

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

**BEFORE HIS LORDSHIP: HON. JUSTICE MUHAMMAD S. IDRIS**

**COURT: 28**

**DATE: 3<sup>RD</sup> FEBRUARY, 2022**

**FCT/HC/PET/234/2021**

**BETWEEN:-**

**MR. UGOCHUKWU ECHEBIRI-----**

**PETITIONER**

**AND**

**MRS. LORNA COMFORT EHI AGWU ECHEBIRI-----**

**RESPONDENT**

**JUDGMENT**

This Petition was brought before the Court with No. **PET/HC/PET/234/2021** dated and filed on the 5<sup>th</sup> July, 2021 wherein petitioner prays for the following reliefs:-

- A. Decree of dissolution of marriage between the Petitioner and the Respondent which was conducted on 23<sup>rd</sup> March, 2015 at the Abuja Municipal Area Council (AMAC) Marriage Registry on the ground that the marriage has broken down irretrievably and the Respondent has deserted the Petitioner for a continuous period of more than two (2) years immediately preceding the commencement of this petition.

The facts as relied on by the Petitioner in his wittiness statement on oath which was adopted as Petitioners evidence before this

Court deposed to by himself Mr. Ugochukwu Echebiri is as follows:-

That the Petitioner and Respondent married on the 23<sup>rd</sup> March, 2015 at the Abuja Municipal Area Council (AMAC) Marriage Registry Abuja. That the Respondent had medical complication regarding her health which the Respondent and her family hide from the Petitioner since they got married.

That Petitioner discovered that in 2018 about the health problem of the Respondent sometime in January, 2018 the petitioner and the Respondent travelled to Lagos thereafter, the Respondent returned to their matrimonial home parked her things/belongings to an unknown destination and has not returned to her matrimonial home since then.

That effort made by the Petitioner to bring back the Respondent failed.

That the marriage did not produced any child. Petitioner attached a copy of the marriage certificate dated 23<sup>rd</sup> March, 2015 between the petitioner and the Respondent which was tendered in evidence before this Court and marked as exhibit 1. There was no cross examination as the Respondent failed, neglect, and refused to put up a defense. No final address was filed by either party.

Having reproduced the detail account of what the petitioner has adopted in his witness statement on oath it becomes imperative on the part of the Court to place on record that the petition was first heard on the 27<sup>th</sup> September, 2021 and on the same day the Petitioner's Counsel moved his motion ex parte for substituted service which was granted by this Court. Despite the number of substituted services served on the Respondent same refused to appear nor file reply or answer to the petition filed by the Petitioner. It is trite that there shall be an end to every litigation going by the provision of section 15(1) of the Matrimonial Causes Act which provides the sole ground that the marriage has broken down irretrievably. The same provision went further to states facts in which the Petitioner must satisfy before the Court can hold that such marriage has broken irretrievably. See also section 15(2) Matrimonial Causes Act section 15(2) (d) provides

That the Respondent has deserted the Petitioner for a continuous period of at least one year immediately preceding the presentation of the petition.

In the present case the petitioner in his evidence stated that he married the Respondent on the 23<sup>rd</sup> of March, 2015. That they had co- habited until 2018 when the Respondent left their matrimonial home.

This petition was filed in 2021. This has been 3years since the Respondent deserted the Petitioner a quick look at the file show that the Respondent has been served with the process and same is aware of the pending case. Assuming that the Respondent filed an answer or put up a defence the Court would have something to weight the Petitioner's evidence. See **TANKO VS NONGHA (2005)LPELR-11405 CA.** held unchallenged and uncontroverted evidence of a party must be accepted on a minimal proof see also **OGUMA V ASSOCIATED COPS VS IBWA LTD (1988) 1 NWLR (pt73) 658 Q 682.** It is however not the law that the Court must at all times accept and used unchallenged and uncontroverted evidence. The Court must assess such evidence along the claim made in respect of which it was given and be satisfied of its credibility and sufficient see **ACHIBERY VS UTIW (2012)LPELR 7907 CA.** the Petitioner in this case has described in his evidence a condition stated in section 15 (2) (d) Matrimonial Causes Act as one of the reason the Court would conclude that the marriage has broken down irretrievably. As started earlier. They did not join issue with the Petitioner and indeed did not defend the action. I had earlier stated the legal implication of the position adopted by the Respondent.

I need not repeat myself. I am therefore in no doubt that the petitioner has established his case based on the petition filed before the Court. From the fact of the case and more particularly the applicability of section 15(2)(d) of the Matrimonial Causes Act made me to finally enter judgment in favour of the Petitioner against the Respondent. The reliefs prayed by the petitioner is hereby granted. That is to say the marriage has broken down irretrievably and I so hold.

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**HON. JUSTICE M.S IDRIS**  
**(PRESIDING JUDGE)**  
**3/02/2022**