

20/11/23

IN THE DISTRICT COURT HELD AT THE AKROPONG DISTRICT COURT ON  
MONDAY THE 20TH DAY OF NOVEMBER, 2023 BEFORE HIS WORSHIP  
ROCKSON A. K. KPODO ESQ DISTRICT MAGISTRATE.

SUIT NO. A4/790/23

**MATILDA BAAFI @ MATILDA BAFFOUR**

**V.**

**ELIJAH BAFFOUR ASAMOAH**

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**JUDGMENT**

Reliefs sought by the petitioner are the following:

1. Her equal share three houses and two stores, all constructed together on plot numbered 24 block 31 ABUAKWA.
2. Her equal share of two cars they acquired together.
3. Alimony/compensation of GHC50000.
4. Respondent should maintain their four children by taking care of their education, feeding, medical expenses and others.

The petitioner's case in support of her claims is that she got married to the respondent on the 19<sup>th</sup> day of October, 2008, at the Miracle Church of Grace, Akropong Ashanti, in the presence of both family members and that after their marriage they were blessed with four children. She added that after their marriage there has been several misunderstandings, characterised by beatings, threats of death which resulted in

criminal in court and they tried to resolve but all to no avail, hence their families have dissolved the customary marriage between them.

She concluded that she is praying the court to confirm the dissolution of the customary marriage between she and respondent.

PW1 corroborated the evidence led by the petitioner and added that they tried to settle the differences between the parties on several occasions but to no avail but finally, the respondent threw the petitioner's personal belongings from their matrimonial home hence the family sat down to dissolve the marriage between the parties, and the family sent the petitioner's mother, Ama Serwa and her sister Abena Fosua to return the customary drinks to the respondent which he accepted.

Respondent, on his part, says that the marriage between he and the respondent has never been dissolved as alleged by the petitioner and that he does not have two vehicles as alleged by the petitioner. He added that the only car he uses for the church activities was acquired for his church by the mother branch of the church and that apart from the main building in which the family lives all the other buildings were constructed with loans from friends hence he cannot share same with the petitioner. The respondent concluded by tendering in evidence some exhibits including a loan agreement which was witnessed by the petitioner.

Gleaning from the above therefore the court hereby identifies the following issues for settlement:

1. Whether or not the marriage between the parties has been dissolved customarily?
2. Whether or not the respondent has two vehicles?
3. Whether or not the respondent secured some loans to build the new houses on the land?

There is overwhelming evidence before this court that the marriage between the parties has already been dissolved customarily by the families of the parties due to the frequent quarrels between the parties since the day they got married.

In fact, it finally came to light that the respondent was denying the customary dissolution of the marriage so as to avoid paying compensation to the petitioner but he finally admitted when he realised that their marriage has broken down beyond reconciliation.

The petitioner alleged that they have acquired two vehicles and also built three different houses on the land they acquired together from the proceeds of the church they were operating but the respondent denied same.

But upon a visit to the house in dispute, it came to light that among all the three-house built by the parties it is only one house that has been fully completed.

Again, it came to light that locus in quo that the parties have taken loans from friends to build the other two uncompleted houses and that if they are share between the parties at that stage, it means that they would also inherit shared debts too.

Thus, the petitioner has been able to adduce sufficient to prove that the marriage has broken down beyond reconciliation and therefore needed to be dissolved and that she is entitled to a fair share of the properties they acquired together during the subsistence of the marriage in consonance with **section 2 (1), (a), (b), (c) and (f) of the matrimonial causes Act of 1970** 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

(c) that the respondent has deserted the petitioner for a continuous period of at least two 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.

Thus, the petitioner has been able to adduce sufficient evidence to make her case so as to avoid a ruling against her in consonance with the provisions outlined in **section 11 (1) of the evidence decree, NRCD 323 OF 1975** to the effect that:

*'For the purposes of this Decree, the burden of producing evidence means the obligation of a party to introduce sufficient evidence to avoid a ruling against him on the issue'.*

It is therefore the case from the above that the petitioner has been able to prove all her claims on the balance of probabilities.

The court has therefore entered judgment for the petitioner as follows:

- a. The petitioner is entitled to half of the rooms in the completed house which contains six bedrooms.
- b. The petitioner is entitled to alimony of GHC10000.00

Cost of GHC1000.00 is hereby awarded for the petitioner.

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H/W ROCKSON A. K. KPODO