

IN THE HIGH COURT OF JUSTICE OF THE F.C.T.

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT KUBWA, ABUJA

ON WEDNESDAY, THE 13TH DAY OF JULY, 2020

BEFORE HIS LORDSHIP: HON. JUSTICE K. N. OGBONNAYA

JUDGE

SUIT NO.: FCT/HC/BW/PET/18/20

BETWEEN:

BLESSING EGANA

PLAINTIFF

AND

AUSTINE ISAIAH AKALAZU

DEFENDANT

BENCH JUDGMENT

Judgement of the Court is not just based on the statement of the parties, it includes their behavior in Court.

Whenever a marriage is conducted under the Marriage Act and any of the parties feels that he/she cannot go on with the marriage because it has broken down irretrievably, the person files a petition for the dissolution of the marriage. It is a different thing if the marriage was conducted under the Customary Law. See extant provision of Matrimonial Causes Act (MCA)/MCR.

In this case the Petitioner has on the 30th day of January, 2020 filed a petition for the dissolution of the marriage between her and the Respondent – Austin Isaiah Akalazu. The marriage was conducted at the AMAC Registry on the 19th day of March, 2008. This is as evidenced in the Marriage Certificate No: 704 issued by the AMAC Marriage

Registry on the said 19th March, 2008 as attached by the Petitioner.

The marriage was blessed with three (3) Children aged 6 – 12. Two (2) female and one (1) male named Blessing, Prince and Favour Akalazu. The Children as well as the Respondent are all living in the same house occupied and owned by the Petitioner.

Aside from the dissolution of the marriage, the Petitioner want custody of the Children, she also wants the Respondent to vacate the house. She wants the Respondent to only have access to the Children during the holidays on the condition that the Respondent should live up to his responsibility as a father by sharing financially in the training of the Children meanwhile the Respondent said that he is Welder/Trynce profession.

From her testimony in chief the Petitioner had complained of bearing the financial burden of raising and up keep of her Children and as on lack of love and care by the Respondent. She had reported in Court before the Respondent that his people do not want her as she is “ostracized” by them each time they go to his village. The Respondent did not rebut or controvert that fact.

He had said and reiterated that he does not want the marriage to be dissolved and that he never expected that his marriage to the Petitioner will end today. He had stated on record severally that he did not call a lawyer because he feels that the issue is a family matter that does not need outsiders. But he came to Court with his pastor – Olukemi Solabi of the Four Square Church. I guess the Petitioner regards the Man of God as his family member.

The Court had pointed out to the parties particularly the Respondent that no Court has a right to force any person to stay in a marriage which that person feels has broken down irretrievably more so when there is a pending petition for its dissolution as in this case.

From the statement of the respondent on record there has been several appeal by different people organized by the Respondent to make the Petitioner see reason to continue with the marriage. But she said in open Court today on record that she is tired of the marriage and want its dissolution. The Respondent even stated that he pleaded to the Petitioner even today before the hearing but she said that it is over between them.

The Court had pointed out severally that there is no appeal against dissolution of marriage unless it is on issue of property or custody of the Children of the marriage. In this marriage they have three (3) Children as stated earlier.

Once a Petitioner has not changed her mind as to the dissolution of the marriage, the Court has no option but to say chorus "Amen" to it and make the Order Nisi proclaiming that the marriage has been dissolved.

In this case since the Petitioner is still bent on the dissolution, this Court has no reason not to say so be it – AMEN by granting the petition and stating that the marriage is dissolved and stands dissolved.

That is what this Court hereby stayed in this case. That the marriage conducted between the Petitioner – Blessing Eliana and the Respondent – Austin Isaiah Akalazu on the 19th day of March, 2008 at AMAC Marriage Registry Abuja under the Matrimonial Causes Act (MCA) is hereby

DISSOLVED. An Order Nisi is to be made to that effect in line with the provision of the said Matrimonial Causes Act (MCA).

The marriage having been dissolved today the 13th day of July, 2020 the said parties are to live apart and sever all conjugal right.

The Respondent is to leave the house at the end of July 2020 latest precisely on the 31st day of July, 2020. He has a right to leave the house earlier than that date.

Now that the marriage has broken down and dissolved, the Court make the following Orders for the custody of the Children:

- (1) The Children are to be in the custody of the Petitioner.
- (2) The Respondent can only have access to them on daily basis from today to 31st July 2020. After the 31st day of July, 2020 he should have access to the Children three (3) days a week in the same house where the Petitioner is living.
- (3) When the Respondent gets a place of abode provided it is not a shared place of abode, he can have access to the Children on Saturdays in his place of abode provided that he will not take the Children away from their mother to any other person outside their present place of abode.
- (4) The said Saturdays visit shall be supervised and can only commence if the Respondent has a known means of livelihood.

For now, the custody of the Children of the marriage shall be with the Petitioner until each attain the age of eighteen (18) years.

- (5) The Respondent should as a matter of urgency get a means of livelihood so that he can augment the financial responsibility – up keep of the Children of the marriage.

If after ninety (90) days the parties do not reconcile, the Decree Nisi shall after the ninety-first (91st) day be automatically made absolute.

This is the Judgement of this Court.

Delivered today the ____ day of _____ 2020 by me.

**K.N. OGBONNAYA
HON. JUDGE**