

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT COURT 20, GUDU-ABUJA**  
**ON TUESDAY THE 18<sup>TH</sup> DAY OF JANUARY 2022**  
**BEFORE HIS LORDSHIP: HON. JUSTICE MODUPE R. OSHO- ADEBIYI**

PETITION NO: PET/140/2020

**BETWEEN:**

MRS. DOOSHIMA RUTH ICHULL =====PETITIONER

**AND**

MR. DOOYUM GIDEON INYOM=====RESPONDENT

**JUDGMENT**

The Petitioner filed this Petition praying the Court for the following reliefs:

- a) An Order of dissolution of the marriage on the ground that the marriage has broken down irretrievably in that the Respondent has behaved in such a way that it is practically impossible for the Petitioner to continue to live with him.
- b) An Order of dissolution of the marriage on the ground that the marriage has broken down irretrievably in that the Petitioner and the Respondent have lived apart from 2017 till date i.e., a period of about two(2) years and seven (7) months immediately before the presentation of this Petition
- c) An Order that the custody of the children during the school session will be solely with the Petitioner and during the holiday period would be in a 50:50 proportion i.e., that the children spend the first half of their holidays with the Respondent and the other half with the Petitioner.

- d) An Order Directing the Respondent to pay the educational expenses of the children of the marriage as captured under paragraphs 15 above.
- e) An Order Directing the Respondent to continue paying for the educational expenses of the children up to university level.
- f) An Order Directing the Respondent to pay the sum of N250,000.00 (Two Hundred and Fifty Thousand Naira only), monthly as upkeep for the children of the marriage whenever they are with the Petitioner.
- g) An Order Directing the Respondent to pay the sum of N150,000.00 (One Hundred and Fifty Thousand Naira Only) as monthly upkeep for the Petitioner.

The grounds upon which the Petitioner filed this Petition are that the marriage between the parties has broken down irretrievably in that since the marriage, the Respondent has behaved in a way that the Petitioner cannot reasonably be expected to live with the Respondent; that the Respondent is in the habit of severely beating up the Petitioner for the flimsiest of reasons and at the slightest misunderstanding while hurling abuses on her, which made the Petitioner fear greatly for her life; that the Respondent constantly threatened to kill the Petitioner at the slightest misunderstanding which was often accompanied by severe beatings and inflicting of injuries upon the Petitioner by the Respondent and that the Petitioner and the Respondent have lived apart from January 2017 till date which is a period of two years and eight months immediately preceding the presentation of this Petition.

The Petitioner filed her verifying affidavit and her witness statement on oath. The Respondent on the other hand, filed his answer to the Petition denying the facts stated in the petitioner's petition and filed a cross Petition dated the 22<sup>nd</sup> day of October 2020 wherein he sought for the following orders:

1. An Order of dissolution of the marriage on the ground that the marriage has broken down irretrievably in that the Petitioner has behaved in such a way that it is practically impossible for the Respondent/Cross-Petitioner to continue to live with her as husband and wife.
2. An Order of dissolution of the marriage on the ground that the marriage has broken down irretrievably in that the Petitioner and the Respondent/Cross-petitioner have lived apart from 2017 till date a period of more than two years immediately preceding the presentation of this Petition.
3. An Order granting full custody of their children during school sessions and periods to the cross-petitioner.
4. An Order granting shared custody of the children during the holiday period on 50/50 ratio between the cross-petitioner and the Petitioner.
5. The Respondent/cross-petitioner shall continue to pay the educational expenses and general upkeep of their children with the assistance of the petitioner where necessary.
6. An order dismissing the Petition and upholding the cross-petition.

Trial in this case commenced on the 12<sup>th</sup> day of October 2021 with the Petitioner testifying as the sole witness and adopted her witness statement on oath. From the facts deposed therein, it is the evidence of the Petitioner that the Petitioner and the Respondent got married at the Marriage Registry in Makurdi Benue State on the 2nd day of December 2010. That since the marriage, parties cohabited till January 2017 when cohabitation ceased between them in January 2017 as Petitioner fled the house for fear for her life.

That the Respondent is extremely violent towards Petitioner for little or no provocation and has on several occasions verbally threatened to kill her, while

physically and sexually assaulting her, on one occasion hitting her face so hard she lost a tooth. That sometime in 2015, when she was pregnant with their 3rd child, the Respondent beat her up until she nearly suffered a miscarriage and when she tried to run away out of fear for her life, he locked her inside a room threatening that she can never leave him and that he will kill her first before she can leave. That on another occasion while Petitioner was still pregnant, the Respondent beat her till she had difficulty in breathing and on the way out to the Hospital, she got the chance to run away from him and left the country. That upon her arrival, the Respondent pleaded with her that he would change but when she returned to the matrimonial home nothing changed rather Respondent continued to physically and verbally assault her which reduced her self-esteem and affected her mentally. That it is now expedient that for her safety and sanity, to seek a dissolution of the toxic marriage. That the marriage is blessed with 3 children, 2 girls and a boy.

The Petitioner tendered a copy of the marriage certificate, admitted as EXHIBIT A. The Petitioner's Counsel informed the Court that the parties have filed terms of settlement duly executed by both parties and witnessed by their respective solicitors before this Court, which was tendered through the Petitioner and admitted into evidence as Exhibit B. The said terms of settlement will be incorporated into the judgment of this Court.

Under cross examination, Petitioner reiterated the fact that cohabitation between her and the Respondent ceased on the 28<sup>th</sup> day of January 2017.

The Respondent did not file any witness statement on oath neither did Respondent field a witness in support of his answer to his Petition case. The Respondent's Counsel, Oluwaseun Alabi, Esq., in fact, informed the Court that

the Respondent does not intend to oppose the case of the Petitioner. The inference to be drawn therefore is that the Respondent has acceded to the case of the Petitioner and having not fielded any witness in proof of his cross petition, same is deemed to be abandoned.

The Court thereafter ordered parties to file their final addresses.

The Petitioner's Counsel from the written address filed raised a sole issue for consideration, which is "Whether the Petitioner has been able to establish that the marriage has broken down irretrievably". Counsel arguing the sole issue submitted that the evidence of the Petitioner has clearly fulfilled the provision of Section 15 (2) of the Matrimonial Causes Act as provided, which consequently entitles the Petitioner to the reliefs sought. Submitted that the Respondent/Cross-Petitioner did not lead any evidence in support of his case, and therefore does not object to the decree being granted. Counsel urged the Court to hold that the marriage between the parties have broken down irretrievably and dissolve the marriage between the parties and grant the orders with reference to the terms of settlement entered by both parties.

The Respondent also filed his final address, wherein Counsel raised two issues for determination, to wit:

1. Whether the respondent via his pleadings has sufficiently shown that his marriage with the petitioner has broken down irretrievably.
2. Whether this honourable court has the power to grant the reliefs of the respondent as prayed.

Arguing issue one, Counsel submitted that the parties have lived apart since 2017, which is a period of over two years and seven months preceding the

presentation of this petition and the Respondent does not object to the decree been granted by this court. Submitted further that the Petitioner has shown that throughout the period of marriage to the Respondent, they have had a strained relationship and the Respondent cannot be reasonably expected to live with her. Counsel submitted finally that the Respondent having fulfilled two grounds out of the provisions of Section 15 (2) of Matrimonial Causes Act, the Respondent is entitled to be granted his reliefs as prayed.

Arguing issue two, which is whether this honourable court has the power to grant the reliefs of the Respondent as prayed, Respondent's Counsel submitted that the Respondent has clearly shown that the marriage has broken down irretrievably and that the parties have lived separately for a continuous period of over two years before the presentation of this petition without any objection from the Respondent.

Counsel urged the Court to hold that the marriage between the Petitioner and Respondent has broken down irretrievably and dissolve the marriage between the parties and incorporate the terms of settlement so filed by parties as the judgment of this Court. Counsel relied on the case of *OLASEHINDE AKINBUWA V. AGNES AINA AKINBUWA I* (2002).

I must at this stage comment on the laxity of both Petitioner and Respondent's Counsel in this case, in preparation of their processes, particularly their written addresses. The lack of care and diligence in the preparation of their addresses, particularly the Petitioner's Counsel, who it seems copied the Respondent's written address, is nothing short of embarrassing as it resulted into both Counsel stating the date and location the parties celebrated their marriage as 4<sup>th</sup> October 2013 at AMACas against 2<sup>nd</sup> December 2010 at the

Marriage Registry at Makurdi, Benue State. Care and diligence should be the watch word for Counsel in the handling of their clients' cases more so when they are paid by their clients. The service being rendered to clients whether paid or unpaid should be above par as Counsel should always thrive for excellence and not settle for less.

Having considered the case of the Petitioner as well as that of the Respondent, the issue to be determined is whether the marriage between the parties ought to be dissolved.

The fact that a marriage has broken down irretrievably is a sole ground for the presentation of a divorce petition, and the Court will so hold if one or more facts specified under Section 15(2) of the Matrimonial Causes Act 2004, is or are proved to support the fact that the marriage has broken down irretrievably. The facts as stated in Section 15 (2) of the Matrimonial Causes Act, that can be basis for grounds for dissolution of marriage are as follows:

- a. That the respondent has 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 a way that the petitioner cannot be reasonably 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 a continuous period of at least two years immediately preceding the presentation of the petition and the respondent does not object to a decree being granted.

- 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.
- g. That the other party to the marriage has, for a period of not less than one year failed to comply with a decree or restitution of conjugal rights made under this Act.
- h. That the other party to the marriage has been absent from the petitioner for such time and in such circumstances as to provide reasonable grounds for presuming that he or she is dead.

The evidence of the Petitioner in proof of those facts are succinctly stated in the earlier part of this judgment and I find these unchallenged and uncontroverted evidence of Petitioner satisfactory and are in conformity with the Section 15 (2) (c), and (e) of Matrimonial Causes Act 2004 in establishing that since the marriage the respondent has behaved in a way that the petitioner cannot be reasonably expected to live with the respondent and that the parties to the marriage have lived apart for a continuous period of at least two years immediately preceding the presentation of the petition and the respondent does not object to a decree being granted.

The Petitioner, having discharged the burden placed on her to prove the petition, I find merit in her claim, and I hereby dissolve the marriage between the Petitioner and the Respondent.

The parties filed terms of settlement dated the 11<sup>th</sup> day of October executed by both parties and their respective Counsel with respect to the custody and maintenance of the children of the marriage which shall be incorporated in the judgment of the Court. Consequently, it is hereby ordered as follows:



1. I hereby pronounce a Decree Nisi dissolving the marriage celebrated between the Petitioner, **MRS. DOOSHIMA RUTH ICHULL** and the Respondent **MR. DOOYUM GIDEON INYOM**, at the Marriage Registry in Makurdi Benue State on the 2nd day of December 2010.
2. I hereby pronounce that the decree nisi shall become absolute upon the expiration of three (3) months from the date of this order, unless sufficient cause is shown to the court why the decree nisi should not be made absolute.
3. That Joint custody of the three children of the marriage (Channel Inyom, Arielle Inyom and Jesse Inyom) be granted to both parties in the following manner: -
  - i. The custody of the children during school sessions remains with the Respondent.
  - ii. The holiday period will be shared in a 50:50 proportion i.e., that the children spend half of their holidays with the Petitioner and the other half with the Respondent.
    - a) Provided that a party shall allow the children remain with the other party whenever such party is unavailable during the holiday period or as may be mutually consented to by both parties.
    - b) Provided also that either party shall not leave the children with other persons, family members including parents without first seeking the other party's consent. Such consent may be communicated by any acceptable means to the parties including letters, text, or email.
4. That the Petitioner and the Respondent shall jointly be responsible for the welfare of their children.

5. That the Respondent shall pay the school fees and general welfare of their three children for the period that the Petitioner is unemployed.
6. That the Petitioner and the Respondent shall jointly pay the school fees of the children with the Respondent paying 70% percent of the value of school fees while the Petitioner has an obligation to pay the remaining 30% only when she is gainfully employed or has an established means of income.
7. That the Petitioner shall pay for the extra-mural classes of the children of the marriage whenever due.
8. That the Petitioner shall also provide school bags, shoes, and lunchboxes for the children.
9. That the Party with whom the children of the marriage spend the holidays shall be responsible for the upkeep of the children during that period.
10. That the party with custody of the children at a given time is not allowed to travel outside Nigeria with the children without the prior express consent of the other party. Such consent may be by letter, text, or email.

**Parties:** Parties absent.

**Appearances:** Onome Ikwen, Esq., for the Petitioner. Oluwaseun Alabi, Esq., for the Respondent.

HON. JUSTICE MODUPE R. OSHO-ADEBIYI  
JUDGE  
18/01/2022