

IN THE HIGH COURT OF JUSTICE OF THE F.C.T.
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT KUBWA, ABUJA
ON TUESDAY, THE 12TH DAY OF FEBRUARY, 2020
BEFORE HIS LORDSHIP: HON. JUSTICE K. N. OGBONNAYA
JUDGE

SUIT NO.: FCT/HC/PET/010/19

BETWEEN:

ENE RUTH EJEH	-----	PETITIONER
AND		
LOUIS ZINO MUGBEH	-----	RESPONDENT

BENCH JUDGMENT

On the 16th day of October, 2019 the Petitioner Ene Ruth Ejehe filed this Suit seeking for the dissolution of the marriage between her and the Respondent – Louis Zino Mugbeh.

The marriage was conducted – solemnized on the 4th day of February, 2016 at AMAC Marriage Registry. She presented a Certified True Copy (CTC) of the Marriage Certificate as evidence in support. That document was marked as EXH 1.

She stated that the marriage has broken down irretrievably and that she finds it difficult to continue to live with the Respondent.

The fact upon which the petition is predicated on is that since the marriage the parties had lived apart for a continuous period of over

three (3) years immediately preceding the filing of this petition. That the Respondent had left the matrimonial home since sometime in July 2016 till today and that all entreaties to make him return has proved abortive. He has no intention to return to the matrimonial home.

The Respondent was served and he came to Court. Again after called for he stated when Court asked him why he did not file any response to the petition, he said on record "I do not want to file anything". When Court inquired if he has a Counsel, he said yes "I have described everything with my lawyer. My lawyer coming is only to be present. I do not want to file anything. There is no love in the marriage any more. I am not interested again".

The Court had asked him if he will like to have a lawyer assigned to him. He refused and declined. "I do not need a lawyer".

He had confirmed to Court that as far as what was served/stated in the documents – Petition and Statement on Oath by the Petitioner is what the petition stands on, he has no answer and had accepted same. He concluded:

"What is written in Witness Statement I accept it as it is stated.

I do not intend to continue the marriage because there is no love. I do not intend to file anything (answer). We have been living apart for three (3) years and seven (7) months."

The Petitioner on her own had told Court thus:

"I am sure we have gone apart for a long time, close to three (3) years now. I do not want to continue the marriage. I will be glad if the marriage is dissolved soonest."

It has been known world over that no Court has the discretionary right to force any party to continue in a marriage where one of the spouses had filed a petition for dissolution of the marriage.

So once marriage is conducted under the MCA and there is a petition seeking to opt out of the marriage by any of the parties thereto, what the Court wants to ascertain is whether the marriage has broken down irretrievably. The Court also looks out for the reason or fact in support of such petition. Such facts as listed in S. 15 (1) & (2) MCA.

In this case the Petitioner had stated on Oath that the marriage between her and the Respondent had broken down irretrievably in that the parties had been living apart for over three (3) years and seven (7) months. From the fact before this Court it is evidently clear that the parties lived together for only five (5) months as husband and wife after the marriage was conducted and had for close to four (4) years been living apart before this petition was filed.

It is the provision of the S. 15 (2) (f) MCA that once parties have lived apart for three (3) years preceding the presentation of a petition that the Court can listen to them and dissolve such marriage based on the petition and the facts upon which the petition is predicated.

In this case the parties have both stated in Court in turn that they have lived apart for over three (3) years before the presentation of this petition. It is obvious that the marriage has not been consummated for over three and half years and still counting.

The long living apart and of course with the antecedent severance of all conjugal rights, consummation of the marriage etc are weighty enough for this Court to know, to see, to feel and conclude that actually the marriage between both parties has broken down

irretrievably and the parties are not expected to continue to live together as husband and wife.

There is no doubt that the bottom had dropped off the marriage and empty shell of the marriage has cracked beyond recognition or remedy.

That being the case this Court hereby DISSOLVE the marriage between the Petitioner – Ene Ruth Ejuh and the Respondent – Louis Zino Mugbeh which was conducted on the 4th day of February, 2016 at the AMAC Marriage Registry which is today four (4) years and ten (10) days old. The Court hereby make/grant the Order Nisi today the 12th day of February, 2020.

After the expiration of this Order Nisi – Ninety (90) days from today, any of the parties can apply for the Order to be made absolute. But where the parties fail to do so, the Order Nisi will be automatically made absolute on the ninety seventh (97th) day from today.

This is the Judgement of this Court.

Delivered today the _____ day of _____ 2020 by me.

K.N. OGBONNAYA
HON. JUDGE