

**IN THE CIRCUIT COURT HELD AT KWABENYA ON FRIDAY THE  
6<sup>TH</sup> DAY OF OCTOBER, 2023 BEFORE HER HONOUR MAWUSI  
BEDJRAH, CIRCUIT JUDGE**

**SUIT NO. A4/26/2023**

**CHARITY NTUMY**

**PETITIONER**

**VRS**

**ALFRED KWAKU NTUMY**

**RESPONDENT**

**PETITIONER**

**PRESENT**

**RESPONDENT**

**PRESENT**

**COUNSEL FOR PETITIONER, OPOKU AMPONSAH**

**PRESENT**

**JUDGMENT**

Petitioner is a pre-school teacher and Respondent a driver. The parties got married on 23<sup>rd</sup> October, 2004 at the Church of Pentecost, Achimota. The marriage is blessed with two children, namely; Michelle Ntumy, who is sixteen (16) years and Hannah Ntumy, who is fourteen (14) years old.

In a petition filed on 9<sup>th</sup> March 2023, Petitioner prays for a dissolution of the marriage contracted between her and Respondent as a result of unreasonable behaviour. A summary of the particulars of unreasonable behaviour are that;

- i. The Respondent persistently rains insults on the Petitioner and sometimes in the presence of the children
- ii. The Respondent threatened to kill the Petitioner on different occasions and physically abused the Petitioner on different occasions
- iii. The Respondent packed out of the house without any reason and had left the matrimonial home for about a year and four months at the time of filing the petition.
- iv. All attempts to settle their differences have proved futile.

Petitioner also prays for the following;

- i. An order granting custody of the two children of the marriage to the Petitioner with reasonable access to the Respondent

- ii. An order for the Respondent to continue paying the school fees of the children
- iii. An order for the Respondent to pay the medical bills of the children as and when they come up.

Respondent, in his answer to the petition for divorce filed on 8<sup>th</sup> June, 2023, denies the allegations of Petitioner. Particularly, he states that he did not pack out of the matrimonial home on his own accord and that it is because Petitioner constantly asked him to leave the house, especially after the slightest argument. He states that it has never been in his interest and decision to divorce his wife. However, if it is in the interest of Petitioner, then he would respect it as such. In that case, Respondent prays the court to grant all Petitioner's reliefs endorsed on her petition.

The petition was set down for trial on 18<sup>th</sup> August, 2023.

### **THE EVIDENCE**

Petitioner testified by herself but did not call any witness in the matter. Petitioner testified by making reference to the petition filed, where she had particularized the reasons for the breakdown of the marriage beyond reconciliation. Petitioner also made reference to Terms of Settlement filed by the parties, which was acceptable to both parties. The Terms of settlement was filed on 22<sup>nd</sup> September, 2023.

Respondent, having heard the evidence of Petitioner, chose not to cross-examine her. This is what Respondent told the Court; "I accept everything she said. I have nothing to say." Thus, Respondent chose to rely solely on the evidence of the Petitioner.

### **EVALUATION OF EVIDENCE AND APPLICATION OF THE LAW**

"The law is quite well settled that where a party makes an averment and that averment is not denied, no issue is joined and no evidence need be led on that averment. Similarly when a party has given evidence of a material fact and is not cross-examined upon it, he needs not call further evidence of that fact." (**HAMMOND v AMUAH** [1991] 1 GLR 89).

Under the Matrimonial Causes Act, 1971 (Act 367), specifically section 1, the sole ground for the grant of divorce is whether the marriage has broken down

beyond reconciliation. Sections 2 (a) to (f) further provide any of the factors that must be established to prove the breakdown of the marriage beyond reconciliation.

Under section 2 (1) (f), if the parties to the marriage after diligent efforts have been unable to reconcile their differences, it becomes a ground for the court to grant divorce. I have noted that the basis of this petition is unreasonable behaviour. I have also noted the initial attempts made to settle the matter. Having considered this and the terms of settlement filed, I find it appropriate to analyse the evidence in line with section 2(1) (f). The interventions of Reverend Ministers having failed to reconcile the parties and to the extent that they have been living apart getting to two (2) years now, I hold and find that the marriage has broken down beyond reconciliation.

Accordingly, it is hereby decreed that the marriage celebrated between Petitioner and Respondent on 23<sup>rd</sup> October 2004 and evidenced by Marriage Certificate A16444 and Licence Number COP/LD/025/2004, be and is hereby dissolved forthwith on the ground that same has broken down beyond reconciliation. The Marriage Certificate is cancelled.

The Terms of Settlement filed by the parties on 22<sup>nd</sup> September, 2023 is hereby adopted as Consent Judgment as follows;

- i. That the Petitioner shall be entitled to custody of the children
- ii. That the Respondent shall have access to the children by arranging with the children to visit him from time to time
- iii. That the Respondent shall be responsible for the medical bills and school fees of the children
- iv. That the Respondent shall contribute the sum of Five Hundred Ghana Cedis (GH¢500.00) a month towards the upkeep of the two children of the marriage.

I make no order as to costs.

**Her Honour Mawusi Bedjrah**