

IN THE HIGH COURT OF JUSTICE OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT HIGH COURT MAITAMA –ABUJA

BEFORE: HIS LORDSHIP HON. JUSTICE S.U. BATURE

COURT CLERKS:	JAMILA OMEKE & ORS
COURT NUMBER:	HIGH COURT NO. 32
CASE NUMBER:	SUIT NO. FCT/HC/PET/289/2020
DATE:	4TH NOVEMBER, 2020

BETWEEN:

BEAUTY OBEHI ORI.....PETITIONER

AND

EDWIN OGBONNAYA ORIRESPONDENT

APPEARANCE

JUDGMENT

The Petitioner Beauty Obehi Ori has filed a petition for the dissolution of her marriage to her husband Edwin Ogbonnaya Ori. The said Petition is dated 14th day of June, 2019 and filed same day.

The facts relied upon by the Petitioner as constituting the grounds for the dissolution of the marriage are as follows:-

- i. That the Petitioner, then a spinster met the Respondent at Living Faith Church Life Camp Abuja branch while he was a Church usher. Respondent approached her after a Wednesday communion service about end of year

2012. They spoke for the first time and Respondent told her clearly that he wanted her to be his wife.

- ii. That the Petitioner and Respondent did courtship for a period of about six months and finally contracted the marriage on the 7th of June 2013 at the Abuja Municipal Area Council (AMAC) marriage Registry.
- iii. That the Respondent immediately after the solemnization of the marriage started displaying various acts of hostility against the Petitioner.
- iv. That in the first week of their marriage her husband demanded and insisted that she declared all her salaries to him and subsequently insisted on taking control and use of the ATM Card as a condition for the survival of the marriage. That was the ignition of depression of the Petitioner in the marriage.
- v. That the Petitioner had to bear all the burden of financial responsibilities of their marriage and cohabitation until she could not bear anymore.
- vi. The Petitioner had to move out of the Matrimonial home for fear of being attacked by the Respondent whose outcome of malice and break in communication could not be predicated with certainty.
- vii. That the parties in this Petition have lived apart from each other for a continues period of at least 3 years 9 months immediately preceding the presentation of this Petition since 30th August, 2015.
- viii. That there has not been any consummation of marriage between the Petitioner and the Respondent since sometime in January 2015 till date.
- ix. That the Petitioner and the Respondent have separated and stopped cohabitation since the 30th day of August, 2015, and have not been communicating with each other as well.
- x. That there is no any child between the petitioner and the Respondent.
- xi. That the marriage between the Petitioner and the Respondent has broken down irretrievably.

Whereof, the Petitioner seeks the following orders:-

1. A Decree for the dissolution of the marriage between the Petitioner and the Respondent contracted on the 7th day of June 2013 at the Abuja

Municipal Area Council (AMAC) marriage Registry, on the grounds that the marriage has broken down irretrievably.

2. Any other order the Honourable Court may consider necessary in the circumstances of this Petition.

The Petition which was settled by Victor Iorshenge, Esq, and Joy .M. Aduku, Esq of E. K. ASHIEKAA (SAN) & CO, solicitors to the Petitioner, is supported by a verifying Affidavit of 12 paragraphs deposed to by Beauty Obehi Ori, the Petitioner in this matter.

Meanwhile, upon being served with the Notice of Petition, the Respondent Edwin Ogbonnaya Ori, filed his answer to the Petitioner's petition and Cross-Petition for Decree of Dissolution of marriage dated and filed 14th day of January, 2020.

The facts stated as predicating the grounds for the Answer/Cross Petition of the Respondent is as follows:-

“That the Petitioner left, abandoned and absconded her Matrimonial home for over four years now unceremoniously, unjustifiably without the knowledge and consent of the Respondent to an unknown destination uptil date and all efforts to trace her whereabouts, proved abortive, all phone calls rebutted except for the father who responded with the threat that the Respondent should leave his daughter alone otherwise he would meet his waterloo.”

That in view of the fact above, the Respondent decided to go into hiding as the threat was so weighty and instructive. Whereof, the Respondent seeks the following orders:-

1. A decree dissolving this marriage on the grounds that the marriage is irretrievably broken.
2. That since the Petitioner unceremoniously, unjustifiably and without the knowledge and consent of the Respondent left to an unknown destination for over Four years till date and all efforts to trace her whereabouts proved

abortive except the threat from her father who warned that the Respondent should leave his daughter alone otherwise meet his Waterloo.

- ii. That since the Petitioner's father had threatened the Respondent to leave his daughter alone and the Petitioner has behaved in such a way that the Respondent cannot reasonably be expected to live with the Petitioner.
- iii. And any order or orders which this Honourable Court would deem necessary and fit in the circumstance.

The answer and Cross-Petition is also accompanied by a verifying affidavit deposed to by Edwin Ogbonnaya Ori, the Respondent in this matter.

At the trial, the Petitioner gave evidence reflecting all the facts stated as constituting grounds for filing this petition. And CTC Photocopy of the marriage Certificate between the Petitioner and the Respondent was tendered in evidence and marked Exhibit A.

In her Evidence in-Chief, the Petitioner gave Evidence among other things that following a series of events in the marriage, the couple grew apart. This included the attitude of the Respondent withdrawing from the Petitioner, refusing to communicate with her and that in January of 2015 consummation stopped in the marriage.

According to the Petitioner, she eventually left the matrimonial home on the 30th of August 2015 and never moved back.

She testified that as at the date of giving her Evidence before the Court, the petitioner and the Respondent have separated for 5 years and 3 months and that she has never seen the Respondent till they met in Court. She asked the Court to dissolve her marriage, that the marriage is broken beyond repair.

The Petitioner was then Cross-Examined by the Respondent himself. Who Represented himself in this Petition.

In his Evidence before the Court in defence of the Petition and in proving his Cross-Petition, the Respondent adopted his Answer/Cross-Petition and verifying Affidavit.

The Respondent testified among other things that he and the Petitioner met in 2012 and got married in 2013.

The Respondent also confirmed that his wife the Petitioner left her matrimonial home on 30th of August 2015 without him knowing her whereabouts and all efforts to find her proved abortive to the point her father told him to leave the Petitioner alone or he the Respondent will meet his Waterloo.

During Cross-Examination, the Respondent confirmed that there was a marriage certificate but that same was handed over to the Petitioner. He also confirmed that the Petitioner left their home on 30th of August 2015.

Still during Cross-Examination, the Respondent admitted that there was no consummation between him and the Petitioner between January 2015 and August 2015, when she left. And that they neither met nor consummated the marriage since August 2015.

The Respondent also admitted that he has filed a Cross-Petition and is in fact not contenting her Petition.

Final written addresses were dispensed with by the both Petitioner's Counsel and the Respondent and the judgment of the Court was reserved.

Now, under and by virtue of Section 15 (2) of the Matrimonial Causes Act, the Court is empowered to grant an order of dissolution of any marriage where it is satisfied that the marriage has broken down irretrievably. Before the Court can come to such a conclusion however, it must be satisfied that the alleged ground for dissolution of marriage falls within Section 15 (a)-(1) of the Matrimonial Causes Act. The grounds for a Petition is both a Fundamental or threshold matter as well as important to the overall success of the Petition.

The Petitioner in this Petition has alleged that the Respondent at some point has refused to communicate with her and even refused to consummate the

marriage until the 30th of August 2015 when the Petitioner decided to leave their Matrimonial home.

In the instant Petition both the Petitioner and the Respondent have testified that they've been separated since 30th of August 2015 and have not met nor consummated the marriage since January 2015 and until 30th of August 2015.

It has been held that for a Petition for dissolution of marriage to succeed, the Petitioner has to prove at least one of the ingredients contained in Section 15 (2) of the Matrimonial Causes Act. On this premise, I refer to the case of IKE VS IKE & ANOR (2018) LPELR-44782 (CA), where the Court held per EKPE J. C. A, at pages 10-16, paragraphs C-A, as follows:-

“For a Petition for the Dissolution of marriage to succeed, the Petitioner has to prove at least one of the ingredients contained in Section 15(2) of the Matrimonial Causes Act, even if the divorce is desired by both parties.”

See also the case of AKINBUWA VS AKINBUWA (2017) LPELR- 42160.

I've carefully considered this Petition, the grounds predicating the Petition, the Evidence of the Petitioner as well as the Answer/Cross-Petition of the Respondent and his Evidence in Court.

Now, one of the grounds that the Court could consider under Section 15 (2) (f) of the Act states thus:-

“That the parties to the marriage have lived apart for a continuous period of at least three years immediately preceding the presentation of the petition.”

As stated earlier, this petition was filed on 14th of June 2019, which shows from the facts presented that the married couple in this case have lived apart for a continuous period of more than three years immediately preceding presentation of this Petition. It can therefore be reasonably presumed that the parties have gone their separate ways. In fact both the Petitioner and the Respondent want this marriage to be dissolved.

In the circumstances therefore, I am satisfied that the Petitioner has established the ground stated under Section 15 (2) (f) of the Matrimonial Causes Act and that the marriage between the Petitioner and the Respondent has broken down irretrievably.

On this premise, therefore, I hereby make an order Nisi dissolving the marriage between Beauty Obehi Ori and Edwin Ogbonnaya Ori Celebrated at the Abuja Municipal Area Council (AMAC) Registry on the 7th of June, 2013. The decree shall be made absolute if nothing intervenes within a period of three months from the date thereof.

Signed

HON. JUSTICE SAMIRAH UMAR BATURE.

4/12/2020.