

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT HIGH COURT 29 GUDU - ABUJA
ON THURSDAY THE 16TH DAY OF JULY 2020.
BEFORE HIS LORDSHIP; HON. JUSTICE MODUPE R. OSHO -ADEBIYI

SUIT NO. PET/413/2018

BETWEEN

IDAYAT BOLANLE SULEIMAN -----PETITIONER

AND

DR. NTADOM GODWIN NWANKAMA-----RESPONDENT

JUDGMENT

The Petitioner on the 25th day of October 2018, filed this suit against the Respondent claiming the following:

- A. A decree of dissolution of marriage between the Petitioner and the Respondent on the grounds that the marriage has broken down irretrievably because the Respondent has behaved in such a way that the Petitioner cannot reasonably be expected to live with the Respondent since the marriage has been characterised by cruelty, mistrust, malice, emotional torture on the side of the Respondent.
- B. A decree of dissolution of the marriage between the Petitioner and the Respondent on grounds of adultery by the Respondent and lack of love.
- C. A decree of dissolution of marriage between the Petitioner and the Respondent on grounds of defamation of character, blackmail, names calling by the Respondent.
- D. A decree of dissolution of the Marriage between the Petitioner and the Respondent on health ground, which emanated from repeated emotional torture and abandonment by the Respondent.

- E. A decree of dissolution of the marriage between the Petitioner and the Respondent on grounds of psychological and emotional torture on the children, telling the children that the petitioner sleeps around with men, anytime she is posted to another military formation, being possessed, taking the children from one church to the other praying for their adulterous mother, being the petitioner.
- F. The sum of ₦10,000,000.00 (Ten Million Naira) being the estimate of the money the Petitioner contributed to acquire and developed the property known as House No 5, Dr. J. U. Oparah Close, Army Post Housing Estate Phase 1, Kurudu, FCT-Abuja (Property jointly owned by both the Petitioner and the Respondent).
- G. A decree of dissolution of the marriage between the Petitioner and the Respondent because the Petitioner and the Respondent have stayed apart from each other for two years and seven months as at the time of filing this petition.

In support of the Petition, the Petitioner filed verifying affidavit and witness statement on oath.

Upon being served with the Petition, the Respondent filed an answer and cross Petition, wherein the Respondent/cross petitioner is seeking for the following:

1. A decree of dissolution of marriage between the Cross Petitioner/Respondent and the Petitioner/Respondent on the grounds that the marriage has broken down irretrievably because the Petitioner/Cross Respondent has behaved in such a way that the cross petitioner cannot reasonably be expected to live with the Petitioner/Cross Respondent.
2. An order of Court granting custody of the children of the marriage to the Cross Petitioner who has the moral capacity to train the children.
3. An order of this Honourable Court mandating the Cross Respondent to pay a monthly up-keep money in the sum of ₦160,000.00 (One hundred and Sixty

Thousand Naira) only to the Cross Petitioner in respect of the Four Children of the Marriage.

4. An order of the Court compelling the Petitioner/Cross Respondent to return the Kia Rio Car brought by the Cross Petitioner and currently being used by the Cross Petitioner's co adulterer, Mr. Magnus.
5. An Order of the Court compelling Petitioner/Cross Respondent to produce the entire land documents acquired by the Respondent and still within the possession of the Petitioner.
6. An Order restricting the Petitioner from coming to the Respondent's House at No. 5 Opara Close, Kurudu Phase 1 Housing Estate.
7. That the Court nullifies the land document presented as exhibit by the Petitioner/Cross Respondent as his signature was forged.

The Petitioner/Cross Respondent filed an answer to the cross petition with additional witness statement on oath. The Respondent/Cross Petitioner also filed a reply after which the Court set down the matter for hearing.

The Petitioner/Cross Respondent testified as the sole witness in proof of her case. From the facts as stated by the Petitioner, the summary of the case of the Petitioner is that she and the Respondent got married at the Chapel of Christ our Light in University of Lagos on the 1st day of July 2000. That there are four children of the marriage namely:

- a. Grace O. Ntadom born on 23rd May 2001, 17 years
- b. Samuel I. Ntadom born on 7th December 2002 15 years
- c. Chidebere E. Ntadom born on 23rd April 2007, 11 years
- d. Kelechukwu Ntadom born on 2nd August 2010, 8 years.

That the Petitioner and the Respondent have lived apart from the 20th day of March 2016 and the Respondent never paid attention to both her physical and emotional needs, does not show love and always quarrelsome, insulting, deceitful and persistently keeping malice with the Petitioner. The Petitioner urged the Court dissolve the marriage, to grant custody of the last child to her while the

other children remain in the custody of Respondent and also grant her the sum of ₦10,000,000.00 being money contributed by the Petitioner for the acquisition and development of the property known as House 5 Dr. J. U. Oparah Close, Army Post Housing Estate Phase 1, Kurudu, FCT-Abuja. In proof of her case, petitioner tendered the following:

1. Allocation of Plot at Nigerian Army (NA) Housing Scheme with ref no: NA/PHD/38/KDU/L/P/GE-69A dated 14/05/2012 addressed to Captain Idayat Bola Suleiman and signed by Col. AGB Ahmed marked as Exhibit PET1
2. Approval of building plan to be constructed at Plot no. GE-69A Nigerian Army Housing Scheme Estate Kurudu with Ref no: NA/PHD/GE/100/37/1 dated 26th July 2012 signed by Captain B. Mohammed and addressed to Captain Bola Idayat Suleiman marked as Exhibit PET2
3. Marriage Certificate between the Petitioner and Respondent with Certificate no: 17/2000 dated 1st day of July 2000 duly signed by the Registrar of marriage marked as Exhibit PET3.

On the other hand, it is the case of the Respondent/Cross petitioner that the Petitioner deliberately moved out of their matrimonial home on the 20th of March 2016. That the Respondent never harassed, challenged neither was there a preceding quarrel before she moved out. That the Petitioner is having affairs, which she personally informed the Respondent. That the Petitioner has continuously used abusive words towards the Respondent. That at no time did the Respondent collect any money or share the cost of any payment with or request for any financial support for any of the works done on the property in question from the Petitioner. That the Petitioner's only contribution was the tiling and installation of the kitchen cabinet work. That the court should dissolve the marriage, discountenance the claim of the Petitioner and grant custody of all the

children to the Respondent. In proof, Respondent testified and called two (2) other witnesses and their testimony is highlighted in the body of this judgment.

At the close of the case, respective Counsel filed their written addresses.

The petitioner's counsel in the written address, raised the following issues for determination:-

- 1 Whether the petitioner is entitled to decree of marriage between her and the respondent.
- 2 Whether the petitioner is entitled to the claim of N10,000,000.00 from the respondent in respect of her property Situate at house No. 5 Dr. J.U Oparah close, Army Post Housing Estate Phase 1, Kurudu, FCT-Abuja.
- 3 Whether the petitioner is entitled to the custody of the last child out of the four children of the marriage.
- 4 Whether the respondent is entitled to all his claims against the petitioner.

Counsel in arguing issue number one submitted that the respondent does not object to the dissolution of the marriage as Respondent is also petitioning for the dissolution of the same marriage.

Counsel urged the Court to hold that the marriage between the petitioner and the respondent has broken down irretrievably in accordance with Section 15(2)(e) of the matrimonial causes Act

On issue number 2, Petitioner's Counsel submitted that the petitioner is entitled to the claim in respect of the joint property, situate and known as House No. 5 Dr. J.U Oparah Close, Army Post Housing Estate, Abuja.

Submitted that the name on the allocation paper and the price paid for the property as well as the allocation paper and the building plan approved also justify this, and they are all in the name of the petitioner.

Counsel submitted that the law is clear, that once there is documentary evidence before the court oral evidence will not add, alter or vitiate same. Relied on Section 128 of the Evidence Act.

Counsel urged the Court to consider exhibits PET 1 & PET 2, since they are in the name of the petitioner and hold that the property in question being the property of the petitioner, she is entitled to the relief being claim on it.

On the third issue on custody, Petitioner's Counsel submitted that in determining issue of custody of children the paramount consideration is the welfare and security of the child. Submitted further that the child being at a young and an impressionable age would need the moral guidance and care of his mother. Counsel urged the Court to hold that the custody of the last child be given to the Petitioner.

On whether the respondent/cross Petitioner is entitled his claim in the cross petition, Petitioner's Counsel submitted that Respondent is entitled to claim one in the cross petition as well as custody of the first three children of the marriage. Submitted that the Respondent failed to prove prayers 3, 4, 5, 6 and 7.

Submitted that the Court has discretionary power to order and assess maintenance of a party having regards to their earning capacity and conduct as well as what is fair and equitable based on the evidence adduced at the trial. Counsel urged the Court to hold that the Respondent is not entitled to any maintenance, as he is a serving director in the Ministry of Health.

On the claim for the Order of court compelling the Petitioner to return the Kia Rio car, counsel submitted that in the absence of any documentary evidence showing the Respondent bought the car for the Petitioner, the Court should discountenance same.

On the cross petitioners claims 5, 6 and 7, counsel submitted that the Respondent failed to establish he bought the land or built on same; he therefore failed to

discharge the burden of proof and urged the Court to hold that the claims regarding the said property fails.

Counsel finally urged the Court to hold that the Petitioner is entitled to the claim for dissolution of marriage, custody of the last child as well as the claim of ₦10,000,000.00 in respect of her property or same be shared equally in accordance with Section 2(1) of the Matrimonial Causes Act. Counsel relied on the following authorities:

1. EKEREBE V. EKEREBE (1993) 3 NWLR (PT.596) 514
2. ANYAWU V. UZOWUAKA (2009) 13 NWLR (PT.1159) 445
3. ODOGWU V. ODOGWU (2006) 5 NWLR (PT.972)
4. NNANNA VS. NNANNA (2004) 3 NWLR (PT.966) 10
5. OKENIYI VS. AKANBI (2002) VOL. 6 WRN 147 AT 50 RATIO 50
6. ORJI V. ORJI (2011) VOL. 36 NWN 111 AT 115 RATIO 2

The Respondent/Cross petitioner's Counsel also filed his written address and raised two issues for determination thus:-

1. Whether the Petitioner proved her case as contained in the Petition to be entitled to the reliefs sought
2. Whether the cross petitioner proved his case as contained in the cross petition, to be entitled to the reliefs sought?

On issue number 1, Respondent's Counsel submitted that on the claim for dissolution of marriage, Counsel submitted that the Petitioner, having behaved in such a way that the Respondent cannot reasonably be expected to continue to live with her, the Court should hold that the Marriage has broken down irretrievably and dissolve the marriage.

On the Claim of ₦10,000,000.00 Respondent's Counsel submitted that the petitioner did not either through facts or evidence, prove the exact amount she contributed to the purchase of the property and in what way she contributed

same. Counsel submitted that the contradictions in facts and evidence in support of the claim for the ₦10,000,000.00 by the Petitioner is of huge magnitude and should vitiate the testimony of the Petitioner on this claim and as the claim was not proved, the Court should reject the claim.

On the claim for custody of the last child of the marriage, the Respondent's Counsel submitted that in granting custody, the paramount interest of the child are factors the Court should consider and the Petitioner has failed to establish how she will take care of the last child of the marriage.

Counsel urged the Court to hold that the Petitioner has failed to establish the facts in the Petition to be entitled to the relief sought and accordingly, resolve issue 1 against the Petitioner save for the relief on dissolution of the marriage.

On issue number 2, which is whether the Respondent/cross petitioner is entitled to the reliefs sought, Counsel on the claim for dissolution of marriage between the Petitioner and Respondent urged the Court to hold that the marriage has broken down irretrievably as the Respondent has prove same which was not challenged by the Petitioner.

On the claim for custody and maintenance of the children, Counsel submitted that the Respondent has been taking care of the needs of the four children and the Respondent has the financial capacity to continue to care for the children. Submitted that the Petitioner as a result of being in the military is often posted around the country and this frequent movement creates instability and affects the upbringing of a child. Counsel urged the Court to hold that Respondent has adduced facts and evidence to entitle him custody of the children of the marriage.

On the ability of the Petitioner to contribute to maintenance of the four children of the marriage, counsel submitted that the Petitioner admitted to her earnings of N350,000.00 and also into business of oil and gas which is lucrative will be capable of paying monthly upkeep of N160,000.00 for the maintenance of the

children. Counsel urged the Court to resolve issue 2 in favour of the Respondent/cross-petitioner and enter judgment accordingly in favour of the Respondent.

The respondent's Counsel cited the following authorities in proof of his case:-

1. OZOMENE V. OZOMENE (2013) LPELR-20383 (CA)
2. BAKARE V. BAKARE (2016) LPELR-41344 (CA)
3. UNIJOS VS. IKEGWUOHA (2013) LPELR-20233 (SC)
4. ODUSOTE V. ODUSOTE (2011) LPELR-9056 (CA)
5. ADEPARUSI V. ADEPARUSI (2014) LPELR-41111 (CA)

From the evidence before me, the issues for determination are:

1. Whether parties are entitled to a decree of dissolution of Marriage.
2. Which of the parties has satisfied the Court to be awarded custody and maintenance of the last child of the marriage KelechukwuNtadam.
3. Whether Petitioner has proved that she is entitled to the claim of N10,000,000.00 (Ten Million Naira) from the Respondent in respect of the property situate at No. 5 Dr. J. U. Oparah Close, Army Post Housing Estate, Phase 1, Kurudu, Abuja.
4. Whether Respondent/Cross Petitioner has proved that he is entitled to his prayers in his Cross Petition

On the first issue for determination, both parties are not opposed to the Court granting a decree of dissolution of their marriage. Petitioner in her written statement on oath and the Respondent in his statement on oath both allege to the fact that they both find it intolerable to live with one another. Its even made worse by the Petitioner living separately from Respondent for more than two years preceding the filing of this Petition.

With respect to the relief of dissolution of marriage the law is fairly settled that no marriage will be dissolved merely because the parties have agreed that it

bedissolved as marriage is a very important institution and it is the foundation of a stable society. The policy of law therefore is to preserve the institution of marriage. That is why marriages will not be dissolved on agreement of the parties to it. A Decree for the dissolution of marriage would therefore only be granted if the Petitioner has proved that the marriage had broken down irretrievably and that the Petitioner finds it intolerable to live with the Respondent. See Section 15 of the Matrimonial Causes Act, *Damulak Vs. Damulak* (2008) 8 NWLR (Pt. 874) P. 651; *Olabiwonu Vs. Olabiwonu* (2014) LPELR - 24065. Therefore, by the provisions of Section 15 (2) of the Matrimonial Causes Act, the Petitioner at the hearing must satisfy the Court by evidence of the allegations put forward by the petition. See *Omotunde Vs. Omotunde* (2000) LPELR - 10194. In this case, the Petitioner adduced evidence to the satisfaction of the Court, that she and the Respondent have lived apart for more than two years immediately preceding the presentation of the petition. This fact is not disputed by the Respondent/Cross-Petitioner as Respondent also adduced evidence in support of the Cross Petition that they have lived apart for two years preceding the presentation of the parties. Both Respondent and Petitioner also cited adultery as a ground for divorce. While Petitioner stated that the Respondent was having adulterous relationship with a woman and had indeed gone ahead to marry the woman called "DorcasNtadom", Respondent denied the relationship with Dorcas but confessed that at a point in their marriage, he had committed adultery but had confessed and sought forgiveness from the Petitioner. Petitioner on her part denied she was having adulterous relationship with Mr. Magnus Iheanacho and also denied under cross-examination that she ever took the said Mr. Magnus to Respondents' third witness (RW3) for marriage blessing. This is contrary to the testimony of RW3, a pastor and a subpoenaed witness who testified that both Petitioner and Respondent were his church members but Petitioner had one time in 2015 come to confess to him that she was having an adulterous affair. RW3 testified that he counseled both parties to maintain peace but the Petitioner came back to tell him she could no

longer live with Respondent and also visited RW3 in the company of a certain Mr. Magnus Iheanacho in 2016 and introduced him as her new husband and further requested that he bless their union which RW3 declined. Under cross-examination, RW3's testimony was not contradicted, hence, the allegation of adultery alleged by the Respondent against the Petitioner was aptly corroborated by RW3 without same being debunked under cross-examination and I therefore hold that the allegation of adultery of Petitioner with Mr. Magnus Iheanacho as true, as the preponderance of evidence tilts towards the evidence of the Respondent/Cross-Petitioner. Under the Matrimonial Causes Act, a party relying on adultery as grounds for divorce must also prove that they find it intolerable to live with one another. Petitioner from the evidence of RW3, had been having an affair with Mr. Iheanacho since 2016 which coincides with the period Petitioner stopped living with the Respondent. Respondent on his part alleged that he has also committed adultery at a point in the course of his marriage to petitioner. Both parties, having committed adultery at a point in their marriage, with each accusing the other and using same as grounds for divorce, having proved that they find it intolerable to live with each other. By virtue of the provisions of Section 15(2) (e) of the Act, the parties as it has been firmly established have lived apart for a continuous period of more than two years immediately preceding the presentation of the petition and I therefore hold that the marriage in the entire circumstances of this case have broken down irretrievably and the marriage ought to be dissolved and it is hereby dissolved.

On the issue of custody of the last child of the marriage, KelechukwuNdatom, male, who was 8 years old as at the time of filing this Petition in October 2018. As at the time of filing this Petition, the ages of the children of this marriage were:

Grace Ntadom – 17 years

Samuel Ntadom- 15 years

ChidebereNtadom- 11 years

KelechukwuNtadom- 8 years

Petitioner is only seeking custody of the last child. All four children are in custody of their father the Respondent. There is no proof before this Court that all the children have been ill treated by their father. In fact, it is the firm belief of this Court that if the Respondent is an irresponsible father, Petitioner would at inception of this suit (bearing in mind that 3 children were underage) would have prayed for custody of the underage children (excluding the 1st child) of the marriage but by her decision to leave the other children with the Respondent, presupposes that she is convinced of the Respondent's responsible nature and ability to cater for the needs of the children. Both the child's Right Act and the Matrimonial Causes Act enjoins the Court to seek for the best interest of the child in considering custody of a child to either parent/guardian. Petitioner is a military officer who denied being posted out of Abuja from 2009 to 2015 but under cross-examination, stated

"I was in Abuja here in 2013 and 2014, Bauchi in 2015 and back to Abuja in 2016".

Petitioner also stated under cross-examination and paragraph 14 of her answer/reply to cross-petition that the army gives consideration to female officers during postings to ensure that they stay close to their spouse and families. This piece of evidence transcends that once this marriage is dissolved, Petitioner automatically does not have a spouse and the Nigerian Army would not give her preference in her postings to be close to spouse until she remarries. The evidence before this Court is to the effect that the Nigerian Army gives consideration during postings to individuals with spouses and children. It is therefore not in the best interest of KelechukwuNtadom to stay with the Petitioner, bearing in mind that she might not likely be given preference in her posting from the Nigerian Army as she would have been legally divorced from her spouse.

Also, all four children have been staying with their father, the Respondent, since the Petitioner stopped living with the Respondent in 2016. They are all siblings of the same parents, having lived with his siblings all his life it would not be in the

best interest of KelechukwuNtadom to estrange him from his siblings by awarding his custody to his mother, the Petitioner, while the other three children stay with the Respondent as I believe the love and bond they all share should not be broken. At this junction, the question that arises is “what constitutes interest of children? There is no hard and fast definition but the circumstances of each case would determine where the mind of the Court would tilt. In WILLIAMS VS. WILLIAMS (1987) All N. L. R 253, KARIBI WHYTE JSC observed,

“The determination of the welfare of a child is composite of many factors. Consideration such as the emotional attachment to a particular parent, mother or father, the inadequacy of the facilities, such as educational, religious, or opportunities for proper upbringing are matters which may affect determination of who should have custody”.

In considering who’s custody would be in the best interest of KelechukwuNtadom, I have considered the fact that Petitioner in her evidence stated that Kelechukwu was in boarding house and she would want the child closer to home; I have also considered that Kelechukwu is now a day student living with his father the Respondent; I have considered that Petitioner had stopped living with Respondent and the children since 2016 when she moved out of her matrimonial home and left her four children with their father because “*there was a lot of drama*”. I have also considered that Kelechukwu has been living with his father and three siblings since 2016 when Petitioner left the house; I have also considered that Petitioner has admitted that in the journey of her career in the Nigerian Army, she has been posted to Lagos, Bauchi, Kaduna and Abuja; I have also considered that Petitioner is not contesting custody of the other three children not minding the fact that two of them are still minors, 11years and 15 years as at 2018. In all, I am of the firm view that the Respondent would be a better parent to get custody of Kelechukwu and I therefore award the custody of KelechukwuNtadom to the Respondent as I believe it is in the best interest of the

child. However, Petitioner is hereby awarded visiting rights to Kelechukwu during school vacations.

Having awarded custody to the Respondent, it is pertinent to consider the modus for the Order for Maintenance of Kelechukwu and other children of the marriage. Already, Respondents has custody of the four children of the marriage and are residing with him. Granting an order for maintenance is widely at the discretion of the Court. However, Section 4 of the first schedule to Section 55(14) of the Child's Right Act together with Section 70 of the Matrimonial Causes Act provides that the Court shall have regard to all circumstances of the case, which includes the income of both parties, property and other financial resources to which the Order for maintenance applies, obligations and other responsibilities of the party. In applying this to the case at hand, I have to consider the income and earning of the Petitioner, which she put at the rate of ₦300,000.00 per month, also she admitted in her evidence that she does a bit of oil and gas by the side, which fetches her an extra ₦30,000.00 monthly; I will also consider that Petitioner would henceforth, have none of the children living with her and therefore, would not be burdened with clothing and feeding of the children in respect of their three square meals daily. I have also considered that the Respondent has by his own calculation, prayed this Court for a sum of ₦160,000.00 per month for maintenance and upkeep for all four children as a fair sum to be paid by the Petitioner peradventure he is awarded all four (4) children. I have also considered the financial needs of Kelechukwu and the other children, the standard of education, training and child care expected to be given to the children by the Respondent; payment of lesson fees and School fees as there is evidence before this Court that all children of the marriage have always had private home tutors in addition to what is being taught at school. I have also considered the earning capacity of the Respondent, his income, other financial obligations in taking care of the four children in his custody and the fact that Kelechukwu now attends a private school,

I am of the view that a sum of ₦160,000.00 per month, is fair, just and equitable for the upkeep and maintenance of the three minors of the marriage namely; Samuel I. Ntadom born 7th December 2002; Chidebere E. Ntadom born 23rd April 2007; and KelechukwuNtadom born 2nd August 2010, bearing in mind that the Respondent still has obligations towards the first child who is now in the University in Cyprus.

Consequently, it is hereby ordered that the Petitioner pays to the Respondent, the sum of ₦160,000.00 per month for the maintenance of the above named children.

On the issue of the property situate at House 5, Dr. J. U. Oparah Close, Army Post Housing Estate, Phase 1, Kurudu, FCT, Abuja, Petitioner in this suit is claiming joint ownership of the said property with the Respondent. Petitioner in her evidence claims to have built the property jointly with the Respondent. That she had actually expended the sum of over ₦50,000,000.00 on the property which Petitioner claims the property is worth ₦80,000,000.00. Evidence before me proves that Petitioner bought the property, paid for same as all documents relating to the property is in the name of the Petitioner. This was aptly corroborated by the evidence of the 2nd Respondent's witness (RW2), a subpoenaed witness who is the company secretary at the post service housing development ltd., established by the Nigerian Army. RW2 corroborated the evidence of the Petitioner that Petitioner applied for allocation of the said land, paid for same, got building plan approved in her name and that the place Respondent's name featured in the records of the property kept with the post housing development limited of the Nigerian Army is as the next of kin to the Petitioner. Respondent on his part although insists that he paid for and built the house has not been able to prove same nor does Respondent have a single document to prove same rather all documents as regards the said house is in the name of the Petitioner. Petitioner has led credible evidence to the fact that both

parties jointly own the property. In IBEABUCHI VS. IBEABUCHI (2016) LPELR-41268 (CA) ABIRU J.C.A held;

“the most firmly established guidelines that Courts are enjoined to take into consideration in determining a question of settlement of property is whether or not the property in question or some other property was acquired by the parties or by one of the parties during the course of the marriage, and if so, what was the contribution of each party to the cost of acquisition”.

It is worthy to state that Respondent’s evidence that Petitioner did not contribute anything to the acquisition of the property is not tenable in law. What is important is that the property was purchased during the course of the marriage and contribution of the Petitioner does not have to be by cash in acquiring the property or in the development of the property, rather a spouse’s contribution to the purchase of a property during the course of her marriage could be by way of moral or financial support to the business of the other spouse or even to the husband’s paid employment. Section 72 of the Matrimonial Causes Act states that

“The court may, in proceedings under this Act, by court in order require the parties to the marriage, or either of them, to make, for the benefit of all or any of the parties to, and the children of, the marriage, such a settlement of property to which the parties are, or either of them is, entitled (whether in possession or reversion) as the court considers just and equitable in the circumstances of the case”.

Moreover, Section 17 of the Married Women Property Act confers on the judge the powers to make orders in respect of property in dispute as he deems fit and such an order must be fair, just and equitable. From the evidence before me, it is not in doubt that the property situate at House No. 5, Dr. J. U. O. Oparah Close, Army Post Housing Estate, Phase 1, Kurudu FCT, Abuja was acquired during the pendency of

this marriage, all documents in the records of the Army (the seller of the Property) bears the name of the Petitioner as the beneficial owner and rightful allottee of the property. Not minding this fact, Petitioner has stated in her evidence that, she and her husband jointly own the property. The Petitioner also stated that the property is worth ₦80,000,000.00 whereas Respondent stated that the property is worth ₦20,000,000.00. Whether the property is worth ₦80,000,000.00 or ₦20,000,000.00, the Petitioner has stated that she wants an order of Court that Respondent pays to the Petitioner, the sum of ₦10,000,000.00 being her share of the property after which the property becomes that of the Respondent. It is my view that bearing in mind the circumstances surrounding this property culled from evidence before me that the sum of ₦10,000,000.00 is a fair, just and equitable sum and I therefore hold that Respondent pays to the Petitioner the sum of ₦10,000,000.00 being her share of the property lying and situate at House No. 5, Dr. J. U. O. Oparah Close, Army Post Housing Estate, Phase 1, Kurudu FCT, Abuja.

In respect of the Respondent's 4th, 5th, 6th and 7th prayers in his cross-petition, Respondent failed to adduce evidence in respect of his prayers for the return of the Kia Rio Car, Respondent also failed to adduce evidence in respect of other land documents purportedly in possession of the petitioner; Respondent has also failed to adduce evidence that his signature on the land document presented as exhibit by the petitioner was forged by the Petitioner. Hence, prayers 4, 5, 6 and 7 of the cross Petition hereby fails.

Consequently, it is HEREBY ORDERED AS FOLLOWS:-

1. I hereby pronounce a decree nisi dissolving the marriage celebrated between the Petitioner and Respondent with certificate number 17/2000 at the Chapel of Christ our Light, University of Lagos, Akoka, Yaba Lagos, on the 1st day of July, 2000 on the grounds that the marriage has broken down irretrievably and both parties find it intolerable to live with each other. The decree nisi shall be made absolute after a period of three months from the date of this

pronouncement, unless sufficient cause is shown to the Court why the decree nisi should not be made absolute.

2. Custody of the 4 (four) children of the marriage is hereby awarded to the Respondent/cross Petitioner, however, Petitioner is hereby granted unfettered access to the children during school vacations until they attain the age of 21 and decide whom they choose to live with.
3. It is hereby ordered that Respondent pays to the Petitioner the sum of ₦10,000,000.00 (Ten Million Naira) being her share of the property located and lying at House No 5, Dr. J. U. Oparah Close, Army Post Housing Estate Phase 1, Kurudu, FCT-Abuja. The said property to remain joint property until Respondent pays the sum of ₦10,000,000.00 to the Petitioner where after Petitioner shall desist from going to the said property without invitation.
4. The Petitioner shall pay the sum of ₦160,000.00 (One Hundred and Sixty Thousand Naira) only, each month to the Respondent as maintenance and upkeep of the children till they attain maturity.

Parties: Parties are present.

Appearances: A. F. Obainoki, Esq., for the Petitioner. Maxwell Opara, Esq., for the Respondent.

HON. JUSTICE MODUPE .R. OSHO-ADEBIYI
JUDGE
16THJULY, 2020