

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

**IN THE ABUJA JUDICIAL DIVISION**

**HOLDEN AT KUBWA, ABUJA**

**ON TUESDAY, THE 10<sup>TH</sup> DAY OF NOVEMBER, 2020**

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

**JUDGE**

**SUIT NO. FCT/HC/BW/PET/41/20**

**BETWEEN:**

**OTI UCHENNA PAUL H,C.....PETITIONER**

**AND**

**NGENE TOCHUKWU HEPHZIBEH SANDRA.....RESPONDANT**

### **BENCH JUDGMENT**

The endless discretionary powers of the Court does not allow Court to force a man/woman who had come before the Court to state that marriage had broken down irretrievably to continue with such marriage. Once a party comes to Court files a petition for dissolution of marriage contracted under the M.C.A the Court will listen provided that the marriage was celebrated in any part of Nigeria.

The provision of Section 15 & 16 MCA and the Rules of the MCR have the A-Z of the ground and facts supporting a petition. The only ground for dissolution of marriage is that the marriage has broken down irretrievably that the Petitioner finds it difficult to continue with the marriage. The provision of S. 15(2) a-j has the facts any of which once present suffices for the dissolution of a marriage.

In this application, the Petitioner has on the grounds of the petition had stated that since 2014 October to be precise the Respondent left the matrimonial home and had ever since never returned to the said home up till date. The Respondent did not deny that fact. She did not file any response to the application or in any way challenge the Petition. There is no cross-petition too.

It is the law that once any of the parties in a marriage leaves the matrimonial home without the consent and knowledge of the other partner, for close to one year it is said that such party is in desertion. On that fact alone the Court can dissolve the marriage once it is clear that the deserting party has no intention to return to the matrimonial home.

In this case the Respondent has not been or returned to the matrimonial home since October, 2014. From all indication having not challenged this Petition the respondent has no intention to return to the said matrimonial home. The Petitioner also repeatedly stated that there has been several quarrels and argument and skirmished between the Couple. That they always quarrel about domestic issues among other things.

This Court has seen that from all indication both parties have no interest in continuing with the marriage.

It is evidently clear that the marriage has broken down irretrievably too.

This Court therefore grant the Petition by holding that the marriage contracted between Oti Uchenna Paul H.C and Ngene Tochukwu Hephzibeh Sandra celebrated in Enugu South Local Government Uwani at the Marriage Registry on 28/12/2009 in marriage No.365996 is hereby DISSOLVED today the 10<sup>th</sup> day of November, 2020 the said marriage haven broken down irretrievably.

This is the Order Nisi of this Court.

If after 91 days from today the parties fail to get back as husband and wife this Order Nisi shall automatically be made ABSOLUTE.

This is the Judgment of this Court delivered today the .....day of .....2020.

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