

**SUIT NO: FCT/HC/PET/076/2023**

**CHISOM EMMANUEL OGBONNA - PETITIONER**

|            |          |         |
|------------|----------|---------|
| ONYEKACHI  | PRECIOUS | OGBONNA |
| RESPONDENT |          |         |

Via a Notice of Petition dated and filed on 4<sup>th</sup> of December, 2023, the petitioner seeks the following relief;

(a) A decree of dissolution of marriage on the ground that since the marriage, the Petitioner and the Respondent have lived apart for a period of more than one year and the Respondent has deserted the Petitioner for a period of more than one year.

The petition is supported by a statement and verifying affidavit deposited to by the  
Petitioner as well as a Witness Statement on Oath deposited to by the Petitioner

and adopted before this Honourable Court on the 27<sup>th</sup> day of March, 2024. A copy of the Marriage Certificate between the Petitioner and Respondent was admitted as Exhibit A.

The Petitioner testified under oath that he entered into a statutory marriage with the Respondent at the Tarfa Marriage Registry, Sabon Wuse, Abuja on November 7, 2020, and they lived together at his flat in Lungi Barracks, Maitama, Abuja. He was serving in the Nigerian Army until he resigned in January 2023. There are no children from the marriage. They had a misunderstanding that they could not resolve, and on June 11, 2021, the Respondent left their matrimonial home to stay with her parents. Despite numerous efforts to resolve the issue, they have remained separated, and the Respondent has returned the bride price to the Petitioner. The Petitioner was cross-examined by the Respondent's Counsel, after which the Petitioner closed his case.

The Respondent on 15<sup>th</sup> April, 2024 filed an answer to the petition and Cross-petition but however decided to rest her case on that of the Petitioner.

Having gone through the Notice of Petition, the statement in support and the Petitioner's statement on oath the issue that calls for the determination of the court is **'Whether the Petitioner is entitled to the reliefs sought from this Honourable Court'**

Section 15 (2) (d & e) of the Matrimonial Causes Act provides that the court hearing the petition for dissolution of marriage shall hold that the marriage has broken down irretrievably if the petitioner satisfies the court of one or more of the following fact;

d) that the Respondent has deserted the Petitioner for a continuous period of at least one year immediately preceding the presentation of the petition;  
e) that the parties to the marriage have lived apart for a continuous period of at least two years immediately preceding the presentation of the petition and the Respondent does not object to a decree being granted.

The Petitioner has deposed in his Statement on Oath that the Respondent moved out of their matrimonial home since 11<sup>th</sup> June, 2021 following a misunderstanding they had and this petition was filed on the 4<sup>th</sup> day of December, 2023 over two years after the parties started living apart. The law is trite that a claim is unchallenged or uncontroverted by a Respondent who had the opportunity of doing so but chose not to, the court would resolve such issues in favour of the applicant. See *James v. FRN & Ors* (2021) LPELR-52843(CA), *Abu v. Omale & Ors* (2019) LPELR-48738(CA).

On the whole, I hold that the parties to the marriage having lived apart for more than two years immediately preceding the presentation of this petition, the marriage has broken down irretrievably consequently the application for dissolution of marriage succeeds.

The order for dissolution of marriage shall become absolute after three months.

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HON. JUSTICE J. ENOBIE OBANOR

Judge

Appearances:

For the Petitioner; Adams O. Okoronkwo, Esq.

For the Respondent; Emmanuel O.J. Asuku, Esq.