

- Respondent for a continuous period of one year immediately preceding the presentation of this petition.
- c. An order of this Honourable Court granting the custody of the child of the marriage (Great Wushi) 11years to the Respondent.
 - d. An order of this Honourable Court granting the Petitioner access to visit the child during holidays and festive periods, the child can also spend part of this holiday with the petitioner.
 - e. An order of this honourable Court directing the Petitioner to be paying N30,000.00 (thirty Thousand Naira) only to the Respondent as monthly contribution towards the maintenance and sustenance of the child of the marriage.
 - f. An order of this Honourable Court directing the Petitioner to be responsible for the payment of the school fees of the child of the marriage.
 - g. Any other order or orders as this Honourable Court may deem fit to make in the circumstances.”

On 7th December, 2021, the court was informed that parties have agreed to some terms as it relates to custody of the child of the marriage, maintenance and school fees and consequently on the 12th November 2021 and 11th November 2021, the Petitioner and the Respondent respectively filed witness statements on oath adopting the said terms of settlement reached by them .

Trial commenced as scheduled on 7th December 2021 with the Petitioner testifying for himself as Pw1.

He adopted his petition, verifying affidavit as well as his witness statement on oath deposed to on 12th November 2021 as his evidence in this case.

He testified that their marriage is blessed with a child Great Wushi born on the 3rd July 2009. He cohabited with the Respondent for an upward of 9 years and cohabitation ceased in 2019 due to irreconcilable differences, verbal abuses and fights which led to desertion.

There was no cross examination by the learned Respondent's and in the absence of question in re-examination, the witness was discharged and the Petitioner closed his case.

In her defence, Respondent testified for herself as Rw1. She adopted her verifying affidavit as well as her witness statement on oath deposed to on 11th November 2021 as her evidence in this case.

There was no question in cross examination and re-examination. With this, the Respondent closed her case.

Counsel for both parties next informed the Court of their decision to waive their respective rights to file Written Addresses. Judgment was then reserved for today however the counsel for the Petitioner with the leave of the court re opened his case and recalled the petitioner who testified further that he, then a bachelor was lawfully married to the Respondent, then a spinster at Springs of Life World Outreach Kwali Abuja Nigeria on 11th October 2008. They were issued a Marriage Certificate which was tendered and admitted in evidence as Exhibit A. With this and in the absence of any further question in cross examination or re examination he closed his case.

I have given due consideration to the evidence of the parties. The crucial issue which calls for determination is whether or not the Petitioner has made out a case to justify a grant of the decree of dissolution of the marriage sought in the Petition.

The Matrimonial Causes Act has in Sections 15(1)(2) and (3) made provisions guiding dissolution of a marriage contracted under the Marriage Act. In Section 15(1), it provides that a party to the marriage may present a Petition for decree of dissolution of the marriage on the ground that the marriage has broken down irretrievably. In Section 15(2), it is provided that the Court hearing the Petition will hold that the marriage has broken down irretrievably if but only if the Petitioner satisfies the Court of the existence of any of facts/grounds provided in Section 15(2)(a) to (h). Some of the grounds provide thus: -

“(a).

(b).

(c).

(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).

(f).

(g).

(h).”

The implication of these provisions of the Matrimonial Causes Act is that either party to the marriage may by a Petition to the Court seek for a decree of dissolution of the marriage on the omnibus ground that the marriage has broken down irretrievably. The Court seised of the matter will hold the marriage has broken down irretrievably and pursuant thereto grant a decree of dissolution of it if the Petitioner by evidence satisfies it of the existence of one of the facts/grounds set out in Section 15(2)(a) to (h) of the Matrimonial Causes Act. By this, proof vide evidence of one of the grounds/facts may suffice for the Court to find that the marriage has broken down irretrievably and on that basis grant a decree in dissolution of it. The corollary to this is that the Petitioner must by evidence satisfy the Court of existence of one of these grounds/facts lest the Petition will fail. See: ***EKEREBE V EKEREBE (1999) 3 NWLR (PT. 569) P. 514 and NANNA V NANNA (2006) 3 NWLR (PT. 966) P. 1.***

With respect to the evidential standard of proof, Sections 82(1) and (2) of the Act require that the evidence adduced by the Petitioner shall be in reasonable satisfaction of the Court for the Court to uphold the

Petition. That standard was interpreted by Court of Appeal as adducing all available evidence in support of an assertion before the Court.

In this Petition, the Petitioner seeks for a decree of dissolution of the marriage he contracted with the Respondent on 11th October 2008 at Springs of Life World Outreach Kwali Abuja Nigeria on the ground that the respondent has deserted the Petitioner for a continuous period of at least one year immediately preceding the presentation of the petition.

He testified in support of the ground, inter alia, that after their marriage he cohabited with the Respondent for an upward of 9 years and cohabitation ceased in 2019 due to irreconcilable differences, verbal abuses and fights which led to desertion.

The Respondent did not deny the evidence of the Petitioner. In the present circumstances in which the Respondent did not lead evidence contradicting that of the Petitioner on the aforesaid act of desertion. It simply means that she accepted them as admitted.

By the foregoing evidence of the Petitioner, the Court is not left in any doubt that the parties contracted the marriage on 11th October 2008 as shown in Exhibit A and thereafter the Desertion took place sometime in 2019 and this petition was filed on 18th March 2021. From the foregoing, it is obvious that desertion occurred for a least one year preceding the presentation of this petition.

By reasons of the foregoing, the Court holds the Petitioner has satisfied the ground provided for in Section 15(2)(d) of the Matrimonial Causes Act. In the circumstances, the sole issue raised above is resolved in favour of the Petitioner. In consequence of this, this Petition succeeds. The parties having agreed to certain terms as testified by the Petitioner and the Respondent and confirmed by both Counsel who urged the Court to accept them as agreed by the parties as it relates to custody of the child of the marriage, access, maintenance and payment of school fees as means of settling their

affairs peacefully is hereby entered as part of judgment of this court in this petition. For the avoidance of doubt, the court orders as follows:

- a. The custody of the child of the marriage (Great Wushi) 11 years shall be given to the Respondent. The child (Great Wushi) will continue to live with the Respondent at No 317 Manna Guest Inn Street, New Jerusalem, Dutse Makaranta, Abuja and any other place the Respondent may elect to relocate subsequently. The Petitioner shall always be notified and involved of any planned relocation of the child.
- b. The petitioner shall have access to the child (Great Wushi) any time he is in Abuja and the child may visit him during holidays and festive periods.
- c. The Petitioner shall be paying the sum of N30,000.00 (Thirty Thousand Naira) only as monthly maintenance to the Respondent at the last day of the month. The said payment to be made into the Respondent's Bank Account.
- d. The Petitioner shall be responsible for the payment of the school fees of the child termly and reading materials.
- e. The child shall continue to attend his present school and if there is need for change of school the Petitioner will be involved and the school must be of average standards and affordable by the Petitioner.
- f. It is hereby declared that the marriage the Petitioner entered into with the Respondent at Springs of Life World Outreach Kwali Abuja Nigeria on 11th October 2008 has broken down irretrievably for the reason that the respondent has deserted the Petitioner for a continuous period of at least one year immediately preceding the presentation of the petition.

By reason of this, a decree nisi is granted in dissolution of the marriage. The decree nisi shall become absolute after three months from today.

Given the circumstances of this case, I make no order as to cost.

Signed
Hon. Judge
9/12/2021

LEGAL REPRESENTATIONS:

- (1). Imabeni Anyebe Esq for the Petitioner.
- (2). O.A. Omolase Esq for the Respondent.