

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

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT KUBWA, ABUJA

ON THURSDAY THE 4TH DAY OF NOVEMBER, 2021

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

SUIT NO.: FCT/HC/PET/71/2016

BETWEEN:

MRS. ABIOLA BAWA

PETITIONER

AND

MR. SANI MOHAMED BAWA

RESPONDENT

JUDGMENT

This transferred matter was filed since 2016. It is a Petition of the Petitioner for the dissolution of the marriage between her – Abiola Bawa and the Respondent, Sani Mohamed Bawa. This matter was first handled by Justice V.V. Venda who had retired since 2020. This matter lingered from 2016 till the day Venda J. retired.

The case was transferred to this Court. This Court had scheduled for the Hearing of this Suit on several occasions. But hearing was stalled because the Respondent was never in Court.

A pip into the Recording of Court from V.V. Venda J. shows that the Respondent was never in Court and had no Counsel representation.

Court had ensured that the Respondent was duly notified and Processes served on him and Hearing Notices too for the several days the matter was adjourned. For record purposes, the matter was scheduled for – 18th September, 2020; 28th January, 2021; 11th May, 2021; 20th September, 2021; 4th November, 2021. All these days the Respondent has never come to Court and no Counsel appeared for him. He never filed any answer. Meanwhile, the previous Court had reached the point of Final Address adoption before the Judge retired.

Today, after one (1) year of the case pending in this Court, the Petitioner had appeared, opened their case, adopted her Petition. But the Respondent who is well aware of the pendency of this Suit as he has always been is not in Court. No Counsel representation.

Since there is no Answer and since there has not been any answer filed by the Respondent since 22nd December, 2016 when this case was filed till date, it is glaringly clear that the Respondent has no answer and had no intention to answer or Cross-Petition this Suit.

This Court therefore deems it so and holds that there is no answer to the Petition and that the Petition is uncontroverted, unchallenged and the facts thereon unrebutted. That being the case, the Court will go on with foreclosing the Respondent from Cross-examining the Petitioner, filing any answer or Cross-Petition having not done so for over 5 years.

Again, the right to be heard by a party in a Suit/Petition is not open-ended and in perpetuity. It is not also a blank Cheque in which a party can affix any amount of money in any currency and cash at any time he so wish in any country of his choice. To enjoy right to fair-hearing, the party must do so within a reasonable time otherwise that sacred provision part of the CAP 4 of the 1999 Constitution of the Federal Republic of Nigeria will loose its efficacy and the polity will head to anarchy.

So since the Respondent had not filed any answer or Cross-Petition, this Court will go on to foreclose him from doing so and go ahead to deliver its decision as the case is and remains unchallenged even as I read this.

This marriage, going by EXH 1 was contracted on 11th September, 1986. It was blessed with two (2) Children who are 32 and 34 years old respectively.

The Petitioner said that she had lived in Lagos before the marriage and that the parties lived apart from 1992 till date. That the marriage has broken down irretrievably. There was cruelty. That it was the Respondent who deserted the Petitioner since 1992. That the Respondent has behaved in such a way that she is not expected to live with him. She wants dissolution of the said marriage.

The S. 15 and 16 of the MCA and extant provision of the MCFR set out the reason upon which a marriage contracted under the Act can be dissolved. That single reason is that the marriage has broken down irretrievably that the Petitioner is not expected to continue with the marriage. The said Act also

set out the facts upon which such Petition can be based. One of them is cruelty. Another is desertion and the 3rd is severance of conjugal of right among others.

So once there is desertion by a party to the marriage for over one (1) year, the Court will hold that it ground enough for the dissolution of the marriage.

In this case, the Respondent according to the Petitioner deserted the Petitioner since 1992. That is about 30 years ago. That ground is enough for dissolution of the marriage as contained in MCR. She has also said that the Respondent has been cruel to her. That is also a ground. She has set out detailedly the facts supporting the cruelty allegation.

This Court believe her more so, because there is no challenge of that fact by the Respondent who is aware of the pendency of this Petition and the fact that it was for Hearing as always.

Again, severance of conjugal right is visible in this case since the parties have lived apart for close to 30 years.

From all indication, the button has dropped off the marriage sine the day the Respondent deserted the Petitioner. There is no evidence to show that the parties co-habited since after the 1992 when the Respondent deserted the Petitioner.

As it is glaringly clear, the marriage had died long before now and the only thing left is the old empty and cracky shell of the marriage.

Today, the Petitioner, who all these while – almost 30 years and counting, had the empty shell of the dead marriage hanging on her neck, want the Court to make an Order for her

to legally remove the said old cracky shell from her by this Petition. She had come before this Court, testified, adopted her Oath as she did earlier when the matter was before V.V. Venda retired. The Respondent had no Answer or Cross-Petition. He never filed any or intends to file any too.

This Court having read through the Petition finds that there is merit in this Petition and that there is a need to dissolve the said marriage which overtime, the actions and inactions of the parties had also dissolved.

This Court hereby DISSOLVE the said marriage between Abiola Bawa and Sani Mohamed Bawa in Suit No. FCT/HC/PET/71/16 today the 4th day of November, 2021.

This is the Order Nisi of this Court.

If the parties do not get back to live together as husband and wife within the next Ninety (90) days, this Order Nisi shall be automatically made absolute from the 91st day from today 4th November, 2021.

This is the Judgment of this Court.

Delivered today the ___ day of _____ 2021 by me.

K.N. OGBONNAYA
HON. JUDGE