

IN THE HIGH COURT OF JUSTICE OF THE FEDERAL CAPITAL TERRITORY
HOLDEN AT MAITAMA ABUJA
ON THE 26th OF MAY, 2022.
BEFORE HIS LORDSHIP; HON JUSTICE MARYANN E. ANENIH
(PRESIDING JUDGE)

SUIT NO : FCT/HC/PET/444/2021

BETWEEN

MRS. EGORUOMARE EFIOK EYO EFIOK.....PETITIONER

AND

MR. EFIOK EYO EFIOK.....RESPONDENT

JUDGEMENT

By notice of petition dated and filed on the 22nd November, 2021, the petitioner herein commenced the suit against the respondent.

In the petition the petitioner seeks the following reliefs:

1. A decree of the dissolution of marriage between Mrs. Egoruomare Efiok Eyo Efiok and Mr. Efiok Eyo Efiok on the ground that it has broken down irretrievably.
2. An order granting joint custody and full access of the only child of the marriage, Efiokanwan Efiok Eyo Efiok, to both the petitioner and the respondent.
3. Any further Order(s) as this Honourable Court may deem fit and proper in the circumstances of this case.

The petition is filed along with accompanying documents, including a 4 paragraph verifying affidavit deposed to by Mrs. Egoruomare Efiok Eyo Efiok, the petitioner.

Despite due service of the origination processes, the respondent did not react to this petition.

The matter went on trial and the petitioner testified as PW1. She stated in her evidence that she is abandoning the other reliefs sought in the petition save for the one that seeks dissolution of marriage.

A Certified True Copy of the Marriage Certificate dated 25th February, 2003 was tendered and admitted in evidence by this court and marked as Exhibit A.

After the testimony of the PW1, the petitioners counsel urged the court to grant the reliefs of the petitioner and dissolve the marriage. That the evidence of the petitioner stands unchallenged.

I have considered the Petitioner's case before the court and oral submission of the petitioner's 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”

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** 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.**

The petitioner testified that both parties have lived apart since the year 2008. This is by mathematical calculation a period of about 14 years.

Section 15(2) (a) to (h) of the Matrimonial Causes Act provides the facts that sustain the ground for dissolution of marriage.

It is trite that the only ground upon which a petitioner for the dissolution of a marriage should base his or her claim, is that the marriage has broken down irretrievably. That is the sole ground required and provided for a party who petitions for dissolution of a marriage under the Matrimonial Causes Act. See

IBRAHIM V. IBRAHIM (2007) 1 NWLR (1015) 383

MARY BUNMI ADEPARUSI v. CHARLES ADEBOLA AREWA ADEPARUSI (2014) LPELR-41111(CA) (Pp. 7-10 paras. E).

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 grounds upon which the Petitioner has brought this 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 since 2008 which is a continuous period of about 13 years immediately preceding the presentation of the petition.

In this case, the petitioner's oral testimony was that she was married to the respondent on the 25th February 2003 at the Sutton Registry in the United Kingdom. This was neither discredited nor challenged by any contrary evidence. This fact is supported by the 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 that the Petitioner and the Respondent ceased cohabitation sometime in 2008.

Records show that the petition was presented on the 21st November, 2021. The petitioner stated that she moved back to London after cessation of cohabitation and has been living apart from the respondent since 2008. The petitioner's evidence has successfully shown 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. This is in line with **Section 15(2)(f) of the Matrimonial Causes Act.**

The Petitioner has thus established that the marriage between herself and the Respondent contracted on the 25th February, 2003 has broken down irretrievably. See

DAMULAK V. DAMULAK (2004) NWLR (PART 874) page 151

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 25th February, 2003, at Sutton Registry in the United Kingdom, between the petitioner Egoruomare Efiok Eyo Efiok and Efiok Eyo Efiok the respondent 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

Kuzayet Y. Magaji Esq holding brief of F. Baba Isah Esq for
Petitioner.

S. E Donald Esq for Respondent.