

IN THE HIGH COURT OF JUSTICE OF THE F.C.T.
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT KUBWA, ABUJA
ON TUESDAY, THE 14TH DAY OF FEBRUARY, 2020
BEFORE HIS LORDSHIP: HON. JUSTICE K. N. OGBONNAYA
JUDGE
SUIT NO.: FCT/HC/BW/PET/06/18

BETWEEN:

MR ANIEKAN JOSEPH ----- PETITIONER

AND

MRS OIZA OPEYEMI JOSEPH ----- RESPONDENT

BENCH JUDGMENT

On the 22nd day of April, 2006 the Petitioner Aniekan Joseph got married to Oiza Opeyemi Joseph.

The marriage was blessed with three Children aged 13, 9 and 7 years old respectively.

On the 15th day of May the Respondent moved out of the matrimonial home taking with her the three Children of the marriage all of who are girls. Two are currently in Secondary school.

On the 4th December 2018 the Petitioner filed this action seeking for the dissolution of the marriage stating that marriage has broken down Irretrievably that the Respondent believes in soothsayer and fake

prophets a habit he finds intolerable and that the mother of the woman had being unbearably interfering in the marriage.

He had alleged that all efforts to reconcile the difference he had with the Respondent had prove abortive. That in order to ensure that the marriage had work out, the parties had journeyed to FIDA as well as before Bayo Omole Esq. of the Matrix Solicitors. That without any agreement the Respondent deserted him on the 15th day of May 2015 while he was at work and all entries to come back failed.

Again he is rarely allowed access to the Children of the marriage since the day of desertion.

Base on this he want dissolution of the marriage and partial custody of the Children – during the holidays.

He had informed the Court that he is willing to pay the Children school fees too to any level of education. That they will not contribute to the accommodation of the Children since he accommodate them during the period they are on holidays and are with him.

The Respondent had also upon receipt of the petition filed an answer and a cross petition stating her own side of the story denying the issue of patronage to soothsayers and false prophet. She had denied allegation of interference by her mother and had stated that she has been catering for the Children long before she left the matrimonial home. That she left the matrimonial home because of the incessant quarrel and lack of loving care and maintenance by the Petitioner. That the behaviour of the Petitioner had further aggravated their health as she is hypertensive.

The Petitioner is an employee of the federal government – National Centre for Women Development while the Respondent is a School Proprietor. She has been with the Children since the 15th day of May, 2015 till date.

The Petitioner had lamented about access to the children and interference from the mother of the Respondent.

The Respondent had wanted the Petitioner to have fattened access – visiting only after due notification of few hours and nothing more. The Respondent also wanted Petitioner to contribute for the accommodation of the Children.

Meanwhile by calculation made approximately the Children will stay with the Petitioner for about four (4) months in a calendar year while they will be with the Respondent for eight (8) months during school period.

A simple arithmetic shows that the Children will stay for four (4) months more with Respondent than with Petitioner after deduction of four (4) months is made from the eight (8) months. So the Rent to be paid for that four (4) months should be divided into two (2) since the Respondent is also gainfully employed.

Again the Respondent had wanted the sum of Two Million, Five Hundred Thousand naira (N2, 500,000.00) only for money expended on the Children before now and other money Fifty Thousand Naira (N50, 000.00) only per month for the welfare and up keep as well as maintenance.

The Petitioner had only agreed to pay the school fees. He had claimed to have been paying the school fees but did not present any document to that effect.

The Respondent Counsel wanted to present the Court the documents showing evidence of school fees and hospital bills. But the Court feels that all those are not necessary. But what is important is that the Children are henceforth well taken care of.

It is the norm that once the parties or any of the spouses in a marriage had decided to call it quit, no Court has a right to stop or force such spouse to continue with the marriage more so where the two (2) people have on their own decided to end the marriage. The unending discretionary power of the Court cannot force them to continue living together.

In this case the parties have in turn through the petition, cross – petition, answer to petition and Reply to answer to cross – petition vehemently stated that they do not intend to continue with the marriage. They have also today in Court before all persons present which include their respective Counsel, stated that the marriage between them has broken down irretrievably. That they are not expected to live together. More so the Respondent had lived away from the matrimonial home since the 15th day of May, 2015. That is close to five (5) years or four (4) years and seven (7) months ago.

Going by the provision of S. 15 (1) & (2) MCA once there has been desertion for one (1) year and severance of conjugal Rights for some months, the Court has a right to listen to parties and determine the marriage.

In this case it is evident that the marriage has broken down irretrievably and there has been severance of conjugal right and desertion. Yes the application was filed in 2018 but the Court started hearing of the Suit late last year.

The parties are in their mid Forties (40s) and early Thirties (30s). They are all adult of full ages. They need no one else's consent to enter marriage or severe marriage.

This Court has no power under the law to force them or order them to continue in a marriage from which the bottom has dropped off and all the content spilled on the ground. Sewing the cracked "SHELL" of the marriage will not do any good to it.

So this Court based on the above reasoning hereby Order that the marriage between Mr. Aniekan Joseph and Mrs. Oiza Opeyemi Joseph contracted on the 22nd day of April, 2006 at FCT Marriage Registry Abuja on the 22nd day of April, 2006 is hereby DISSOLVED today the 12th day of February, 2020 in that the marriage has broken down irretrievably.

By this dissolution the Court hereby make an Order Nisi for the said dissolution of the marriage today the 12th day of February, 2020. This Order Nisi shall be made absolute automatically after the effluxion of Ninety Seven (97) days, if any of the parties fail to apply the said Order be made absolute.

The Court hereby Order that the Petitioner pay the sum of Two Hundred Thousand Naira (N200, 000.00) only a

year for the accommodation of the Children of the marriage.

In addition the Petitioner should also ensure that he provide food within his ----- for the Children.

This is the Judgement of this Court.

Delivered today the _____ day of _____ 2020 by me.

K.N. OGBONNAYA
HON. JUDGE