

IN THE DISTRICT COURT HELD AT DROBO ON THURSDAY, THE 20TH DAY OF
JULY, 2023. BEFORE HER WORSHIP LINDA E. NYAHE (MRS.) (MAGISTRATE)

SUIT NO. BR/DR/DC/A4/06/2022

*IN THE MATTER OF AN APPLICATION
FOR DISSOLUTION OF MARRIAGE
BY: CHARLES OKUFFOUR-DARTEY
OF H/NO. DNT 173. DROBO*

}

PETITIONER

VRS

*AMANKWAA FAUSTINA
OF NSONSOMEA*

}

RESPONDENT

PETITIONER - PRESENT

RESPONDENT- ABSENT

JUDGMENT

The parties who are both Ghanaians were married under Part Three of the Marriages Act 1885-1985 (CAP 127) on the 14th day of December, 2013 at the St. Peter's Quasi Parish, Adamsu and were blessed with (2) children. After the marriage, the parties cohabited at Drobo. The issues of the marriage are John Okofo Dartey-6 years and Twi Celestina 4 years.

The Petitioner is a teacher and resides at Drobo whereas the Respondent is a farmer and currently resides at Berekum, Mpataapo.

Per a petition filed on 3/11/2021 The Petitioner is seeking reliefs as follows;

1. *An order for the dissolution of the marriage between the parties.*
2. *Any further order or orders that the Honourable Court deems fit.*

It is worthy of note that the Respondent was duly served with the Petition and hearing notice on each court date yet she neglected to appear in court and also never filed any process. Thus, Respondent did not contest the matter.

On The principle in **Ankomah vrs. City Investments Limited (2007-2008) SCGLR 1064** where the Court held that *“a Court is entitled to give judgment in default, as in the instant case, if a party fails to appear after notice of the proceedings has been given to him. For then it would be justifiable to assume that he does not wish to be heard;”* The Court therefore proceeded to hear the matter.

The only issue for determination is whether or not the marriage has broken down beyond reconciliation.

Although no issues were joined; petitioner nonetheless went ahead to prove his case.

At the trial, the Petitioner relied on his witness statement filed on 4th May, 2022. There was no cross-examination. Thereafter, the Petitioner called one witness. Again the Respondent who was served with hearing notice failed to attend court to cross-examine the witness.

Section 1 of the Matrimonial Causes 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.*

Section 2 of the Matrimonial Causes Act, 1971 (Act 367) outlines the grounds to be satisfied in order for this Court to be persuaded that a marriage has indeed broken down beyond reconciliation:

;2. Proof of breakdown of marriage

- (1). *For the purpose of showing that the marriage has broken down beyond reconciliation the petitioner shall satisfy the Court of one or more of the following facts:*
- (a). *That the respondent has committed adultery and that by reason of the adultery the petitioner finds it intolerable to live with the respondent;*
 - (b). *That the respondent has behaved in 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 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, provided that the 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 despite the refusal;*
 - (e). *That the parties to the marriage have not lived as husband 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 the Act provides;

“Notwithstanding that the Court finds the existence of one or more of the facts specified in section 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.”

At the trial, the Petitioner testified that immediately after the marriage he decided to let his wife further her education, but the Respondent through her father told him that it is not only school that can help her. Petitioner said that he got two opportunities, that is teaching and work as a cleaner at St. Mary's Hospital, Drobo for the Respondent but she again refused to take both opportunities. That he told Respondent to look for a business of her choice so that he will give her money to start business. The Respondent initially started selling pepper but, she later changed to trade in foot wares but in the end she stopped with the reason that the work was too hard.

The Petitioner contended that during the pendency of the marriage, the Respondent caused him a lot of untold anxiety, stress, embarrassment and psychological or emotional trauma in that the Respondent started extra marital affairs with her ex-boyfriend and was always demanding money from him at the end of every month, although he had given her money for investment at "God is Love."

He told the Court further that the Respondent could travel to unknown destinations without his knowledge and spend several weeks. He told the Court that Respondent could go to her hometown nine (9) times in just one year and stayed there not less than two (2) weeks in each case. There were instances that the Respondent could leave the matrimonial home and he had to be searching for her. This, the Petitioner said the Respondent was so unreasonable because she has not been able to give any tangible reasons for her action and several people had intervened and advised the Respondent severally to stop her unreasonable behaviour but all efforts were to no avail. Petitioner testified that all efforts by himself and family members as well as one Rev. Father Francis Mfodwo of St. Anthony Parish, Catechist Kofi Amponsah, Kyeremeh Diawuo, Apraku etc. who tried to talk to the Respondent to stop having extra marital affairs have proved futile. The Respondent had since 2020 returned the customary drinks, packed all her belongings from the matrimonial home and from a reliable source, the Respondent is currently staying with another man. Respondent's father whom Petitioner complained to, to advise his daughter was unable to advise Respondent and all that he said was that

he does not care about the marriage and it is up to the Respondent to either continue or divorce.

Petitioner told the Court that from all indications the marriage has broken down irretrievably, because the Respondent has long deserted the matrimonial home, returned the customary drinks since 2020 and since then they have not had conjugal relations as couples. Petitioner prayed the Honourable Court to dissolve the marriage between them and also cancel the marriage certificate.

The Petitioner after testifying called one Nana Apraku Dartey Samuel (PW1). He corroborated the Petitioner's evidence that the Respondent leaves the parties' matrimonial home without recourse to Petitioner. He testified that on 24/12/2018, the Petitioner called him and told him his wife had left the matrimonial home without informing him. He then told the Petitioner to conduct a search but the friends of Petitioner's wife told him they had no information about his wife (Respondent) whereabouts.

PW1 testified that on the same day around 11:00pm, The Petitioner, together with one Amponsah Collins, Asare James and himself left Drobo to Nsonsonmea, the Respondent's hometown and got there around 12:00am. That they met Respondent's father and were told by him that the Respondent was with him. A week later, the Petitioner called and told him that the Respondent had returned to the matrimonial home. PW1 said, he later visited the parties to advise the Respondent and that the Respondent told him she left the matrimonial home without informing the Petitioner because the Petitioner had bought a taxi cab and uses same after close from school and for that matter does not come early that is why she left the matrimonial home to spend sometime at her hometown. PW1 said, he advised the Petitioner to try and come home early and Respondent to stay at home and always inform the petitioner whenever she is going out.

From the evidence which stands unchallenged, it is obvious that the parties have been unable to reconcile their differences in spite of attempts by reputable persons in the society including clergymen such that the parties have not lived as man and wife since 2020 after Respondent left the matrimonial home. Thus, I find on the totality of the evidence that due to irreconcilable differences and desertion by the Respondent, the marriage, has broken down beyond reconciliation.

Accordingly, I decree the marriage celebrated between the parties on the 14th day of December, 2013 at St. Peter's Quasi Parish, Adamsu with certificate number 2013/70 Per license number GS/6/VOL/2 dissolved. The said marriage certificate is hereby cancelled.

.....SGD.....

H/W LINDA E. NYAHE (MRS.)

MAGISTRATE