

IN THE DISTRICT COURT HELD AT BEREKUM ON WEDNESDAY THE 10<sup>TH</sup>  
DAY OF MAY, 2023 BEFORE HIS WORSHIP AUGUSTINE AKUSA-AM  
DISTRICT MAGISTRATE

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SUIT NO. A4/09/2023

GIFTY YEBOAH OF H/NO. F.34, BEREKUM

VRS

YAW CHRISTIAN OF C/TORRES DE SANVI

0012-02-25006 LIEIDA SPAIN

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### J U D G M E N T

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By her writ of summons, the petitioner is praying the court to dissolve the Ordinance marriage contracted on 31<sup>st</sup> March, 2016 between her and the respondent.

The parties are Ghanaians and they converted their customary marriage to the ordinance marriage on 31<sup>st</sup> March, 2016. They subsequently travelled to Spain where they have since been living as married couples.

When the petitioner filed the instant petition, she sought leave of the court to serve the respondent outside Jurisdiction. This request was granted and the DHL (courier service) report showed that the respondent was duly served with the petition. Upon receipt of the divorce suit, the respondent filed his answer on 26/04/23 and consented to the dissolution of the marriage.

The complaint of the petitioner is that she had been married to the respondent for the past seven years without any issue that for the past two years, she had not had peace at her matrimonial home as the respondent has been subjecting her to verbal and physical abuse.

The respondent, according to the petitioner, is engaged in extra marital affairs with another lady by whom they even have a child. This infidelity on the part of the respondent has made it difficult for them to live harmoniously as husband and wife.

The conduct of the respondent was reported to his parents and some elders of his family but he has ignored their advice and has even intensified his abusive conduct.

The petitioner averred that she had been denied sex for the past two years and this compelled her to travel to Ghana to complain to her parents. All attempts of reconciliation have failed hence her prayer for the ordinance marriage to be dissolved. Rose Kyeraa Boabeng, mother of petitioner testified Dw1.

In his unsworn response to the court, the respondent deposed as follows:

- a. *“ That due to irreconcilable differences between me and my wife Gifty Yeboah, she moved out of her matrimonial home and relocated to Ghana precisely Berekum and filed for a divorce at the District Court at Berekum.*
- b. *That I have been served with the petition for divorce where my wife is seeking for the dissolution of our marriage.*
- c. *That I have no objection to the grant of divorce so that we can go our separate ways.*
- d. *That I cannot come to Ghana to appear before the Honourable Court to contest the matter especially since I have no objection to the grant of the application for divorce.”*

At the end of the trial, the issue that calls for determination is whether or not the marriage between the parties has broken down beyond reconciliation.

The petitioner had stated that the respondent had committed adultery by having a child with another woman. The respondent did not address this issue in his written answer to the court. Section 2 (1) of the Matrimonial Causes Act, 1971 (Act 367) provides that, " 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.*

Since the respondent did not deny the adultery allegation levelled against him, I take it that he indeed committed adultery for which reason the petitioner's petition has merit.

I have found as a fact that several attempts at reconciliation have yielded no fruitful results as the parties have persistently failed to patch up their differences.

On the totality of evidence adduced by the petitioner and in consideration of the letter of consent filed by the respondent I am convinced that the respondent has put up an unreasonable behaviour towards the petitioner for which reason they can no longer live together as couples.

In the light of the above, I hereby dissolve the marriage between the parties and accordingly cancel their marriage certificate.

No order as to costs.

**H/W AUGUSTINE AKUSA-SAM**  
**(DISTRICT MAGISTRATE)**

e.o.