

IN THE HIGH COURT OF JUSTICE
FEDERAL CAPITAL TERRITORY OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT APO – ABUJA
ON, 30TH DAY OF MAY, 2022.

BEFORE HIS LORDSHIP:- HON. JUSTICE A. O. OTALUKA.

SUIT NO.:-FCT/HC/PET/212/2020

BETWEEN:

ODE PAUL OGORI:.....PETITIONER

AND

OJOMA EMMANUELLA OGORI:.....DEFENDANT

ChukwumaOzobi for the Petitioner.
Defendant absent and unrepresented.

JUDGMENT.

By a Petition dated and filed the 27th day of February, 2020, the Petitioner brought this suit against the Respondent praying the Courtfor the following:

- a. A decree of dissolution of marriage on the ground that the marriage has broken down irretrievably in that the Respondent since the marriage, has behaved in such a way that the Petitioner cannot be reasonably expected to live with the Respondent.

The Petitioner in his statement on oath, averred that he was united with the Respondent in marriage under Marriage Act at the AMAC marriage Registry, FCT, Abuja on the 16th day of April, 2014.

He stated that the marriage which was not blessed with any issue, has broken down irretrievably in view of the following facts, inter alia;

- That the Respondent is very malicious and quarrelsome, which trait she has exhibited in all the places they have lived. That it is either the Respondent is fighting with the Petitioner or the co-tenants or the landlord.
- That since the marriage, the Respondent has formed it as a habit to instigate him to anger and that anytime this happens, the Respondent would arrange with some hoodlums to kidnap herself just to frustrate him.

The Petitioner averred to the effect that on account of his refusal to return to Abuja from Ebonyi State following a disagreement between them resulting from a self-kidnap staged by the Respondent, the Respondent's parents demanded that he should return their daughter to them if he would not travel with her. That his elder brother, as a result of the demand by the Respondent's parents, came to Ebonyi State from Benue State, took the Respondent by hand and returned her to her parents at Ayingba, Kogi State on the 6th of February, 2019.

He stated that immediately the Respondent was returned to her family, given that her family insisted that they do not want the marriage, the Respondent and her mother, went to their apartment late in the night at about 12am on 6th February, 2019, met the landlord and pleaded with him not to inform the Petitioner, and then packed all their belongings away to an unknown destination.

The Petitioner stated however, that the Respondent later returned the properties and is currently residing in their matrimonial apartment, but that sometime in March, 2019, she changed the locks of the said apartment, thereby locking him out, with a stern warning never to return to the said house.

He averred that the last attempt he made to assess the house as well as the shop which he funded and set up for the

Respondent, on 12th December, 2019, was violently resisted by the Respondent as she called her family and friends and they jointly used the instrumentality of the Police to harass and intimidate him and chased him away from the apartment and the shop.

He stated that following the several warnings of the Respondent to him never to go near the apartment or shop, and knowing how diabolic and violent she could be, he decided to approach this Court with this petition seeking the dissolution of the marriage so as to save his life.

At the hearing of the case, the Petitioner adopted his Statement on oath and tendered a copy of their Marriage Certificate which was admitted in evidence as Exhibit PW1A.

Following the absence of the Respondent in Court, her right to cross examine the Petitioner was foreclosed on the Petitioner's application.

The Respondent was present in Court on the 30th day of September, 2021, and informed the Court that she could not afford a lawyer. The Respondent thus failed to file any answer to the Petition.

The Petitioner subsequently filed his final written address which he adopted on the 24th day of March, 2022.

In the said final written address, learned Petitioner's counsel, Chukwum S. Ozougwu, Esq, raised a sole issue for determination, namely;

“Whether by virtue of the facts and/or evidence stated in the adopted and unchallenged Petitioner's written statement on oath, before this honourable Court, the marriage between the Petitioner and Respondent has

broken down irretrievably so as to necessitate the grant of the sole relief in this case?”

Arguing the issue so raised, learned counsel referred to **Mrs. Helen Anioke v. Mr. Ben Charles Anioke (2011) LPELR-3774(CA)** on the condition for the dissolution of a marriage, which is that the marriage has broken down irretrievably.

On when a marriage could be said to have broken down irretrievably, he referred to Section 15(2) of the Matrimonial Causes Act; **Lt. Adeyinka A. Bibilari (Rtd) v. Ngozika B. AnekeBibilari (2011)LPELR-4443(CA).**

He posited that the Petitioner in the instant case, founded his petition for the dissolution of his marriage to the Respondent on the ground that ***“since the marriage, the Respondent has behaved in such a way that the Petitioner cannot reasonably be expected to live with the Respondent.”*** Pursuant to Section 15(2)(c) of the Matrimonial Causes Act.

He referred to **Mr. RichardNwankwo v. Mrs.OlabimpeNwankwo (2014) LPELR-24396(CA).**

He argued that the Petitioner in his written statement on oath, has established facts that show that the Respondent has behaved in such a way that the Petitioner cannot reasonably be expected to live with her. He contended that the Petitioner’s written statement on oath, which constitutes his evidence before this Court, has not been challenged or contradicted by any other piece of evidence whatsoever.

He relied on **Mrs.NgoziUwahianri&Anor v. Mr. Solomon ChukwumaOnyemaizu&Anor (2017) LPELR-41672 (CA),** to submit that where the evidence of a party, like the Petitioner herein, is not contradicted or challenged, that the Court hearing

the matter has no other option than to accept same and act on it on minimal evidence.

He posited that the Petitioner has by facts and evidence, established that his marriage with the Respondent has broken down irretrievably due to the behaviour of the Respondent, and urged the Court to enter judgment in favour of the Petitioner.

The law is settled that a petition for dissolution of marriage can only be granted where the Court finds that the marriage has broken down irretrievably. See **Uzochukwu v. Uzochukwu (2014)LPELR-24139(CA).**

The grounds upon which a marriage may be held to have broken down irretrievably are as provided under Section 15(2)(a)-(h) of the Matrimonial Causes Act.

By the said provisions of the Act, a Petitioner is required to satisfy the Court of the existence of at least, one of the grounds listed in Subsection 2 of the said Section 15 of the Act.

In the instant petition, the Petitioner has founded the Petition, on the ground as provided in Section 15(2)(c) of the MCA, to wit; ***“that since the marriage, the respondent has behaved in such a way that the petitioner cannot reasonably be expected to live with the respondent.”***

To establish the said ground, the Petitioner deposed to the fact that the Respondent is very malicious and violent, either fighting with the Petitioner, the co-tenants or with the landlord.

The Petitioner further deposed to the fact that the Respondent in two occasions arranged with hoodlums to kidnap herself just to frustrate him.

He also made allegations of the Respondent being fetish, thus causing him to fear for his life, as well as the fact of the

Respondent changing the locks to their matrimonial home, thus locking him out till date; with warning to him never to return to the house again.

The Respondent was duly served with the Petition, and was in fact present in Court in one of the days the Petition came up for hearing, but she failed to file any answer in defence of the Petition. The Petitioner's evidence in proof of his Petition, thus remains unchallenged and uncontroverted.

In the circumstances therefore, this Court is left with no option than to accept the evidence of the Petitioner in proof of his petition. In **Asafa Foods Factory Ltd v. Alraine Nigeria Ltd &Anor (2002) LPELR-570 (SC)**, the Supreme Court, per Iguh, JSC, held that:

“Where evidence given by a party to a proceeding was not challenged by the other side who had the opportunity to do so, it is always open to the Court seised of the matter to act on such unchallenged evidence before it.”

This Court on the basis of the foregoing finds for the Petitioner, that his marriage to the Respondent has broken down irretrievably.

Accordingly, this Court makes a decree order nisi dissolving the marriage between the Petitioner herein and the Respondent conducted at the AMAC Marriage Registry, Abuja, on the 16th day of April, 2014, the same having broken down irretrievably.

HON. JUSTICE A. O. OTALUKA
30/5/2022.

