

**IN THE HIGH COURT OF JUSTICE OF THE FEDERAL CAPITAL TERRITORY**  
**HOLDEN AT MAITAMA ABUJA**  
**ON THE 30<sup>th</sup> OF MARCH, 2022.**  
**BEFORE HIS LORDSHIP; HON JUSTICE MARYANN E. ANENIH**  
**(PRESIDING JUDGE)**

**SUIT NO : FCT/HC/PET/298**

BETWEEN

MR. PETER OHIAKHUEMI LONGE.....PETITIONER

AND

MRS. ABISOLA AZEEZAT LONGE.....RESPONDENT

JUDGEMENT

By notice of petition dated and filed 16<sup>th</sup> August, 2021 and amended on the 17<sup>th</sup> November, 2021 and filed on the same date, the Petitioner herein commenced the suit against the Respondent.

In his amended petition the Petitioner seeks the followings reliefs;

1. A decree of dissolution of the marriage contracted on the 14<sup>th</sup> September, 1991 between the petitioner and the respondent on the ground that the parties have lived apart for a continuous period of at least three years immediately preceding the presentation of the petition.
2. An order granting the Petitioner any further or other relief(s) as may be just and fair.

The petition is supported by a 6 paragraphs verifying affidavit deposed to by Mr. Peter Ohiakhuemi Longe, the Petitioner.

The Respondent was served the court processes and was represented by counsel at the proceedings. She did not file an answer nor anything in opposition to the petition.

The matter went on trial and the Petitioner testified as PW1. A Certified True Copy of Marriage Certificate dated 14<sup>th</sup> September, 1991 was tendered and admitted in evidence by this court and marked as Exhibit A.

The Petitioner's counsel adopted his final written address 23<sup>rd</sup> February, 2022. The petitioner formulated a sole issue for determination to wit;

*“Whether the petitioner is entitled to the orders sought in the petition”*

The Petitioner's counsel submitted that for every petition for dissolution of marriage to succeed, the petitioner must plead and prove that the marriage has broken down irretrievably by evidence of facts contained in section 15(2) (a) to (h) of the Matrimonial Causes Act.

The counsel also canvassed that the parties have lived apart for a continuous period of at least three (3) years immediately preceding the presentation of the petition. That they have also been living apart since September, 2010 and the petition was presented on 16<sup>th</sup> August, 2021, a period over 10 years.

And that since the evidence of the petitioner remains unchallenged and uncontradicted same ought to be admitted and acted upon by this court. And that the petitioner has proved his entitlement to a decree of dissolution of marriage. He referred to the case *Ekerebe V Ekerebe* (1999) 3 NWLR (PPT. 596) 514. *Nanna V Hanna* (2006)NWLR(PT. 966)1, *Magaji V Nigerian Army* (2008) 8 NWLR (PT. 1089) 338 @ 351 and *Augustine Obineche V Humphrey Akusebi* (2010) 12 NWLR (pt. 1208)383 @392.

In conclusion, counsel submitted that based on the circumstances and evidence led, this Honourable Court ought to grant the reliefs of the petitioner.

I have considered the Petitioner's case before the court, the written address and oral submission of both counsel. I am of the view that the issue for determination is:

*“Whether the petitioner has successfully established that the marriage which is subject matter of this Petition has broken down irretrievably”*

It is trite law that dissolution of marriage contracted pursuant to our Marriage Law is guided by the Matrimonial Causes Act, 1970. Under the said law, a petition by a party to a marriage for a decree of dissolution of the marriage may be presented to the Court by either party to the marriage upon the ground that the marriage has broken down irretrievably. See

**MRS. HELEN ANIOKE v. MR. BEN CHARLES ANIOKE (2011) LPELR-3774(CA) (Pp. 34 paras. B) where his lordship Per AKEJU ,J.C.A reasoned as follows:**

"Under the Matrimonial Causes Act, a party to a marriage who seeks the dissolution of the marriage can obtain a decree to that effect only where it proves that a marriage has broken down irretrievably. This is the provision of Section 15 (2) of the Matrimonial Causes Act that:

"A Petition under this decree by a party to a marriage for a decree of dissolution of the marriage may be presented to the Court by either party to the marriage upon the ground that the marriage has broken down irretrievably."

Section 15(2)(f) of the Matrimonial Causes Act sets out in detail the facts for dissolution of a marriage where parties have lived apart for three years. It provides thus:

*(f) that the parties to the marriage have lived apart for a continuous period of at least three years immediately preceding the presentation of the petition.*

The law is that a Petitioner for the dissolution of a marriage must prove one of the facts contained in **Section 15(2) of the Matrimonial Causes Act** above before such a petition can succeed. Where the Petitioner fails to prove that, the petition for the dissolution of a marriage will be dismissed notwithstanding the fact that the divorce is desired by both parties. – see the case of **AKINBUWA V. AKINBUWA (1998) 7 NWLR PT. 559 P. 661 AT P. 669 PARAS. D-E**. See also **IBRAHIM V. IBRAHIM (SUPRA) AT PP. 7 – 9 PARAS. F – E** and **ORERE V. ORERE (2017) LPELR-42160(CA) AT PP. 12 – 13 PARAS. B – F**.

The grounds upon which the Petitioner has brought his petition is copiously stated on the face of the petition. It is stated therein that the marriage between the Petitioner and the Respondent has broken down irretrievably because they have lived apart for a continuous period of at least three years immediately preceding the presentation of the petition.

One of the facts which if proved, would convince the Court that the marriage has broken down irretrievably is where the parties to the marriage have lived apart for a continuous period of at least three years immediately preceding the presentation of the petition See **Section 15(2)(f) of the Matrimonial Causes Act**. See also

IBRAHIM V. IBRAHIM (2007) ALL FWLR (PT. 346) 474 AT 491 PARA. G (CA) OR (2006) LPELR- 7670 P 7-9 PARA F-E where the court reasoned as follows:

*“Generally, dissolution of marriage contracted pursuant to our marriage law is guided by Matrimonial Causes Act, Cap. 220. Under the said law, a petition by a party to a marriage for a*

*decree of dissolution of the marriage may be presented to the Court by either party to the marriage upon the ground that the marriage has broken down irretrievably. See Section 15 of Matrimonial Causes Act. The law also provides for the facts, one or more of which a petitioner must establish before a Court shall hold that a marriage has broken down irretrievably....”*

In the instant case, the Petitioner’s oral testimony that he was married to the Respondent on 14<sup>th</sup> September, 1991 under the Marriage Act was neither discredited under cross-examination nor challenged by contrary evidence. This fact is further supported by documentary evidence (Exhibit A) which is the Certified True Copy of the Marriage Certificate in respect of the marriage between the Petitioner and the Respondent. By virtue of **Section 86 of the Matrimonial Causes Act** proof of marriages shall be by production of either the original or certified copy of the marriage certificate.

The unchallenged and credible fact before this Court is further that the Petitioner and the Respondent ceased cohabitation sometime in 2010 when the Petitioner relocated to Abuja to take up a paid employment “*over ten years ago*”.

As observed, records show that the petition was presented on the 16<sup>th</sup> August, 2021. The petitioner stated that cohabitation ended in September 2010 between the petitioner and the respondent when he relocated to Abuja. Thus the petitioner’s case has been successfully shown to be in line with subsection (2)(f) of section 15 of the Matrimonial Causes Act which is that the parties to the marriage must have lived apart for a continuous period of at least three years immediately preceding the presentation of the petition.

From the facts before this Court therefore, the Petitioner has proved that the parties to the marriage have lived apart for a continuous period of at least three years immediately preceding the presentation of the petition. The Petitioner has thus established the fact under

**Section 15(2)(f) of the Matrimonial Causes Act.** The Petitioner has thus been able to convince this Court that the marriage between himself and the Respondent contracted on 14<sup>th</sup> September, 1991 has broken down irretrievably. See:

**OGUNTOYINBO v. OGUNTOYINBO (2017) LPELR-42174(CA)  
PP 8-14 PARAS E-A**

This court in the circumstance has no option but to grant the relief for dissolution of Marriage sought by the petitioner.

Consequently, it is hereby ordered:

That the marriage had and solemnized on the 14<sup>th</sup> day of September, 1991 at Marriage Registry Ikoyi, Lagos, between the petitioner Mr. Peter Ohiakhuemi Longe and the respondent Mrs. Abisola Azeezat Longe shall be and is hereby dissolved on grounds that the parties have lived apart for a continuous period of at least three years immediately preceding the presentation of the petition.

Decree Nisi will issue forthwith and shall be made absolute after three months from the date hereof if there be no cause to the contrary.

Signed

Honourable Judge

Representation

T. G. Okechukwu Esq with E.A Onuegbu Esq for Petitioner