

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE GWAGWALADA JUDICIAL DIVISION
HOLDEN AT JABI**

BEDORE HIS LORDSHIP: HON JUSTICE A. S. ADEPOJU

THIS 24TH DAY OF OCTOBER, 2024

SUIT NO: FCT/HC/PET/182/2023

BETWEEN:

MR. PETER OLUSOLA AKINJUTE -----PETITIONER

AND

MRS. MARIA TITILAYO AKINJUTE -----RESPONDENT

CHRISTIAN ANEKE ELOM for the Respondent.

Petitioner not in Court and not represented by Counsel.

JUDGEMENT

In the petition dated 31st day of January 2023, the Petitioner seeks a decree of dissolution of the marriage between him and the Respondent on the ground that the Marriage has broken down irretrievably. The couple celebrated their marriage on the 17th of May 2014 at the Abuja Municipal Marriage Registry.

The facts relied upon by the Petitioner as constituting the grounds for divorce are persistent misunderstanding and disputes due to irreconcilable differences which results in intervention by their families without success. These quarrels was said to have led to the Respondent withdrawing from consortia since 2016. Both parties have gradually ceased from their duties

and have lived under same roof as merely housemates without speaking or interacting in anyway.

And 2018, both parties decided that they were done with the marriage despite the interventions of their respective families the rift was not healed. By October 2020, the Petitioner had partially moved out of the matrimonial home and parties to all intents and purposes have lived apart since then until September 2021 when both parties fully left the matrimonial home. That parties have live apart since then and have never resumed cohabitation nor has consortia or conjugal obligations been restored between the parties since that time. All efforts to reach amicable resolution of irreconcilable differences between the parties have proved abortive so far despite interventions of their families. The Petitioner in proof of the marriage tendered the marriage certificate as Exhibit A when he testified on the 5/3/2024.

In answer to the petition the Respondent affirmed that it was the Petitioner that withdrew from conjugal rights and other legal duties as the man of the house. That the Petitioner has temperamental problems and as a result he gets angry easily which makes understanding difficult for the both of them. That she suffered domestic violence such as abuse, especially when things don't go his way. She also complained that the Petitioner left the house on several occasions without notice and whenever he comes back, he cares not to give useful explanation of his whereabouts. And that the Petitioner was not financially responsible, paying only his personal bills and needs and that

the house rent and other expenses are consistently shared between the two of them. That Petitioner refused about three years to do fertility test as insisted by the Nigerian Air-force Hospital as agreed by them where she was declared fertile.

She further complained that the Petitioner refused to show any duty of care even when her mother had cancer and surgery, that he failed to send her money till her mother passed on and the Petitioner's action made her to suffer in the hands of her family members. That the Petitioner slapped her on several occasions, and have moved out of their rented apartment since October 2020 while she remained there till December 2021 awaiting for his return. That the Petitioner informed her in November 2021 that he has moved on with life.

The Petitioner filed a reply to the answer of the Respondent, but the witness statement on oath in support was not adopted by the Petitioner. At the close of the case for the Respondent, Counsel for the Respondent informed the Court that the Respondent was not contesting the Petition, which was also evident from the answer of the Respondent. There was therefore no cross-examination of the Respondent by the Petitioner's Counsel. The parties also waived their rights to address the court.

I have carefully gone through the facts pleaded by the parties and their testimonies in support, it is a notorious fact that in an action for dissolution of marriage on the ground that the marriage has broken down irretrievably

the Court shall hold that the marriage has broken down irretrievably if but only if the Petitioner satisfies the Court of one or more of the following facts:

- a. That the Respondent has willfully and persistently refused to consummate the marriage,
- b. That since the marriage the Respondent has committed adultery and the Petitioner finds it intolerable to live with the Respondent.
- c. That since the marriage the Respondent has behaved in such a way that the Petitioner cannot reasonably be expected to live with the Respondent.
- 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 continuous period of at least two years.

NNANA V NNANA (2006) 3 NWLR (PT. 966), PIUS V OLORUNFEMI (2020) LPELR 49579 CA, OLANBIWONINU V OLABIWONINU (2014) LPELR 24065 CA.

A marriage being a sacred institution will not be dissolved merely because the parties have agreed that it should be dissolved. A Petitioner must therefore bring his action within the provision of Section 15(2) of the Matrimonial Cause Act. The unchallenged and uncontroverted facts from

the testimony of the Petitioner is that they first got married in 2014, and by 2018, the parties decided that they were done with the marriage, by 2020 the parties have been living apart with the Petitioner moving out of the matrimonial home. The parties have lived apart for two years before the presentation of this petition and the Respondent is not objecting to the decree being granted. Furthermore, from the testimony of the Respondent, the parties have stayed apart for more than a year preceding the presentation of this petition. And there is no child of the marriage. The Respondent claimed that the Petitioner refused to submit himself for fertility test. And both parties stated that they had a quarrelsome and unpeaceful marriage. The Petitioner claimed that they both discovered that they were incompatible which led to the Respondent withdrawing from consortia since 2016, with parties living under the same roof as merely home-mates. The Petitioner testified on intervention of family members which had yielded no results.

It is not in doubt that peace is an essential ingredient of a successful and happy marriage, marriage is said to be a union between a man and woman both of whom agree to live and do live together as spouses. It does appear to me that the parties are tired of the relationship and have irreconcilable differences and have not agreed to live together as spouses again. The parties are still young and could still find solace and comfort elsewhere. I am therefore satisfied that the marriage between the Petitioner and the Respondent have broken down irretrievably. Consequently, I hereby enter a

decree nisi dissolving the marriage conducted for the parties on the 17th May, 2014 at the Abuja Municipal Area Council Marriage Registry. The decree nisi shall become absolute after three months.

SIGN

**HON JUDGE
24/10/2024**