

IN THE HIGH COURT OF JUSTICE OF THE F.C.T.
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT KUBWA, ABUJA
ON MONDAY THE 20TH DAY OF FEBRUARY, 2023
BEFORE HIS LORDSHIP: HON. JUSTICE K. N. OGBONNAYA
JUDGE
SUIT NO.: FCT/HC/PET/115/2018

BETWEEN:

MR. MARK OMO OGHIADOMHE ----- PETITIONER

AND

MRS. OMOBOLADE OGHIADOMHE OLAWUNMI ---- RESPONDENT

BENCH JUDGMENT

This petition for dissolution of marriage between Oghiadomhe Mark Omo and Oghiadomhe Omobolade started its journey sometime in 2019 before A.B. Mohammed who had been elevated to the Court of Appeal.

On the 13th of September, 2019 the matter was transferred to this Court sitting at Kubwa then.

There were several applications filed by both parties. But on the 13th of March, 2019 the Petitioner filed an Amended Petition to which the Respondent replied by filing an Amended Answer and Cross Petition. In both Amended Petition and Cross Petition and Answer the parties were in tandem with the dissolution of the marriage between them. They had attached documents as Exhibits and filed

Affidavits as required. They both had in one stated that the marriage had broken down irretrievably and each finds it difficult to continue to live together as husband and wife or wife and husband. There has been desertion long before the filing of the Petition. That desertion had continued even till date. The marriage was solemnized and celebrated at the Anglican Church of the Advent at Life Camp, Abuja – FCT on the 1st day of June, 2013. They both exhibit the Marriage Certificate. The Petitioner has the original which the Court had ordered that he bring before this Court to be duly marked as Exhibit. Both co-habited for sometime before the desertion. The marriage is blessed with 2 Children – Olamotse Oghiadomhe and Osizemhete Oghiadomhe both aged 3 and 2 years respectively as at the time of the filing of the Amended Petition. Before now they had filed a Petition for a judicial separation in 2016 barely 3 years after the marriage. There was a Counter Petition all of which was subsequently discontinued after their parents intervened. They claimed that there is no connivance, collusion or condonation.

Since they both are in tandem with the dissolution of the marriage, the Court ordered them to meet to decide the amicable way on issue o custody of the Children which both wants to be in their custody. They have today written to Court separately on the terms of issue of custody.

But before the Court will get to that, it is imperative to state once any of the parties in a marriage had decided to call it a quit, that the Court or any one has no power to force an unwilling spouse to continue with the marriage. Moreso, where there is evidence to show that several attempts to patch it up had failed.

It is the provision of the MCA/MCR that the only condition for dissolution of marriage which was contracted under the law and/or solemnized in any church is evidence to show that such marriage had broken down irretrievably and that the Petitioner and Cross-Petitioner feels that they cannot continue to live as husband and wife or wife and husband.

There are however several grounds/reasons which may be desertion, criminality, death, where one party had disappeared for more than 7 years. In that case it is assumed that such party had died. S. 15 & 16 (a) – (g) Matrimonial Causes Act/Matrimonial Causes Rules.

Both parties have hammered on intolerable behaviour of each other, frosty and rocky relationship, bordering on denial of conjugal relationship, lack of intimacy and desertion. Also on issue of infidelity even quarrelsomeness.

The parties have before all and sundry today adopted their respective Petition Processes. This Court deem as set hereunder seriatim the said Processes especially the grounds upon which the Petition and Answer to Petition and Cross Petition are based.

Since they both have consented as it were to the dissolution of the marriage, this Court choruses a judicial “Amen” and so be it to their submission. That being the case, this Court hereby DISSOLVES the said marriage between the Petitioner – Oghiadomhe Mark Omo and the Respondent/Cross-Petitioner – Oghiadomhe Omobolade Olawunmi which was contracted on the 1st day of June, 2013 today the 20th day, of February, 2023 since the said marriage had broken down irretrievably and also that the parties have been living apart from each other for over One

(1) year preceding the filing of this Petition in 2018. Moreso, there has been severance of conjugal right as the marriage has not been consummate more than 1 year and 3 months before the filing of the Petition in 2018 till date.

This is the Order Nisi of this Court delivered today.

Since the marriage has broken down irretrievably and the said marriage had been dissolved following the Order Nisi, it means that the bottom had dropped off the marriage and only the empty shell that is remaining. The said empty shell shall be crushed after 90 days from today if the parties did not get back as husband and wife and revive their conjugal rights. Where that is the case, the Order Nisi 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