

**IN THE HIGH COURT OF JUSTICE 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/325/20

DATE: 25TH MARCH, 2021

BETWEEN:

UGOCHUKWU RAWLINGS DIMGBAH.....PETITIONER

AND

OMASAN FAIZA DIMGBAH.....RESPONDENT

APPEARANCES:

I. M. Ebikwo Esq for the Petitioner

Parties absent.

JUDGMENT

The Petitioner Ugochukwu Rawlings Dimgbah filed a petition for dissolution of his marriage to his wife Omasan Faiza Dimgbah, the Respondent in this petition. The said petition which is dated 2nd day of July, 2020 was filed on the 3rd day of July, 2020.

The petition which was brought pursuant to Order V Rules 11, 18 and 23 of the Matrimonial Causes Rules (1983), is supported by facts relied upon by the Petitioner as constituting the grounds specified therein.

The said petition which was settled by I. M. Ebikwo Isaac & Isaac & Co, legal practitioner for the Petitioner, is supported by a Verifying Affidavit

of 8 paragraphs deposed to by the Petitioner as well as the Petitioner's Witness Statement on Oath dated 3rd day of July 2020.

On the 8th day of February 2021, the petitioner adopted his Witness Statement on Oath and tendered two Exhibits namely:

- (1). Certificate of Marriage.
- (2). Memorandum of Settlement.

Both were admitted in evidence and marked Exhibits A and B respectively.

The Petitioner then concluded his evidence by asking this Honourable Court to dissolve his marriage to the Respondent.

The Respondent on her part, despite being served with the Notice of Petition, did not challenge this petition.

In the Witness Statement on Oath of the Petitioner, he avers in paragraph 2 thereof, that he and the Respondent were lawfully married at AMAC Marriage Registry, Abuja, F.C.T on 28th November, 2014. Same is seen in Exhibit A before the Court.

In paragraph 6, the Petitioner deposed to the date on which and in circumstances which cohabitation between himself and the Respondent ceased which are as follows i.e. from 8th November, 2018.

- (i). On the 8th of November 2018 the Respondent moved out of her matrimonial home.
- (ii). Prior to this date the Respondent had rented an apartment.
- (iii). All efforts made to resolve any issues have failed as the Respondent remained adamant and deserted her matrimonial home.
- (iv). Prior to this act of desertion by the Respondent, she had abandoned her marital duties as a wife.
- (v). That the Respondent had deserted the Petitioner for a continuous period of about two years.

In paragraph 9 thereof, the Petitioner averred that the facts relied on by him constituting the ground specified above is that the Respondent deserted the Petitioner for a period of more than one year.

Meanwhile, in the Memorandum of Settlement (i.e Exhibit B), the parties in this petition agreed as follows: -

- “(1). The parties have resolved to part ways.***
- (2). That the parties have parted ways for over 2 years preceding this petition.***
- (3). That there is no claim for custody and maintenance or any other liability.***
- (4). That the Court should grant dissolution of this marriage forthwith.***

The said memorandum is duly executed by the Petitioner and the Respondent as seen in Exhibit B.

Now, under and by virtue of Section 15(2) of the Matrimonial Causes Act, Cap M7 LFN, 2004, the Court hearing a petition for dissolution of marriage, shall hold the marriage to have broken down irretrievably, if the Petitioner satisfies the Court of one of the grounds stated thereunder, and is empowered in the circumstance to grant an Order of dissolution of marriage.

On this premise, I refer to the case of ***BIBILARI V BIBILARI (2011) LPELR-4443***, where the Supreme Court per Galinje, J.S.C, held at ***PP. 33-34, para C – A***, as follows: -

“In a petition for dissolution of marriage, the Petitioner must plead and prove that the marriage has broken down irretrievably. In doing this, the Petitioner must be able to bring himself within one or more of the facts enumerated in Section 15(2)(a - h) of the Matrimonial Causes Act, Cap 220 LFN 1990 before he can succeed in the petition....”

Moreso, the Court has held in the case of ***IKE V IKE & ANOR (2018) LPELR – 44782 (CA) 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 V AKINBUWA (2012) LPELR – 42160.***

Now, in the instant case I’ve considered the grounds predicated filing of this petition.

One of these grounds is that the Respondent has deserted the Petitioner for a period of more than one year, whereof in paragraph 11 of the Petitioner’s Witness Statement on Oath, he avers that the marriage to the Respondent has broken down irretrievably.

Moreso, the Petitioner averred particularly in paragraph 6(ii) of the Witness Statement on Oath that the Respondent had moved out of their matrimonial home on the 8th of November, 2018.

This petition as stated earlier was filed on 3rd day of July, 2020.

Now section 15(2)(d) of the Matrimonial Causes Act (supra) provides thus:

“That the Respondent has deserted the Petitioner for a continuous period of at least one year immediately preceding the presentation of the petition”.

Therefore, in the instant case, having carefully considered the facts presented in this petition vis-a-vis, Section 15(2)(d) of the Matrimonial Causes Act (supra) reproduced above, I am satisfied that the Petitioner has proved one of the grounds for dissolution of marriage as required by law.

Consequently therefore, this Honourable Court hereby holds that the marriage between the Petitioner and the Respondent to have broken down irretrievably. In view of this, I hereby make a Decree Order Nisi dissolving the marriage between Ugochukwu Rawlings Dimgbah (the Petitioner) and Omasan Faiza Dimgbah (the Respondent) celebrated at AMAC Marriage Registry, Abuja FCT on the 28th day of November 2014. The Decree shall be made absolute if nothing intervenes within a period of three months from the date thereof.

Hon. Justice Samirah Umar Bature

**Hon. Judge.
25/3/2021**