

**IN THE DISTRICT COURT '1' CAPE COAST**  
**BEFORE HER HONOR VERONIQUE PRABA TETTEH, ESQ**  
**SITTING ON THURSDAY 13<sup>TH</sup> OF JULY, 2023 AS AN ADDITIONAL**  
**MAGISTRATE.**

**SUIT NO: A4/34/2023**

**PATRICIA EDITH OCRAN  
OF CAPE COAST**

**- PETITIONER**

**VRS**

**RAPHAEL MIKE OCRAN  
OF CAPE COAST**

**- RESPONDENT**

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Petitioner Present

Respondent Absent

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**JUDGEMENT**

The parties were married on the 7<sup>th</sup> of December 1991 at the ICGC church Cape Coast. The petitioner claims that since about 3 to 4 years ago, they have not lived together as husband and wife and that they have been living separate lives. The petitioner stated the following in her evidence in chief:

*"We are living in separation for the past 3-4 years now without sexual intercourse between us. There is no regular communication between us in the marriage. Respondent is not in good cordial relation with my family. Respondent does not maintain me as a wife."*

The respondent for his part also claims

*“that the petitioner has committed adultery with one Mr. Savage and this is known to all and sundry. That I confronted petitioner and she intimidated that by virtue of Mr. Savage being an NPP coordinator and she being women’s organizer of the NPP, he also asks her to accompany them to visit party members.*

*That as a couple there has not been regular communication between us due to petitioner’s attitude of casting insinuations and attributions all to provoke me. That for the past 3-4 years the parties have been in separation and living their individual lives. That the petitioner’s adulterous act coupled with her unreasonable behaviour makes it intolerable for respondent to live with her. That the respondent consents to the grant of divorce.”*

Sections 1 and 2 of the Matrimonial Causes Act provides the sole grounds on which a court may grant divorce and the factors to be used in determining the said grounds for divorce. I have taken the liberty to reproduce the said provisions below.

### **1. Petition for divorce**

- (1) A petition for divorce may be presented to the Court by either party to a marriage.
- (2) The sole ground for granting a petition for divorce shall be that the marriage has 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.
- (2) On a petition for divorce the Court shall inquire, so far as is reasonable, into the facts alleged by the petitioner and the respondent.
- (3) Although 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.

The duty of the court where a petition is presented is espounded in the case of *Knudsen v Knudsen* [1974] 1 GLR 133. Holdings one and two in the case provide that;

*(1) Under Act 367, s. 2(2) the court has to inquire into the facts alleged by the parties. The court does not have to hold such inquest in all cases. Where the evidence of a petitioner stands uncontradicted, an inquest by the court is not necessary unless it is suspected that the evidence is false or the true position is being hidden from the court.*

*(2) Act 367 seems to draw a distinction between appearance and reality, in that a petitioner after proving one of the facts enumerated in section 2(1) is deemed to have shown that the marriage has broken down beyond reconciliation; but by section 2(3) the court is directed to conduct an inquiry to find out whether in truth it has done so. The court has then to consider all the evidence, including what it has found upon its inquiry and, if satisfied that the marriage has already broken down, decree a divorce.*

Upon careful consideration of the evidence of the parties, I find that the parties have not lived together as husband and wife for more than two years immediately preceding the filing of this petition. I find also that both parties consent to the grant of dissolution of the marriage celebrated in 1991. Being satisfied that the their marriage has broken down beyond reconciliation, I hereby grant the petition for dissolution of the marriage. No order as to cost.

SGD

**H/H VERONIQUE PRABA TETTEH, ESQ  
(CIRCUIT COURT JUDGE)**