

IN THE DISTRICT COURT HELD AT SOMANYA ON THE 20TH DAY OF
JULY, 2023 BEFORE HIS WORSHIP MICHAEL DEREK OCLOO

SUIT NO: A4/17/23

TEYE FRANCIS LAWER

PETITIONER

VRS

LYDIA ABENA OSEI

RESPONDENT

JUDGMENT

The Petitioner instituted this action for the dissolution of the Ordinance Marriage between him and the respondent. The Petitioner is a pensioner and the respondent is a business woman. The case of the Petitioner is that they had their customary marriage which was converted to Ordinance marriage on 8/8/2004 at the Church of Pentecost, Somanya. The marriage is blessed with one child by name Aboryo-Teye Pasceline who is 16 year's old and the petitioner has been providing her educational needs. He added that the marriage has been peaceful until 4 years ago when they started experiencing misunderstanding and quarrels in which the respondent will insult him with so much arrogance and disrespect to the extent of dismay of the neighbours in the area. He added that the respondent has a confrontation with the petitioner's daughter (Belinda Aboryo-Teye) in which the respondent bit Belinda on her body and she sustained injuries and was taken to the Somanya Polyclinic for treatment. He attached photographs depicting the injury sustained by Belinda which was admitted in evidence and marked.

According to the petitioner on one occasion he gave half of the daily sustenance allowance (chop money) to the respondent due to financial challenges and the respondent threw the money on the ground with the reason that it was inadequate and insulted the petitioner on top of her voice. He further stated that he had information that the respondent had stolen money from the offertory bowl in their church and was caught which was embarrassing to him as a Catechist in the church. He added that any time there is a misunderstanding the respondent insults him and pours libation and invokes the threat of death on the petitioner. On some occasions the respondent tells him to take her back to her parents. In addition the respondent consistent threat of death on the slightest misunderstanding has made him (respondent) and their child live in fear in the matrimonial home.

In conclusion he stated that an attempts at settlement been to no avail.

In the evidence of the respondent she stated that 4 years ago the petitioner started coming home late in the night and sometimes sleeps outside the matrimonial home and each time she complained it led to quarrels. About 2 years ago, the petitioner

dismantled the matrimonial bed and started sleeping alone in the sitting room while she (respondent) and their daughter slept on a mattress in the bedroom. That means they stay in the same house but sleep in different rooms. She added that for 4 years now the petitioner has failed to provide them (Respondent and their daughter) with maintenance allowance and has prevented the respondent from washing his (Petitioner's clothes and had also denied her (petitioner) sex.

She concluded that elders from both families and their pastor have attempted on several occasions to resolve the matter but to no avail.

Section 2 of the Matrimonial Causes Act 1971 (Act 367) provides that for the purpose of showing 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.

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

The Petitioner claims that the respondent does not respect him and insults him any time there is a misunderstanding. Also the respondent had a confrontation with Belinda who is the daughter of the petitioner and in the course of that she bit Belinda which caused injuries on her body and she went for treatment at the polyclinic. In addition the petitioner alleged that the respondent stole money from the offertory bowl at church. The conduct of stealing causes an embarrassment to the petitioner. Also since Belinda is the step-daughter of the respondent, the respondent should have exercised patience or even avoided the confrontation to prevent the bite she inflicted on Belinda. The quarrels and insults on regular basis are also not good for the promotion of a healthy marriage. The petitioner cannot be reasonably expected to live with the respondent considering the behaviour she exhibited.

The provision in Section 2(1) (c) provides that it is the respondent who should have deserted the petitioner however in the instant case it is the petitioner who deserted the respondent by sleeping in the sitting room for the respondent to sleep in the bedroom.

The issue of desertion brings into focus the fact that both parties have not lived as man and wife for the past 2 years since they live separately in two different rooms. This was expressed during cross examination of the petitioner by the respondent as follows:

Q: I am putting it to you that we have been living in separate rooms for the past 2 years without intimacy and not 4 years as you stated.

A: That is not true it is 4 years.

The above is a confirmation of the fact that the petitioner and the respondent have been living separately for at least 2 years and there is the issue of denial of sex on both sides.

Both parties stated that attempts by their pastor and elders of both families at resolution of the matter have as failed. This means that both the petitioner and the respondent have exerted diligent effort but have been unable to resolve their differences.

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

In the circumstance I declare the marriage between Teye Francis Lawer herein referred to as the Petitioner and Lydia Abena Osei herein referred to as the respondent duly dissolved and make the following orders.

1. That the petitioner shall pay alimony of GHc10,000.00 to the respondent.
2. That custody of the child Aboryo-Teye Pescere is granted to the respondent with reasonable access to the Petitioner on weekends and on school holidays.
3. That the petitioner shall rent a decent room for the upkeep of the child.
4. That the petitioner shall pay a monthly maintenance of GHC600.00 in respect of the child.

(SGD)

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H/W MICHAEL DEREK OCLOO
MAGISTRATE
20/JULY/2023