

SUIT NO: A4/01/2022

GLADYS SACKITEY } PETITIONER

VRS

FELIX NARTEY } RESPONDENT

PARTIES: : PRESENT

J U D G M E N T

The Petitioner instituted the instant action praying for the following reliefs:

1. An order for the dissolution of the marriage between her and the Respondent and cancellation of the marriage certificate NO. 102 and License No. SDMC/194/2015.
2. An order for the Respondent to maintain the two (2) children with GH¢600.00 per month and also pay their school fees.
3. Costs of Litigation.

The case of the Petitioner per her Witness Statement is that they got married under the Krobo Traditional rite and practice on 6/2/2015 and converted same to Ordinance marriage on 7/2/2015 at the Apostolic Church of Ghana, Somanya and the marriage was blessed with two (2) children namely Jiradel Nortey (6 years) and Israella (3 years) who attend the Bright Future Academy and Happy Home Academy at Somanya respectively.

She stated that the Respondent has shirked his financial responsibilities in the house to the extent that she (Petitioner) as a petty trader has been solely paying the rent, water and electricity bills and providing the needs of the household. She also enrolled the two (2) children in school and paying their school fees. She added that the Respondent always gives excuses when she asks him for housekeeping money.

She further stated that any time she complains, it results in a misunderstanding and quarrel between the two of them.

According to the Petitioner, attempts made by elders of both families to resolve the matter have all been unsuccessful. She added that the Respondent has packed out of the matrimonial home and she has also returned the customary marriage drink to the Respondent and his family who had accepted same which signified the dissolution of the customary marriage.

The Petitioner did not call any witness and thereafter closed her case.

In the Evidence of the Respondent per his Witness Statement he stated that he sponsored the Senior Secondary Education of the Petitioner at Akuse Methodist Senior High School with permission by her parents and married her upon the successful completion of same. The couple then relocated from rented single room at Djabo Road Somanya to a chamber and hall apartment at Social Welfare area, Somanya where he made a full payment of one year rent advance. When the rent advance expired he gave cash of GH¢960.00 to the Petitioner to pay to the landlord in respect of another one year rent advance but the Petitioner failed to do so and later upon enquiry she told the Respondent that she used same to pay the school fees of the two (2) children. He was not comfortable with the explanation as the Respondent, at that time, had paid GH¢678.00 as school fees in respect of the said two (2) children.

According to the Respondent in the year 2019, the Petitioner started an amorous relationship with one Amos alias Sunday. He added that as a result of the cohabitating with Amos, the Petitioner had denied him access to the children as such he consents to the dissolution of the marriage.

He concluded that he has been paying the school fees of the two (2) children and added that his biological mother, siblings (sisters) and nieces are ready to take custody of the two (2) children of the marriage.

In the evidence of DW1 Djabatey Maku Elizabeth she corroborated the Respondent's Evidence and added that at one of the settlement meetings in the house of one Rev. Boateng the Petitioner insisted that she would allow the Respondent to come and stay with her in the house only when he pays an outstanding rent which resulted in an abrupt end of the said meeting.

In the Evidence of DW2 Diogo Victoria Doe who is the biological mother of the Respondent, she corroborated the Evidence of the Respondent and added that at a settlement meeting at Asite involving elders of the Families of both parties, the Respondent was told to pay GH¢500.00 cash to the Petitioner for peace to prevail which he did, however after collecting the said GH¢500.00 the Petitioner announced to the gathering that she was no longer interested in the marriage.

The Respondent therefore closed his case.

The Legal issue for determination by the Court is whether or not the marriage had broken down beyond reconciliation.

Section 2 of the Matrimonial causes Act 1971 (Act 367) that a marriage has broken down beyond reconciliation the Petitioner shall satisfy the Court of one or more of the following facts:

“ 2 (1) (b) That the Respondent has behaved in such a way that the Petitioner cannot reasonably be expected to live with the Respondent.

(c) That the Respondent has deserted the Petitioner for a continuous period of at least two years immediately preceding the presentation of the Petition.

(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.

(f) That the Parties to the marriage have, after diligent effort, been unable to reconcile their differences.

Evidence adduced during hearing is indicative of the fact that the Respondent has shirked his financial responsibilities in the matrimonial home in terms of maintenance of the two (2) children of the marriage and provision of the needs of the household and the Petitioner is solely discharging the said burden. Any time that the Petitioner complains about the situation it results in a misunderstanding and quarrel between he and the Respondent. The Respondent is a tailor however the Petitioner did not state in her Evidence as to whether or not the tailor work was thriving and the Respondent was deriving enough money from same. Also the Respondent himself did not state whether or not he was making enough money from the tailoring. However the Respondent's claim that he was paying rent and paying the school fees of the two children may be an indication that he was making adequate money from the trade or profession. Assuming without admitting that the Respondent was making enough money then it was inappropriate for him to have shirked his financial responsibilities in the matrimonial home. With this behaviour the Petitioner cannot reasonably be expected to live with the Respondent.

An Example of the Respondent's inability to discharge his financial responsibilities was established when the Petitioner Cross -examined him as follows:

Q. You stated that you paid school fees of GH¢678.00 are you saying that the said fees is for a year or a term?

A. It was for two terms for the two (2) children.

From the above, there is an admission on the part of the Respondent that he paid the school fees of the children for 2 terms in a particular year. Considering the fact that the private preparatory schools operate on termly basis and there are three (3) terms in a year then it would be appropriate to state that the Respondent did not make full payment of fees in respect of the 2 children in that particular year and if that was the way he was paying the school fees then the assumption would be that the Respondent had not been exhibiting total financial responsibility in terms of payment of the school fees of the two (2) children.

I now turn my attention to the issue of desertion. Both parties accused each other of being guilty of desertion. In the Evidence-in-Chief of the Petitioner she stated that the Respondent packed out of the matrimonial home and relocated to a different house and left her and the children to their fate. Also during Cross-Examination of the Petitioner by the Respondent, the following transpired;

Q. I am putting it to you that you relocated from the matrimonial home to another place and you have refused to show me the said house?

A. That is not true. I gave you the direction to the house but you failed to come.

Furthermore when the Petitioner Cross-Examined the Respondent the following transpired:

Q. You claim that I moved from the matrimonial home and joined a man at the school area did you ever see me with the said man?

A. Yes

Q. Where did you see us?

A. At the Social Welfare area and in the room that the said man rented for you.

Q. How do you know that he rented the room for me?

A. I made enquiries and I found out.

Q. I put it to you that if it was the man who rented the room for me you would have met him on any of your visits.

A. When you moved out to the said room, you stopped me from visiting you.

It is clear from the above that the issue of desertion has been established in the marriage. The Petitioner and the Respondent are living at separate places and giving by the evidence adduced it means that it started in the year 2019 when the Petitioner commenced an amorous relation with one Amos who is also known as Sunday. This means that the parties in the instant case have not lived as husband and wife for two (2) years. This means that there has been a denial of sex on the part of the Petitioner and the absence of cooking for and washing of the Respondent's cloths as well as the absence of common upbringing or training of the 2 children for this period. It is important to note however that the statement that the Petitioner relocated from the matrimonial home to stay in a room rented for her by another man during the pendency of the marriage between her and the Respondent is not the best.

It has also been established that all efforts made by elders from both Families, Pastors and friends with the aim of resolving the matter have failed and consequent to this development, the Petitioner had returned the customary drink to the Family of the Respondent who had accepted same to signify or mark the dissolution of the customary marriage between the parties in issue. Also the Respondent has consented to the dissolution of the marriage per paragraph 9 of his responds or answer to the Petitioner's petition. This means that after diligent effort by the Petitioner and the Respondent they have been unable to reconcile their differences.

It is my findings after considering all the evidence adduced during hearing that the marriage has broken down beyond reconciliation.

In the circumstance I declare the marriage between **GLADYS SACKITEY** herein referred to as the Petitioner and **FELIX NARTEY** herein referred to as respondent duly dissolved and made the following orders;

1. That the Respondent shall pay a compensation of GH¢7,000.00 to the Petitioner.
2. That the Respondent shall pay GH¢350.00 each (Total GH¢700.00) per month as maintenance for the two (2) children.

3. That custody of the children is granted to the Petitioner with reasonable access to the Respondent during vacation.
4. That the Respondent shall pay the school fees of the two (2) children as and when they are due.

(SGD)
H/W MICHAEL DEREK
OCLOO
(MAGISTRATE)
8/12/2022