

IN THE DISTRICT COURT HELD AT TESHIE-NUNGUA ON FRIDAY THE
3RD DAY OF MARCH 2023 BEFORE HER WORSHIP PRISCILLA SOPHIA YEBOAH
MAGISTRATE

SUIT NO. GTNDC/A4/16/223

CYNTHIA GHANSAH
HOUSE NO. 2 AMON OWUBA LANE
1ST JUNCTION TESHIE, ACCRA

PETITIONER

VRS.

EMMANUEL KOW ARTHUR
COMMUNITY 18
LASHIBI ACCRA

RESPONDENT

PETITIONER

PRESENT

RESPONDENT

ABSENT

JUDGMENT

The parties herein according to the Courts record have been married for close to 19 years with no issue (child) of the marriage.

The petitioner instituted the instance divorce petition on grounds that the marriage has broken down beyond reconciliation hence the request to have the marriage dissolved.

Respondent entered appearance

CASE FOR THE PETITIONER

The Petitioner's case is that she and the respondent married on the first of February 2003 however, there are no issues in the marriage. According to the Petitioner, the respondent resorted to maltreatment of the Petitioner without any cause. Petitioner says initially she thought the respondent was going through some stress so she ignored him but as the days go by his maltreatment become intense. According Petitioner she suffered emotionally and all attempts at resolving our differences did not materialize including effort by their pastor to reconcile them.

Also their families attempted to settle their difference but also to no avail.

Petitioner further stated that the parties have been separated for three years preceding the divorce petition with no sign of reconciliation. It is on account of the above coupled with the fact that the respondent has failed to initiate the divorce petition hence the instant divorce petition.

CASE FOR THE RESPONDENT.

Respondent says that even though there are no children in the marriage, he never disturbed petitioner in that regard. Respondent says the Petitioner has abused him emotionally through her actions and inactions. Meanwhile all attempt to reconcile their differences also proved futile and therefore the parties have separated for three years so respondent says he equally consent to the instant divorce.

ISSUES.

Gleaning from the facts the issue for consideration and resolution is whether or not the marriage between the parties has broken down beyond reconciliation, and if so why.

RULES AND AUTHORITIES

- Section 1 (2) of the Matrimonial Causes Act, 1971 (Act 367), states “the sole ground for the grant of a decree of divorce is that the marriage has broken down beyond re conciliation.
- Section 2 (1) of Act 367 prescribes facts, one or more of which a Petitioner must establish for the purposes of showing that the marriage has broken down beyond reconciliation as follows:
 - a) That the Respondent has committed adultery and that by 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) 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 consent to the grant of a decree of divorce; provided that 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 lived as man and wife for a continuous period of at least five years immediately preceding the presentation of the petition; or
 - f) That the parties to the marriage have, after diligent effort, been unable to reconcile their differences."

Section 2 (3) of Act 367 provides: "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.

Gleaning from the evidence on record the only fact specified in s.2 upon which the petitioner relies in support of her petition is that mentioned in s, (2) (1)(f). facts 2(1)(f) reads "that the parties to the marriage have, after diligent effort, been unable to reconcile their differences."

The reasons assigned by the Petitioner for the dissolution of this marriage is that the parties have been separated for three years preceding the divorce application and the separation is attributed to irreconcilable differences.

Clearly the reason given by the Petitioner regarding this petition is that the parties have not been able to reconcile their differences and not because there is desertion or the parties have not live as man and wife for two years and beyond. Also the respondent admits that they have been unable to reconcile their differences as married couple.

ADMISSIONS and FINDINGS

A party may in his or her pleadings admit an allegation or a claim made by the opponent. An allegation contained in a pleading may be admitted wholly or partially by a party. The admission so made brings to an end the controversy over that particular issue since by the admission the party making the allegation is relieved of the burden of proving same. An admission in a way also narrows the dispute in controversy and thus helps the court to expeditiously try the case. See: **SAMUEL MARFUL-SAU "A PRACTICAL GUIDE TO CIVIL PROCEDURE IN GHANA**

Since the parties admits that they have been unable to reconcile their differences no further proof is required as it brings all controversy to an end. fact (2) (1)(f) which support that the marriage has broken down beyond reconciliation has been proved.

CONCLUSION

I find and hold that the marriage has broken down beyond reconciliation. I therefore dissolve the instant marriage and the marriage celebrated on the 2nd of November, 2018 with Certificate number RM/1166/2018 AND Licence number LEKMA/ROM/1643/2018 is hereby cancelled.

The parties are to be issued with divorce certificate and a copy of the divorce certificate is to be served on the Registrar of Marriages by the parties for the amendment of the records thereof.

No order as to cost as the petitioner did not request for same.

SGD

H/W PRISCILLA SOPHIA YEBOAH

DISTRICT MAGISTRATE