

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

THIS 25TH DAY OF MARCH,2021

BEFORE HIS LORDSHIP: THE HON. JUSTICE A.A FASHOLA
SUIT NO: FCT/HC/PET/565/2020

BETWEEN:

MR ANDRE AYODEJI ONI -----PETITIONER

AND

MRS MARCELA ONI-----RESPONDENT

JUDGMENT

The Petitioner on the 19th day of November 2020 filed this suit against the Respondent claiming the following:

1. A decree of dissolution of marriage between the petitioner and the Respondent on the grounds of desertion for a period of 3 years; desertion for a period of 2 years, the marriage having broken down irretrievably.

The grounds upon which the application is brought are the following:

1. The parties have lived apart for a continuous period of at least 3 years immediately preceding the presentation of this petition.

2. That the parties to the marriage have lived apart for a continuous period of at least 2 years immediately preceding the presentation of this petition and the Respondent does not object to a decree being granted.

In support of the petition, the petitioner filed a verifying affidavit and attached is a certified true copy of the marriage certificate between the parties he did not however file a witness statement on oath.

Upon being served the petition the respondent on the 4th day of March, the date set for hearing of the suit was represented by Emmanuella Ijele while the Petitioner was represented by Benjamin .E Darkos.

learned counsel to the petitioner Mr Benjamin E. Darkos informed the court that the matter is slated for hearing and they are ready to proceed.

On her part, learned counsel to the respondent said the respondent does not intend to reply neither is she ready to defend the matter, and as such the respondent did not file an answer to the petition or any process whatsoever.

From the evidence before me, this matter raises a lone issue for determination:

1. **Whether parties are entitled to a decree of dissolution of Marriage.**

On the lone issue for determination, both parties are not opposed to the Court granting a decree of dissolution of marriage. It's even made worse by the petitioner living separately from the Respondent for more than two years preceding the filing of this petition.

With respect to the relief of dissolution of marriage the law is fairly settled that no marriage will be dissolved merely because the parties have agreed that it be dissolved as marriage is a very important institution and it is the foundation of a stable society. The policy of law therefore is to preserve the institution of marriage. That is why marriages will not be dissolved on agreement of the parties to it. A Decree for the dissolution of marriage would therefore only be granted if the petitioner has proved that the marriage had broken down irretrievably and that the petitioner finds it intolerable to live with the Respondent. See Section 15 of the Matrimonial Causes Act, **Damulak Vs. Damulak (2008) 8 NWLR (Pt 874) P**

651; Olabiwonu Vs Olabiwonu (2014) LPELR- 24065. Therefore, by the provisions of Section 15(2) of the Matrimonial Causes Act, the petitioner at the hearing must satisfy the court by evidence of the allegations put forward by the petition. See **Omotunde Vs Omotunde (2000) LPELR-10194.** In this case, the petitioner adduced evidence to the satisfaction of the court that she and the Respondent have lived apart for more than two years immediately preceding the presentation of the petition. This fact is not disputed by the Respondent who simply stated by her counsel that she does not have the intention to reply neither is she ready to file any answer to the petition.

Consequently, it is HEREBY ORDERED AS FOLLOWS:

1. I hereby pronounce a decree nisi dissolving the marriage celebrated between the petitioner and Respondent with certificate number 2040 at the AMAC Marriage registry Abuja held on the 30th day of October 2015 on the grounds that the marriage has broken down irretrievably and both parties find it intolerable to live with each other. The decree nisi shall be made absolute after a period of three months from the date of this pronouncement, unless sufficient cause is shown to the Court why the decree nisi should not be made absolute.