CORAM: HER WORSHIP AMA ADOMAKO-KWAKYE (MS.), MAGISTRATE, DISTRICT COURT '2', KANESHIE, SITTING AT THE FORMER STOOL LANDS BOUNDARIES SETTLEMENT COMMISSION OFFICES NEAR WORKERS' COLLEGE, ACCRA ON 13TH OCTOBER, 2023.

SUIT NO. A8/22/23

MAUDLINE EMEFA AGBAKPOE
HOUSE NO. NT 9, ACHEAMPONG ST. :: PETITIONER
NEWTOWN, ACCRA

VRS.

GODWIN AMUZU
ACHIMOTA, ACCRA :: RESPONDENT

JUDGMENT

INTRODUCTION/BACKGROUND

The Petitioner herein caused the issuance of the present Petition against the Respondent on 6th September, 2022. She prayed this Honorable Court for the following reliefs;

a. *That the marriage between the Petitioner and the Respondent be dissolved;*
b. *That custody of the children of the marriage be given to the Petitioner with reasonable access to the Respondent;*
c. *That Respondent is ordered to maintain the children of the marriage and the Petitioner appropriately;*

d. *That the Respondent is ordered to pay a lump sum settlement of GH₵ 35,000.00 to the Petitioner; and*

e. *Any other ancillary orders the court may deem fit.*

The parties, a Sales girl and a Graphic Designer respectively, married under the Ordinance on 17th January 2015 (contrary to the Petitioner's assertion that the marriage was on 27th December, 2014). They have two children together, Desmond Amuzu and Sarah Sedinam Amuzu, who at the time of instituting the suit were 14 years and 4 years old respectively.

It is the Petitioner's case that the Respondent has behaved unreasonably and she cannot therefore be expected to live with him. She stated that she had been subjected to cold treatment by the Respondent, that the Respondent failed to eat her food, did not permit her to do his laundry, had ceased communicating with her and there had been no intimacy between them for the past five years, a period during which they have been living apart. Petitioner asserted that Respondent's reason for his unreasonable behaviour is that she became pregnant with their second child when the parties had agreed not to have any more children. She further averred that there has been attempts by their families to reconcile their differences but all attempts have proven futile. She asserted that her father invited the Respondent and his family for a meeting aimed at resolving the parties' marital issues however, Respondent informed her father that he and his family did not have the financial means to honour the invitation. She therefore prayed this court for the reliefs mentioned *supra*.

The Respondent's case was that the parties' marital issues persisted basically due to Petitioner's behaviour. Although he averred that there had been no attempts to reconcile their differences, he stated that he had attempted resolving their issues by speaking with Petitioner and her family. He averred that the parties had not had sexual intercourse for

the past five years because the Petitioner peddled falsehood that he pressed her to abort the pregnancy. He stated that despite his disapproval of the pregnancy which led to the birth of their second child, he has grown fond of the child. He further asserted that he stopped eating food prepared by the Petitioner because he was insecure about the Petitioner. Respondent added that he did not allow the Petitioner to do his laundry for him because he preferred to do it himself.

Respondent further averred that he had been dutifully paying the children's school fees, feeding and assisting in taking care of them and aside the fact that he cannot afford the lump sum prayed for by the Petitioner, the Petitioner was not entitled to same since she is gainfully employed and he has faithfully discharged his duties towards the children.

Counsel for Petitioner at the close of trial filed his Written Address on 10th August 2023.

ISSUES

From the case of the parties as stated above, the Court agrees with Counsel for the Petitioner that the main issues which arise for determination are:

1. Whether or not the marriage between the parties has broken down beyond reconciliation within the purview of the Matrimonial Causes Act, 1971 (Act 367).
2. Whether or not the Petitioner is entitled to the lump sum of money she claims as alimony.

The issues of custody, access and maintenance of the children would be ancillary issues that this Court would also consider.

EVALUATION OF EVIDENCE/LEGAL ANALYSIS

Issue 1.

Section 1(1) of the Matrimonial Causes Act, 1971 (Act 367) allows either party to a marriage to present a petition to the court for divorce. **Section 1(2)** of the Act further emphasizes that, the sole ground for granting a petition for divorce shall be that the marriage has broken down beyond reconciliation.

To prove that a marriage has broken down beyond reconciliation, the law requires a petitioner to plead and prove to the satisfaction of the court, one or more of the six facts set out under **Section 2(1) of the Matrimonial Causes Act (Act 367)**. Those facts in a loose list are; adultery, unreasonable behaviour, desertion, not living as man and wife for two years continuously with consent to divorce, not living as man and wife for five years continuously with no consent needed and irreconcilable differences. See **Danquah vs Danquah (1979) GLR 371.**

Pleading and proving any of the facts by themselves however, are not dispositive of the quest to dissolve. That is to say, the discharge of the burden by the Petitioner on any of the facts is not in itself sufficient to obtain the decree. The court must be satisfied on all the evidence that the marriage has indeed broken down beyond reconciliation. I believe Section 2(3) of the Act is clear on the point. It states that notwithstanding that the court finds the existence of one or more of the facts specified in sub-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. In the case of **Kotei v. Kotei [1974] 2 GLR 172,** the Court held as follows (holding 2):

> *'Notwithstanding proof of one of the facts showing that the marriage had broken down the court has a discretion to refuse to grant the decree of dissolution on the ground that the marriage has not in fact broken down beyond reconciliation. The discretion given to the court was not a discretion to grant but a discretion to refuse a decree of dissolution…'*

From the pleadings and evidence adduced in court, the parties seek to rely on **Sections 2(1) (a)** and **(b) of the Matrimonial Causes Act, 1971 (Act 367)** which is to the effect that;

> *"(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 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*

The Petitioner filed her Witness Statement on the 12th of December, 20222 and same was adopted by the Court as her evidence in chief. She testified that the parties had their first child before they married and after their marriage, Respondent informed her that they should not have any more children. As such, she was on contraceptives for some time but the contraceptives had adverse effects and her and she was compelled to stop taking them, without informing the Respondent. She stated that she conceived shortly thereafter and this was the root of all their marital problems.

According to the Petitioner, the Respondent started sleeping out of their matrimonial home, ceased talking to her and also ceased having intimacy with her. Petitioner further testified that not long after she gave birth to their second child in April 2018, their rent expired and the Respondent asked her to relocate to her village to join her parents so that he can work and take care of the family. Petitioner testified that she refused to listen to Respondent because she would have become unemployed had she listened to him. She therefore gave the Respondent an amount of GH₵ 960.00 which was part of her savings to pay for a year's rent so that the parties could stay together in Accra.

According to Petitioner, about seven months later, she got to know that the Respondent had fathered a set of twins with a lady called Fati in the community. She added that the Respondent himself informed the elders of the church about it, and he was disfellowshipped from the church. She testified further that when the year's rent ended, Respondent packed out of the matrimonial home taking away their son, and she was therefore ejected from the matrimonial home because Respondent failed to renew it. She added that she informed her church about her predicament and an elder of the church by name Mr. Sekyere Nyedu magnanimously took her and her daughter to his residence and allowed them to stay there until they found an alternative accommodation. She further added that they were in the said house for almost a year.

It was her testimony that she was visiting her son at where the Respondent was fellowshipping because that was the only way she could get to see and check on him. She added that when the Respondent found out about this, he sent her and Mr. Sekyere text messages that if Petitioner ever stepped foot there again, he would kill her. Petitioner therefore with the help of Mr. Sekyere lodged a complaint at the Domestic Violence and Victim Support Unit (DOVVSU) at Abeka and the Respondent was invited by the police. She further testified that the Respondent was advised to take her to his house for the parties to live together and Respondent adhered to this by taking Petitioner and their children to his house at Achimota where they lived for four months, but during her stay, Respondent failed to talk with her and anytime she initiated a conversation, the Respondent would not respond.

She stated that the Respondent only kept housekeeping money on the table and left for work without a word to her and he would leave the house for days without any communication. She added that Respondent refused to eat her food and prevented her from washing his laundry. Disturbed by this, Petitioner testified, that she discussed it with her boss at work who was generous enough to rent an apartment for her to relocate

with the children. When Petitioner informed Respondent that she was moving to a new place, Respondent insisted that the Petitioner should sign an undertaking to never return to his house else, he would not allow him to leave with the children. She therefore obliged and signed same for the Respondent after which she left with the children to the new apartment where she currently resides.

Petitioner testified that she informed her father about the challenges in her marriage and her father invited the Respondent and his family for a meeting however, Respondent and his family failed to honour her father's invitation. It is the case of the Petitioner that the Respondent has behaved unreasonably towards her and has subjected her to cold treatment. As such, she cannot reasonably be expected to live with the Respondent.

Respondent also filed his Witness Statement on the 6th of February, 2023 which same was adopted by the Court as his evidence-in-chief. Respondent testified that before the Petitioner conceived their second child, she was secretly calling numbers on his phone to warn them not to call him again. He therefore advised Petitioner against such conducts. This he says caused him to develop the habit of hiding things from the Petitioner. Respondent testified that he believes this caused the Petitioner to stop taking the contraceptives.

According to him, Petitioner during the subsistence of the marriage bled a lot even when they had sexual intercourse however Petitioner never informed him of the cause. He was later informed by her sister that Petitioner's bleeding was as a result of the family planning. He further testified that when Petitioner informed him that she had missed her period, he only informed her to go to the hospital however Petitioner lied to his mother and members of the church that he had told her to abort the pregnancy. He added that despite his express prohibition, Petitioner started her antenatal at Ridge Hospital instead of Mamobi Hospital.

It was the testimony of the Respondent that close to her delivery, he advised the Petitioner to go to her hometown for her mother to take care of her but Petitioner declined and rather informed him that her mother would come however, it was her sister who came. Respondent further stated that he left home and stayed away due to the nature and demand of his work as well as his strong desire to provide for the family. He added that he one day returned home and met the absence of the Petitioner and his children. According to him, the Petitioner returned the following day and intimated that she spent the night at Kwabenya.

He added that the Petitioner's father asked him to kick Petitioner out if she returned without a tangible reason. It was Respondent's testimony that he pays for the school fees, medical and feeding fee of the children of the marriage. He added that he used to give Gh₵ 200.00 a week as upkeep money for the children however, since he is currently living with their first child, he gives Gh₵ 120.00 as feeding fee for their daughter. Respondent further testified that he has been diagnosed of glaucoma which puts a lot of burden on his finances as such, he is unable to give the Petitioner the alimony she is claiming for.

Adultery:

Section 2(1)(a) of Act 367 states that a Petitioner may rely on the fact that the Respondent has committed adultery and the fact that as a result of the adultery he or she finds it intolerable to live with the respondent, to prove that a marriage has broken down beyond reconciliation.

What constitutes adultery has been stated in **section 43 of the MCA** as *"the voluntary sexual intercourse of a married person with one of the opposite sex other than his or her spouse"*. The combined effect of the definitions of adultery given in Section 2(1) (a) and Section 43 of MCA is that the party seeking to rely on adultery as the basis of the breakdown of a

marriage must establish that there was sexual intercourse with another person and that, as a result of that adultery, he or she finds it intolerable to live with the other spouse.

Justice Kingsley-Nyinah in **Quartey v Quartey and Anor [1972] 1 GLR p 6** said that *"The burden of proving adultery lies on the person who alleges it and it cannot be shrugged off by evidence that is tainted, indifferent, suspicious or uncertain. The standard of proof required is proof beyond reasonable doubt that is, it must be proved with same degree of strictness as is required for the proof of a criminal offence"*

In **Adjetey v Adjetey [1973} GLR 216**, the court departed from the 'proof beyond reasonable doubt approach' and stated through Sarkodee J as follows:

> *Adultery must be proved to the satisfaction of the court and even though the evidence need not reach certainty as required in criminal proceedings, it must carry a high degree of probability. Direct evidence of adultery is rare. In nearly every case, the fact of adultery is inferred from circumstances which may by fair and necessary inference, lead to that conclusion. There must be proof of disposition and opportunity of committing adultery; but the conjunction of strong inclination with evidence of opportunity does not lead to an irrebuttable presumption that adultery has been committed; and likewise, the court is not bound to infer adultery from evidence of opportunity alone.*

In **Adjetey v Adjetey (supra),** the Court came to the conclusion on one of the allegations of adultery that from the circumstances of the case, it could be inferred that adultery had been committed and that the marriage had broken down beyond reconciliation. See also the cases of **Blum v Blum [1963] 107 Sol Jo 512** and **Hume v. Hume &McAuliffe [1965] Times, March 3 CA**. According to Rayden's book on "Divorce" (9th edn.) at Pg 178, it is not necessary to prove the direct fact or even an act of adultery in time and place; or even

necessarily the name of the person with whom the Respondent is alleged to have committed adultery with. The fact is inferred from circumstances.

The Petitioner's allegations of adultery against Respondent are founded on her averments in her witness statement that the Respondent had amorous relationship with one Fati which relationship led to the birth of a set of twins. Respondent did not deny the truth of this allegation levelled against him by the Petitioner. In fact, when Respondent was asked during cross examination, Respondent admitted that he has other children outside the marriage. The following as happened under cross examination is worth reproducing:

Q: Do you have other children apart from the two you have with Petitioner?

A: Yes please.

Q: How many?

A: Three.

Q: How old is the oldest of these three?

A: 15 years.

Q: And what about the youngest of the two?

A: The two are twins; they are 4 years.

Q: So, the Petitioner is right that in the course of the marriage with her, you fathered children outside the marriage, not so?

A: That is so.

I find it unreasonable that the Respondent after telling the Petitioner that he would not father any more children and as such she should be on contraceptives would have an affair with another woman other than his wife to produce two other children, especially

when he had himself stated that he disapproved of the birth of his second child with the Petitioner. As indicated in the Quartey v. Quartey case (supra), the burden of proving adultery lies on the person who alleges it and it cannot be shrugged off by evidence that is tainted, suspicious or uncertain. The evidence given by the Petitioner which was not impugned by the Respondent evidently supports Petitioner's testimony.

Respondent therefore had a voluntary sexual intercourse with another woman other than his spouse, the Petitioner. On this basis, the Court is satisfied that adultery under Section 2(1) (a) of Act 367 has been properly established by the Petitioner and this is the finding of fact by this Court.

Unreasonable Behaviour:

A petitioner may satisfy the court that a marriage has broken down beyond reconciliation by adducing evidence that are in tandem with **Section 2(1)(b) of Act 367.** This section is to the effect that the respondent has behaved in such a way that the petitioner cannot reasonably be expected to live with him or her.

The Cambridge Advanced Learner's Dictionary (4th Edition) has defined behaviour generally as "the way that a person behaves in a particular situation or under particular conditions. **Baker P in Katz v Katz [1972] 3 All ER 219** put it as follows: *"behaviour is something more than a mere state of affairs or state of mind, such as for example a repugnance to sexual intercourse, or a feeling that the wife is not reciprocating the husband's love, or not being as demonstrative as he thinks she should be. Behaviour in this context is action or conduct by one which affects the other. Such conduct may either take the form of acts or omissions or may be a course of conduct, and, in my view, it must have some reference to the marriage."*

Unreasonable behaviour in marriage can take several forms such as threats, assault or violence, insults, non-maintenance, infidelity, amongst others. In dealing with behaviour,

the question, is whether the petitioner can reasonably be expected to live with the respondent. The court ought to take cognizance of the personalities of the individuals before it and evaluate the impact of the respondent's conduct on that particular petitioner, having due regard to the history of the marriage and their relationship. See the case of **Livingstone-Stallard v Livingstone-Stallard; Knudsen v Knudsen [1976] 1 GLR 204; Mensah v Mensah [1972] 2 GLR 198**.

In the evidence of the Petitioner herein, it is Petitioner's case that the Respondent has behaved in such a manner that he can no longer be reasonably expected to live with her. Aside Respondent's infidelity, Petitioner testified that after she conceived their second child, the Respondent started sleeping out of their matrimonial home and ceased having intimacy with the Petitioner. When their rent expired, the Respondent moved out with their eldest son and left the Petitioner and their daughter in the house. Petitioner and the child were therefore ejected from the matrimonial home because of Respondent's failure to renew their tenancy. Even though Respondent denied this, the truth of Petitioner's assertions became glaring under cross examination. The following as happened under cross examination is worth reproducing;

> *Q: When the rent expired you left the matrimonial home, leaving the Petitioner and your children behind. Is that so?*
> *A: Not so.*
>
> *Q: Why was the Petitioner thrown out of the matrimonial home then?*
> *A: When the rent expired, I informed her to go to her hometown for the misunderstanding we have to be settled. The landlady wanted to eject us so I informed Petitioner that she should go to our hometown. I gave her transport fare to go and settle there. I gave her GH¢ 250.00.*

Q: Did the landlord eject you from the matrimonial home?

A: Yes please.

Q: Did you relocate with the Petitioner and the children of the marriage?

A: I went with the older child alone.

Q: What were you expecting the landlord to do to Petitioner and the younger child?
A: As I earlier said, there was a misunderstanding between us so I gave her money to go to our hometown.

Q: So because of that you couldn't be bothered about Petitioner and the younger child. Is that what you are saying?
A: I don't know that they were ejected. I am hearing this for the first time

This piece of evidence reveals how nonchalant the Respondent was concerning the welfare of the Petitioner and the younger child of the marriage. This Court therefore believes the testimony of the Petitioner. Also, Petitioner testified that the Respondent sent her text messages threatening to kill her if she ever steps foot in his house. Petitioner therefore lodged a complaint at the Domestic Violence and Victim Support Unit (DOVVSU) at Abeka. The Respondent was unable to impugn these allegations of unreasonable behaviour levelled against him by the Petitioner and did not challenge same.

Moreover, it was the case of the Petitioner that the Respondent refused to have intimacy with her. When asked under cross examination the truth of this allegation, the Respondent testified that the parties have not known each as husband and wife for more than five years now. This is what happened under cross examination;

Q: When was the last time you had intimacy with Petitioner?

A: More than 5 years.

It is trite law that a willful refusal by one spouse to have sexual intercourse entitles the party suffering to leave if in all the circumstances of the case it could properly be regarded as grave and weighty. Such conduct also amounts to a just cause for leaving even though it lacked the element of intent to injure. See; **Opoku-Owusu v. Opoku-Owusu [1973] 2 GLR 349-354.** From the evidence, the conduct exhibited by the Respondent during the subsistence of the marriage amount to unreasonable behaviour in the opinion of the Court.

A loving and a caring husband would not treat his wife in the manner the Respondent treated the Petitioner. It is disheartening that the Petitioner had to suffer such coldness at the hands of the Respondent, the person she calls her husband. The marriage's real waterloo is proved to be his unreasonable behaviour towards the Petitioner. It is important I believe, that, this fact is clearly put on record even if the marriage is to suffer dissolution. The conduct exhibited by the Respondent is one that ought to be absent from a loving, congenial relationship which was professed to be for life. Unreasonable behaviour is an objective test and this Court is minded to conclude that Petitioner has proved to the satisfaction of this Court that it is rather the Respondent who behaved unreasonably towards her, a fact this Court has found. On this basis, the Court is satisfied that unreasonable behaviour under section 2(1) (b) of Act 367 has been properly established. This Court therefore sides with Counsel for Petitioner when he submits that the marriage has broken down beyond reconciliation as a result of Repondent's unreasonable behaviour.

Issue 2.

The Petitioner in her reliefs made a prayer for the award of lump sum settlement of GH₵ 35,000.00 to her. Under **Section 20 of the Matrimonial Causes Act, 1971 (Act 367)** the Court may amongst others, order either party to the marriage to pay to the other party such sum of money as part of financial provision as the Court thinks just and equitable. In considering financial settlement, some of the factors taken into consideration include the financial needs and resources of both parties, the standard of living enjoyed during the marriage and the parties' current circumstances, the duration of the marriage, and the contributions made by each party to the welfare of the family, the parties' conduct, station in life, age and means of the parties, any agreement, if any, made between the parties regarding alimony, responsibilities of each party, amongst others. The award of lump sum or alimony is a discretionary function of the Court. The consideration of the award of lump sum payment should be made not in isolation from the earning capacity of a party; it should not cripple the other party's earning capacity. It is necessary to state that there is no cut and dried rule but the peculiarities of each case inform the Court in making any decision in respect of financial provision or alimony, having regards to the specific facts and evidence adduced.

In the case of **Isaac Kwame Amoah Ahinful v Anne Marie Ahinful (2016) JELR 107733 (HC)**, the Court made reference to the 6th Edition of the Black's Law Dictionary in defining alimony as: "…sustenance or support of the wife by her divorced husband and stems from the common law right of the wife to support by her husband. Allowances which the husband or wife by court order pays to the other spouse for maintenance while they are separated or after they are divorced (permanent alimony) …" and the Court was unambiguous that the award of alimony or financial provision, does not automatically follow an order of dissolution of a marriage. Thus, it is dependent on the circumstances of each case and must be just and equitable.

In the case of **Aikins v. Aikins (1979) GLR 223**, the Court took into account factors such as the fact that the wife did not have any capital assets of her own, that for many years prior to the presentation of the Petition she had not worked, that she required some funds to rent a premises for herself and her children, and to set herself up in business, and accordingly awarded her lump sum payment. The Supreme Court also granted the Petitioner in the case of **Quartson v. Quartson [2012] 2 SCGLR 1077** a lump sum financial provision on the basis of need; the necessity for her to have some funds to survive on whiles she re-organized her life. In **Beatrice Oye Plokhaar v Sterian Plokhaar (2016) JELR 108100 (HC)**, the Court also emphasized that the Court in deciding whether to grant financial provision to a party or not was to examine the need of the parties.

In the present circumstances of the case, the Petitioner is a Sales girl whereas the Respondent is a Freelance Graphic Designer. The parties had been married for over seven years when the Petition was instituted and it is obvious that they had been together for a longer time than that since their first child was even 14 years at the date of institution of the Petition. The Respondent has been diagnosed of glaucoma which he testified has affected his financial strength. He has three other children he caters for aside the two he has with the Petitioner. Even though this suit has come about as a result of the Respondent's unreasonable behaviour towards the Petitioner, I am mindful of the fact that the Respondent performs his duties religiously as a responsible father and all the circumstances as mentioned ought to be taken into account. Considering all these factors, I believe it would be fair in the circumstances for the Respondent to support the Petitioner with a sum of Ten Thousand Ghana Cedis GH₵ 10,000.00 as alimony.

Ancillary Issues

Section 22 of Act 367 states:

(1) In all proceedings under this Act, it shall be the duty of the court to inquire whether there are any children of the household.

(2) The court may, either on its own initiative or on application by a party to any proceedings under this Act, make any order concerning any child of the household which it thinks reasonable and for the benefit of the child.

(3) Without prejudice to the generality of subsection (2), an order under that section may—

(a) award custody of the child to any person;

(b) regulate the right of access of any person to the child;

(c) provide for the education and maintenance of the child out of the property or income of either or both of the parties to the marriage.

In issues concerning the child, it is the best interest of the child which is the paramount consideration as stipulated by **Section 2 of the Children's Act, 1998 (Act 560)**. The Petitioner has prayed to be granted custody of the two children the parties have together and for reasonable access to be granted the Respondent. The Respondent however expressed no form of opposition to this. In making decisions concerning custody or access, the Court ought to avert its mind to matters such as the age of the child, the importance of a young child being with his/her mother, the need for continuity in the care of the child, desirability of siblings to live together, among others.

The children of the marriage are young; 14 years and 4 years as at the time of the issuance of the Petition in September 2022. In the Court's opinion, it would be desirable for both children to live together and there is nothing on record pointing to the fact that staying with their mother would in any way be detrimental to their proper growth and security. In the Court's opinion, it would be in the best interest of the children to stay with their mother, the Petitioner herein. Custody is thus granted to her of the two children with the

Respondent granted access to them every fortnight weekend. For the avoidance of any doubt, the access includes the Respondent having the right to go for the children on Friday afternoon and returning them to Petitioner by 4pm on Sundays (fortnightly). Both parties are to have equal custody of the children during vacations. The presence of the parties ought to be felt by the children in their lives, hence these orders.

The Petitioner testified that the Respondent currently pays the children's school fees, feeding fees and medical bills. She added that Respondent gives her GH¢ 200.00 every week as upkeep money for the children. Petitioner however prayed for an increase in the amount given by Respondent as upkeep money to GH¢ 300.00 having regard to the current economic situation of the country. Respondent corroborated this but stated that because he is currently living with their son, he gives Petitioner GH¢ 120.00 for the upkeep of their second child.

It is obvious that both parties are gainfully employed. The Petitioner is a sales woman and the Respondent is a self-employed graphic designer who from the evidence has proved to be capable and very responsible by providing for the needs of the family. Both parties are in good standing to contribute towards the well-being and maintenance of the two issues of the marriage. The responsibility of catering for the children ought not to be made the sole responsibility of one party.

Having regard to the work of the Respondent, the Court thus makes an order for the Respondent to maintain the children of the marriage monthly at GH¢ 800.00 subject to yearly upward adjustments based on the prevailing economic situation in the country. The Respondent is to be responsible for all the educational needs of the children. The health expenses and clothing needs of the children are to be borne by the Petitioner.

CONCLUSION

Having inquired into the facts as alleged by both parties and from the evidence adduced by them, it is this Court's humble opinion that the marriage between the parties has broken down beyond reconciliation. It would serve no useful purpose to ask the parties who have been living apart for over four years now to come together by a refusal of the relief for dissolution of their marriage. The Court therefore grants the relief for dissolution of the marriage.

In the light of the foregoing, I hold that:

1. **The marriage celebrated between the parties on 17th January 2015 at the Accra Metropolitan Assembly is hereby dissolved;**
2. **Custody of the parties' two children is granted to the Petitioner with the Respondent granted access every fortnight weekend and custody during vacations should be equally shared between the parties;**
3. **The Respondent is to maintain the two children monthly at GH¢ 800.00;**
4. **The Respondent is to be responsible for all the educational needs of the children;**
5. **The health expenses and clothing needs of the children are to be borne by the Petitioner;**
6. **An amount of GH¢ 10,000.00 is awarded in favour of Petitioner against Respondent as alimony; and**
7. **Parties are to bear their own costs.**

[SGD]
AMA ADOMAKO-KWAKYE (MS.)
(MAGISTRATE)

Counsel

Kennedy Wiafe Effah, Esq. for the Petitioner

No legal representation for the Respondent.