

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

HOLDEN AT JABI ABUJA

DATE: 26TH DAY OF JANUARY, 2021

BEFORE: HON. JUSTICE M. A. NASIR

COURT NO: 9

SUIT NO: PET/77/2016

BETWEEN:

JULIET MOGHALU ----- CROSS-PETITIONER

AND

MADUAKONAM MOGHALU ----- CROSS-RESPONDENT

RULING

This Ruling is predicated on the order of this Court made on the 30/9/2020 upon the delivery of judgment dissolving the marriage between the Cross Petitioner and the Cross Respondent. This Court had granted custody of the two children of the marriage to the Cross Petitioner with access to the Cross Respondent supervised by a Social

Welfare Officer. The officer was mandated to render a Report to the Court after the duration of the Order.

This Court has received a Report dated the 12/1/2021 as directed. The Report was prepared by one Aisha Zubairu Yussuf (ACSW) Social Welfare Officer, Abuja Municipal Area Council (AMAC).

This Court had availed both learned counsel for the Cross Petitioner and the Cross Respondent certified true copies of the Report for their perusal and further submission as to whether this Court should review the earlier order for supervised access to the children.

In his submission, learned counsel to the Cross Respondent **Emmanuel Okorie Esq** submitted that he was agreeing in toto with the Report from the Social Welfare Office as representing the truth of what transpired between the parties with respect to the supervised access. Learned counsel submitted that the Cross Petitioner frustrated every

attempt by Court appointed Welfare Officer and the Cross Respondent to fulfill to the letter the Judgment of the Court. Mr. Okorie agreed with the suggestion in the Report that the children may have been tutored to take an unfavourable position towards their father. Counsel argued that all efforts for access to the children had been willfully truncated by the Cross Petitioner. Learned counsel finally urged this Court to graciously review the order made in the judgment of 30/9/2020 and consider granting any of the following:

- Granting sole custody to the Cross Respondent since the Cross Petitioner is using it as a weapon to frustrate the Cross Respondent and the Order of this Court;
- Joint Custody to the parties with specific directions.
- Unfettered access to the Cross Respondent to avoid the past scenario.

In his response P.J. Francis Esq started by opposing the foundation of the Report. He submitted that based on the order of Court, the Cross Petitioner had granted access to the Cross Respondent and even provided a maid to liaise between the Cross Respondent and the children. That it was the Cross Respondent who refused to enter the Cross Petitioner's house and when the children refused to follow him, he began to shout. That on his own, the Cross Respondent stopped the visitation. Learned counsel submitted that the Cross Respondent has not changed and his attitude causes damage especially to the 1st child. He then urged the Court to maintain the Order made for sole custody to the Cross Petitioner and access to the Cross Respondent as contained in the judgment.

This Court has had a proper perusal of the submissions of both learned counsel and the Report on the supervised access to the children. The whole essence of the Order for supervised access was to ascertain whether the

Cross Respondent is actually a threat to the well being of the children of the marriage. It is apparent from the Report that the Order of Court was not fully complied with. The visitation as ordered by the Court was not to be in the presence of a maid but the Court appointed Social Welfare Officer. This Court particularly notes the findings in the Report as follows:

- “1. We observed that the children may be acting a script prepared for them.
2. They may have been told terrible things about their father that is breeding so much hatred for their father.
3. The mother, Mrs. Juliet appointed a house-help to interface between the father and the children which reinforce our fear that the children were acting a script.”

I need to reiterate herein that I have given a serious thought to this contention.

First and foremost, what is most worrisome about the findings of the Social Welfare Officer is the attitude of the Cross Petitioner towards the order of this Court and the findings listed above. Like earlier noted, the visitation was not to be in the presence of a maid, it was to be between the children and the Cross Respondent in the presence of the Social Welfare Officer. This whole exercise is aimed at arriving at a decision that will serve and protect the best interest of the children.

It is common knowledge that divorce and separation are major life changing events for the adults involved, but they can also be very hurtful and stressful events in the lives of children. Ending the relationship does not mean an end to the parental relationship that adults have with their children. Disagreements may continue, but the way that they are approached can make a difference to the way that the children experience the break up. It is very important for the welfare of the children that they should have a

relationship with both parents. Had the parents placed the interests of the children ahead of theirs they could have come to an agreement on what is reasonable.

The provisions of the law is that the interest of the children is the paramount consideration in making any order that affects the children of a marriage. I have taken note of the submission of learned counsel to the Cross Respondent when he urged the Court to grant custody to the Cross Respondent since the Cross Petitioner is using the children as a weapon against the Cross Respondent; or joint custody with specific directions; or unfettered access..

It is quite worrisome the contents of the Report which has shown how the Cross Petitioner clearly frustrated the whole arrangement.

The Report has not portrayed the Cross Respondent as a threat to the children and I am of the view that he should be given the opportunity to bond with the children to

change their mindset about him. It cannot be overstated that the right to access is that of the children. They should be given a chance to bond with their father just as they have developed a bond with their mother. What better way then can this perceived resentment be changed, than for the Cross Respondent to have the opportunity of spending time with the children, alone. Access and contact of the children to their father, the Cross Respondent can deliver a number of benefits to the children which can be the foundation for healthy emotional growth and development. It can also help in building the children's self esteem and relations with their peers especially at school.

I must at this point put out a word of caution. Children are not trophies that are won in a competition neither should they be used as armoury/weapons of a warfare. In as much as this Court will not want to affect the children's feelings but posterity will judge that whatever is done is with their best interest at heart.

No reason has been shown to this Court why the Order for access in the presence of Social Welfare Officer's should be allowed to continue. Nevertheless, the Court holds the view to the extent that the children are currently in the physical custody of the Cross Petitioner, it has not been shown presently that the children will come into any harm if the Cross Respondent is allowed access to them outside the presence of the Cross Petitioner. There is therefore no basis to accede to the Cross Petitioner's request of continued supervised access.

Based on all the reasons stated in the judgment while granting custody to the Cross Petitioner, and upon a calm consideration of the Report, this Court in its discretion which is geared towards the overall interest of the children is inclined to review the Order made for supervised access. Having access to both parents will afford the children parental warmth and assurance needed for proper development. As earlier stated, access is a basic right of the

children therefore neither the Cross Respondent, nor the Court can force the children to spend time or have contact with their father. This, as hurtful as it is, I advise the Cross Respondent not to give up as communication is very important between him and his children. There are, and there would be CONSEQUENCES however if the Cross Petitioner scuttles or interferes with the rights of the children.

The watch word is 'always do what is best for the children'. But in this instance, the phrase seems to have lost its meaning. The parties herein appear to have lost sight of the fact that they have a duty to put their children's needs first and their own second. They do not and will not recognize that this permanently damages the psyche of the children.

In the light of these, I direct that:

- The Cross Petitioner shall retain physical custody of the children of the marriage.
- The Cross Respondent shall visit and have access to the children every other Saturday between the hours of 12 noon – 4 pm.
- While in school, the Cross Respondent shall have access to the children within the time allowed by the school rules on visitation.
- This directive is to be served on the children’s school for their information and guidance.
- The Cross Petitioner shall make all efforts to encourage the children to see their father (the Cross Respondent) and further encourage them to spend some festive periods or part of their holidays with the Cross Respondent.

Before I drop my pen, I call on both learned counsel who are Ministers in the Temple of Justice to employ wise counsel in seeing to the compliance of this Order.

Parties have a right of appeal.

Signed

Honourable Judge

Appearances:

P.J. Francis Esq holding the brief of J.U.K. Igwe SAN – for the
Cross Petitioner

Kanayo Okafor Esq with him, Chiamaka Anagu Esq and
Chisom Nwosu Esq – for the Cross Respondent