

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

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT ZUBA, ABUJA

ON WEDNESDAY THE 21ST DAY OF JUNE, 2023

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

JUDGE

SUIT NO.: FCT/HC/PET/179/2023

BETWEEN:

CHINASA UGOCHI ONYIA ----- PETITIONER

AND

KINGSLEY CHIDI ONYIA ----- RESPONDENT

BENCH JUDGMENT

The Court had allowed the parties to in turn state their side of the story and why they feel that the marriage has broken down irretrievably. The Court deem as if set hereunder seriatim the respective statements of the parties.

The Court had taken judicial notice of the Petition of the Petitioner and the verifying Affidavit. The Respondent did not file any Answer and he said there is no point filing an Answer.

It is the law that once any of the parties to a marriage is fed up as it were with the marriage and feels that there is no more love and that such marriage had broken down irretrievably, that he/she can file a Petition for its dissolution. In such Petition, it must state facts/reasons upon which the Petition is premised concluding that the said marriage had broken down irretrievably and that the Petitioner had found it difficult to continue with the marriage. Some of those reasons or facts are desertion, severance of conjugal right and cruelty. See S-S 16 (a) – (h) MCA/MCR. In that case, once there is desertion in that before the filing of the Petition parties have lived apart for continuous period of One (1) year or more, that marriage can be dissolved.

In this case the couple had lived apart for over 5 years. It is obvious that the conjugal right had been served that long too. The Petitioner had been living in Abuja with only Child of the marriage – Fedora, who will be aged 7 in few days time. Again, that means that she was Two (2) years old her parents had been living separately. Her dad, the Respondent, resides in Port Harcourt while her mum, the Petitioner, resides in Abuja.

Once a Petition for dissolution of marriage is filed, no Court has the power or right to force a Petitioner to continue to stay in the marriage. Besides, once there is a Petition for dissolution of marriage, there is already a big crack in the marriage and only God can stick it back because no Court can do so. In that case the Court leaves it for the Divine.

The Petitioner has raised issue of abuse by the Respondent who she claimed twisted her neck and made life uncomfortable for her.

On his part, the Respondent had denied that fact and claimed that when he had means he took care of the Petitioner while they started life together. But from their story it is clear that ab initio the 2 very matured adults never spent time together before they tied the nut of marriage. That is why it is glaringly clear that they did not tie the marriage nut tight enough to sustain it.

Well, as both parties have stated that they do not intend to continue as husband and wife, their supposed marriage having broken down irretrievably, this Court has no power to force them to continue living as husband and wife.

The Court had asked the Petitioner what her custody plan is. She said that she will like to continue with custody of the girl – Fedora who will be 7 years old shortly so she can continue her education as she had done for the past 5 years. She also said that the Respondent should play a role as a father by helping in the school fees, welfare and feeding of the Child. That given her age and sex she should stay with her. But that the Respondent can have unrestricted access to the Child any time. That on the last adjourned date the Child was happy to see her dad as ordered by the Court.

The Court had asked the Respondent, it is like he is not specific as to custody plan. He said he would like the Child to be with him so that he can attend school where she had

been given a scholarship to study up to secondary school. That he will like to live with the Child of the marriage. He had tendered the document of scholarship showing that it will last till end/completion of primary school. The scholarship is from Royal Seed Nursery and Primary School Rumuokwurisi, Port Harcourt, Rivers State dated 5th June, 2023. From the dating it is clear that the award was from 2021/2022 Academic Session but was dated 5th June, 2023. Meanwhile, the Petition was filed on the 27th January, 2023.

The Court had noted what the Respondent said that he will like to be with the Child during holidays but can see her if there is any reason for him to be in Abuja. He was not eager to state or show that he can make out time to see the Child specifically by coming to Abuja during school period.

Well, given the age of the Child it is clear and as required by law that the Child should be with her mother (Petitioner) during the school period. But the Child should be released to the father (Respondent) during holidays thus:

During 1st Term for a period of One (1) week.

During 2nd Terms for another period of One (1) week.

But during the long vacation – 3rd Term, the Child should spend Three (3) weeks with the father (Respondent) in her Paternal/Grand-mother's house for that period.

The rest of the holidays shall be spent with her mother – the Petitioner. After age 12 the Child should explore the scholarship for the Secondary School. It is in that case that

she will spend time in school in Port Harcourt and then holidays with her mother (Petitioner) wherever she is.

Since it is obvious that the marriage has broken down irretrievably and both parties want the said marriage to be dissolved, this Court therefore hereby dissolve the marriage between Chinasa Ugochi Onyia and Kingsley Chidi Onyia which was contracted on the 19th September, 2015 at Redeemed Evangelical Mission Utako, Abuja today the 21st day of June, 2023 the said marriage having broken down irretrievably.

This is the Order Nisi of this Court delivered today the 21st day of June, 2023.

If after 90 days from today the parties did not resume cohabitation and revive their conjugal rights, this Order Nisi given today shall be automatically made absolute on the 91st day.

This is the Bench Judgment of this Court.

**Delivered today the ___ day of _____ 2023 by
me.**

K.N. OGBONNAYA
HON. JUDGE