

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT GWAGWALADA- ABUJA

THIS WEDNESDAY THE 11TH DAY OF OCTOBER, 2023

BEFORE HIS LORDSHIP: HON. JUSTICE ALIYU YUNUSA SHAFI

SUIT NO: FCT/HC/PET/224/2023

BETWEEN:

MR. YAMUSA ADI..... PETITIONER

AND

MRS CAROLINE BUNDA ADI..... RESPONDENT

JUDGMENT

This judgment is on notice of petition with No:FCT/224/2023 dated the 16th day of February, 2023 file the same date.

The said notice of petition seeks for the following:

- 1. A decree of dissolution of the marriage contracted on the 16th of November, 2012 at marriage registry, Abuja, FCT between the petitioner and respondent on the ground that the marriage has broken down irretrievably.**
- 2. A declaration that as at the time of presenting this petition the petitioner and the respondent have lived apart for a continuous period of at least two(2) years immediately preceding the presentation of the**

petition and the respondent does not object to a decree of dissolution being granted.

- 3. An order of this honorable court granting custody of the children of the marriage namely Aldora Amakundi Adi, Annabel Amachundi Adi and Alicia Auyonma Adi to the petitioner until, they attain the age of majority.**
- 4. An order of this honorable court granting the respondent full access and visitation rights to the children of the marriage namely Aldora Amakundi Adi, Annabel Amachundi Adi and Alicia Auyonma Adi and shall be with the prior and timely information of the petitioner.**
- 5. An order of this honorable court directing that the petitioner shall be responsible for the maintenance of Aldora Amakundi Adi, Annabel Amachundi Adi and Alicia Auyonma Adi till they attain the age of majority.**
- 6. And for any other order or further orders as this honorable court may deem fit to make in the circumstance against the respondent.**

These are the claims of the petitioner against the respondent. Attached to the said notice of petition is a verifying affidavit of 6 paragraphs deposed to by one Yamusa Adi of 58 Parakor Street off Aminu Kano Crescent Wuse 2 in the Federal Capital Territory, Abuja. Annexed to the affidavit is a certificate of reconciliation dated the 16th day of November, 2022 acknowledgement of service by one Ubong Emmanuel dated 22nd day of March, 2022 and the certificate of marriage between Yamusa Adi and Bunda Ikepe Ishaku dated the 16th November, 2012 at AMAC marriage Registry Abuja under the marriage Act NO: 2388.

Upon service of the petitioner's petition for dissolution of marriage, the Respondent file a memorandum of Appearance dated the 5th day of April, 2023, attached to it is the respondents answer to petitioners Notice of petition for dissolution of marriage dated the 5th day of April, 2023 same served on the

petitioner acknowledged by one Dubiah benson Nwafor of House No 16B, mafemi Crescent Utako Abuja, legal practitioner dated the 14-04-2023.

This matter was mentioned on the 22/3/2023 one Barr. Olumide Ighayilola appeared for the petitioner while Barr. Ubong Emmanuel represented the respondent, parties thereafter applied to the court to settle this matter out of court in accordance to order 26 of the High Court of FCT Abuja Civil procedure rules 2018, the order provides thus:

“When a matter comes before the court for the first time, the judge shall in circumstances where it is appropriate grant to the parties, time, not more than 30days within which parties may explore possibilities for settlement of the dispute.”

In view of the above provision of the law and agreed by the parties this matter was adjourned to 8-05-2023 for report of settlement.

On the 8-05-2023 both parties were represented, where the petitioners counsel informed the court that settlement has failed and applied to the court to open the case of the petitioner, this the respondent counsel did not object to and the matter proceeded to hearing.

This court in summarizing the evidence of PW1 (The petitioner) thus;

One Yamusa Adi, a Christian resident at 58 Parakou Crescent Wuse 2. That he can recall deposing to the witness statement on oath on the 5/5/2023, the witness statement on oath which he identified through his passport photograph and his signature. The said witness statement on oath of the witness was adopted his its oral testimony before this court.

In his evidence he stated that, the marriage was conducted on the 16-11-2012 the said marriage certificate which he identified by his name and signature and was admitted in evidence as exhibit A.

No Cross examination from the respondent. The petitioner counsel then closed the case of the petitioner and the matter was adjourned to 19-06-2023 for defence to open its defense.

On the 19-06-2023 both counsel were in court, the respondent counsel informed the court that, they will rely on the evidence and document tendered by the petitioner and are not objecting to the petition.

On this date the respondent counsel submitted before the court that the matter was supposed to be for opening of defense, but that after a review of the evidence of the statement on oath of the petitioner, the respondent has decided to rest her case on the case of the petitioner. He did not call any witness, he applied to close the case of the respondent and his application was granted. He then pray the court to wave his address and the court to adjourn for judgment.

The brief written statement on oath of the petitioner, is summarized as follows.

That he was lawfully married to the respondent, on the 16th day of November, 2012 at AMAC marriage registry, Abuja and was issued a certificate of marriage. That the petitioner is a businessman and presently resides in Abuja at 58 Parako Street in the FCT, Abuja.

That immediately after the marriage ceremony he and the respondent lived together from 2012-2014 resident in 2 Charles Maijankai Street Jalingo, Taraba state and also from January 2020- December 2020 flat 9 Chilworth Mews W2 3RG London United Kingdom when cohabitation and consortium between them seized.

That there are children of the marriage named, Aldora Amakundi Adi born on the 1st of November, 2013, Annabel Amakundi Adi born on the 8th of April 2015 and Alicia Auyonma Adi born on the 12th march, 2017 and presently reside with the petitioner.

That himself and the respondent have jointly been taking care of Aldora Amakundi Adi, Annabel Amakundi Adi and Alicia Auyonma Adi up until 2020 when the petitioner moved back to Nigeria with the children with the consent of the respondent and the petitioner has been catering for all their needs, including emotional and financial needs.

That it is in the interest of the petitioner and the respondent that the petitioner has full custody of the children of the marriage, until they attain the age of maturity whilst the respondent will be granted full access and visitation over the children.

That he will continue to be responsible for the maintenance of the three children of the marriage while the respondent continues to provide moral guidance and emotional stability.

That he the petitioner will pay the tuition fees, books and other school expenses of the three children from their present educational level till they complete their tertiary education.

The petitioner will also be fully responsible for the medical expenses of the three children of the marriage.

That it will in the best interest of the three children of the marriage that he be granted custody, while the respondent be granted visitation of the children with the prior and timely notice communicated to the petitioner by telephone conversation, texts, video conferences, electronic mail or other forms of communication at any reasonable time while the children are in custody of the petitioner.

That both of them have agreed and will continue to jointly take care of the children, the respondent can have custody of the children while in Nigeria during school holidays as they have always done since when cohabitation and consortium between them seized.

That it is a fact that as at the time of presenting this petition, himself and the respondent have lived apart for a continuous period of at least two (2) years immediately preceding the presentation of this petition.

That he left the matrimonial home at flat 9 Chilworth Mews W2, 3RG, London, United Kingdom December 2020 and had returned.

That he knows the respondent is not opposed to a decree of dissolution being granted.

That there is no prospect, intention or possibility of settling the matter out of court or amicably as the marriage has broken down irretrievably.

The respondent in its respondent's answer to petitioners notice of petition for dissolution of marriage dated the 5-4-2023 submitted as follows;

“That she was legally engaged and married to the petitioner (Yamusa Adi) on the 16th day of November, 2012 at the marriage Registry, in the FCT Abuja in compliance with the relevant provisions in the marriage Act and she was issued a certificate of marriage in accordance with the provisions of the marriage Act.

That the marriage has broken down irretrievably and have instructed and authorized Ubong Emmanuel & Associates (Eagle Chambers) of No; 7 Tatari Ali close Zone A, National Assembly Quarters FCT, Abuja to act as her legal representatives and counsel in this suit before the High Court of FCT Abuja.

That she had read all the averments in the petition signed by his legal representative and counsel.

That the averments as stated in the notice of petition for dissolution of marriage are true, correct and represents the true and actual position of the agreement reached between her and the petitioner in this suit.

That because of her current student status, she will not be able to take proper custody and manage the affairs of his beloved children in person of;

- a. Aldora Amakundi Adi
- b. Annabel Amachundi Adi
- c. Alicia Avyonma Adi

As such she concedes to their custody being retained by the petitioner since he has the capacity and he is ready and willing to ensure their welfare and wellbeing till they attain majority or till she is ready to share on their responsibilities.

Having considered the written statement on oath of the petitioner, the verifying affidavit, the document tendered as well as the respondents verifying affidavit hold that what is admitted need no further proof. The effect of admission is that; it discharges the burden of proof that is on the petitioner. Where a party against whom a claim is made, had either before or during the proceedings, made statements to the effect that such claims is correct, then the court may find that there is no need for the petitioner to engage in further proof of the claim, except there is evidence from the other party disclosing such submission. See Ekkpenwpolo VEdremoda (2009) 8 NWLR (PT. 1142)166.

Once there is an admission, then there is no dispute and the need for proof does not arise. Admission acts as a short cut in the valuable litigation time. See Anason Farms LTD V N.A.L merchant Bank LTD (1994) 3 NWLR (PT.331) 241.

In the instant case, the petitioners evidence was not controverted while the document tendered fully support the case of the petitioner. I therefore hold that since the respondent had accepted all the averments stated in the petitioner statement on oath and the verifying affidavit, I shall proceed to grant the reliefs sought by the petitioner.

In the final analysis and in summation I accordingly hereby make the following order;

1. An order of decree NISI is granted dissolving the marriage between the petitioner MR. Yamusa Adi and MRS. Caroline Bunda Adi contracted on the 16th day of November, 2012.
2. An order of custody of the children of the marriage namely, Aldora Amakundi Adi, Annabel Amachundi Adi and Alicia Avyonma Adi to the petitioner until they attain the age of majority.
3. An order granting the respondent full access and visitation rights to the children of the marriage namely\;
 - a. Aldora Amakundi Adi
 - b. Annabel Amachundi Adi
 - c. Alicia Avyonma Adi

And shall be with the prior and timely information of the petitioner.

4. An order directing the petitioner to be responsible for the maintenance of Aldora Amakundi Adi, Annabel Amachundi Adi and Alicia Avyonma Adi till they attain the age of majority.

This is the Judgment of this court.

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Hon. Justice A. Y. Shafa

Appearance:

1. Olamide Igbayilola for the Petitioner.
2. Obong A. Emmanuel for the Respondent.