer together. The Petitioner further stated that the Respondent filed processes in the United States of America which allowed him to take the children to the USA. The Respondent took the children to the USA and left the Petitioner in Ghana. They did not maintain or remit the Petitioner. The Petitioner has information that the Respondent has married another woman in the USA and also have two children with her. The Petitioner picked up photos of the

Respondent and his new wife and the Respondent did not like it so he blocked Petitioner from having access to him on all his social media platforms. It has been eight years now and the parties have not lived as husband and wife and therefor the Petitioner prayed that the court dissolves the marriage as the parties have also not been able to reconcile their differences.

The Petitioner also prayed that the court adopts the terms of settlement filed.

The Respondent testified through his Attorney and tendered exhibit 1 the power of attorney given to him by Respondent to that effect. The Attorney is the father to the Respondent. According to the Attorney in his evidence to the court, he stated that the Respondent agrees with the Petitioner that their marriage be dissolved. The Attorney admitted that he knows that on the 3 occasions that the Respondent visited Ghana he did not live with the Respondent. The Respondent's attorney denied all the allegations made by the Petitioner in her evidence. The Attorney however stated that all attempts at reconciling the parties have proved futile and therefore prayed the court dissolves the marriage and adopts the terms of settlement filed.

The Petitioner is contending that the Respondent has deserted the matrimonial home. *In Hughes V Hughes 1973 2 GLR 342* The court held that for the conduct of the wife to amount to desertion, the court had to be satisfied that it was an unjustified withdrawal from cohabitation and she had the intention of remaining separated permanently from him.

If the Respondent moved out of the matrimonial and has not had anything to do with the Petitioner for the past eight years, then the Respondent indeed had the intention of separating permanently from the Petitioner. Upon consideration of the evidence before this Court, the Court is satisfied that the Petitioner has been able to prove that the Respondent has deserted her. Consequently, the Court finds that the marriage celebrated on June 28, 2008 between the parties has broken down beyond reconciliation accordingly same is dissolved.

### **DECISION**

1. The marriage celebrated between the Petitioner, **PEACE MAWUSE QUARSHIE** and the Respondent, **MICHEAL MAWULI KWAME QUARSHIE** on the June 28, 2008, at the Principal Registrar of Marriages Office Accra has broken down beyond reconciliation and same is dissolved. A decree of divorce is accordingly granted. The marriage certificate with registration no. RGM1533/2008 is hereby cancelled.
2. The court makes no order as to cost.

On the ancillary reliefs, the parties filed terms of settlement on November 8, 2022, as stated below is hereby adopted as consent judgment of the parties.

1. That the custody of the issues of the marriage be granted the Respondent with Petitioner having reasonable access to the children.
2. That the Respondent continues to maintain the issues of the marriage and provide them with all the necessities of life.
3. That the Respondent pays lump sum financial settlement of GHC30,000.00 to the Petitioner in the following manner;
  - a. GHC5,000.00 to be paid on or before September 30, 2022
  - b. GHC3,000.00 to be paid on or before November 30, 2022
  - c. GHC3,000.00 to be paid on or before December 30, 2022
  - d. That the remaining GHC19,000.00 to be paid over a period of six months.

**LEGAL REPRESENTATION**

**YVONNE AMEGASHIE FOR PETITIONER**

**NO LEGAL REPRESENTATION FOR THE RESPONDENT**

**H/H SUSANA EDUFUL (MRS)  
(CIRCUIT COURT JUDGE)**