

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

**ON WEDNESDAY, 6<sup>TH</sup> DAY OF JULY, 2022**

**BEFORE HON. JUSTICE SYLVANUS C. ORIJI**

**SUIT NO. FCT/HC/PET/153/2021**

**BETWEEN**

**CHUKWUEMEKA MICHAEL MUONAGOR                      --            PETITIONER**

**AND**

**MMESOMA PROMISE UKAIGWE                              ---            RESPONDENT**

**JUDGMENT**

The petitioner filed his Notice of Petition for dissolution of marriage on 25/3/2021. The petitioner seeks:

- a. A decree of dissolution of marriage between the parties on the ground that the marriage has broken down irretrievably.

In proof of the petition, petitioner testified as PW1. He adopted his evidence in his statement on oath filed on 25/3/2021 and tendered Exhibit 1. Respondent did not attend Court in spite of hearing notices served on her.

In his evidence, the petitioner stated that he contracted a marriage with the respondent by virtue of a marriage under the Act conducted at the Federal

Marriage Registry, Owerri, Imo State on 23/9/2017. The Certificate of Marriage dated 23/9/2017 is Exhibit 1. Their marriage did not produce any child. After their marriage, he was faced with serious economic hardship. He relocated to Port-Harcourt, Rivers State in search for greener pastures for the sustenance and maintenance of their new family while the respondent continued to live in his house in Onitsha, Anambra State. Thereafter, he noticed a drastic change in the respondent's attitude and affection towards him. As a result, he had a conversation with her but she insisted that nothing was wrong and that she was alright.

Later, he started getting reports from reliable sources about the respondent's wayward lifestyle and extramarital affairs with different men. He was devastated by the reports. He decided to confront her with the reports in order to ascertain the veracity. The respondent refused to have any conversation with him in respect of all the said allegations. She became brashly antagonistic, disrespectful and resentful towards him. As a result of her change of attitude towards him coupled with the reports of her extramarital affairs, his mental and psychological health were adversely affected.

The petitioner further testified that sometime in December 2018, respondent packed out of their home in Onitsha to an unknown destination without his knowledge and consent. Upon discovering that she had packed out of their home, he made several efforts to reach out to the respondent and to know her

whereabouts but she frustrated all his efforts and all forms of communication between them completely broke down. Her behaviour is such that he can no longer be reasonably expected to continue to live with her. It has been a period of over 2 years since the respondent deserted him by packing out of their home and frustrated any communication between them. They have lived apart for a period of over 2 years and he reasonably believes that she does not object to the dissolution of the marriage.

On 14/2/2022, the respondent filed an Affidavit of No Objection where she stated in paragraphs 2, 3, 4, 6 & 9 as follows:

- [2] That I was served with a copy of the petition and the accompanying processes together with a hearing notice by a bailiff of this Court on 10<sup>th</sup> September, 2021.
- [3] That I have gone through the said petition and its contents including the grounds for the said dissolution of marriage and the petitioner's statement on oath filed alongside the petition.
- [4] That I was indeed married to the petitioner by virtue of the marriage under the Act conducted at the Federal Marriage Registry, Owerri, Imo State on 23<sup>rd</sup> September, 2017.
- [6] That I also confirm that the marriage between me and the petitioner has broken down irretrievably. I have no objection to the order of dissolution of marriage sought by the petitioner and I do not intend to contest the petition.

[9] That I have not colluded in any manner whatsoever in bringing this petition and in my decision not to object to the dissolution of the marriage.

At the end of the trial, Christopher Iloka Esq. filed the petitioner's final address on 8/4/2022, which was adopted on 28/4/2022 by ChideraOnoh-Cosmas Esq.

Learned counsel for the petitioner formulated one issue for determination, which the Court adopts, thus:

Whether upon the evidence placed before the Court, the petitioner has satisfied the Court that his marriage to the respondent has broken down irretrievably to entitle him to the grant of a decree of dissolution of his marriage with the respondent.

Learned counsel for the petitioner stated that section 15[1] of the Matrimonial Causes Act provides for the ground for dissolution of marriage, which is that the marriage has broken down irretrievably. The Court shall hold that the marriage has broken down irretrievably upon proof of any of the facts listed in section 15[2][a]-[h] of the said Act. He stated that section 15[2][c], [d] & [e] are relevant to this petition. Sections 15[1] & [2][c], [d] & [e] of said Act provide:

- [1] *A petition under this Act 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.*
- [2] *The court hearing a petition for a decree of dissolution of a marriage shall hold the marriage to have broken down irretrievably if, but only if, the petitioner satisfies the court of one or more of the following facts:*
- [a] .....
  - [c] *that since the marriage the respondent has behaved in such 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.*

Christopher Iloka Esq. posited that by section 82 of the Matrimonial Causes Act, the standard of proof on the petitioner is discharged once the fact relied upon is established to the satisfaction of the Court. He referred to the case of

**Bibilari v. Bibilari [2011] 13 NWLR [Pt. 1264] 207.** It was submitted that from his evidence, the petitioner has proved to the satisfaction of the Court the existence of factson which he relies for his claim thathismarriage with the respondent has broken down irretrievably.

The petitioner's counsel emphasized thatfrom the unchallenged evidence of the petitioner and the respondent's affidavit of no objection:

- a) the petitioner has satisfied the Court that the behaviour of the respondent is such that he can no longer be reasonablyexpected to live with her;
- b) the petitioner has satisfied the Court that the respondent has deserted him for a period of at least one year before the presentation of the petition with the intention to permanently bring cohabitation to an end;
- c) the petitioner has satisfied the Court that the respondent moved out of their matrimonial home in December 2018 and all efforts to communicate with her ever since proved abortive; and the parties have lived apart since then for a period of over two years immediately preceding the presentation of the petition; and
- d) the respondent has no objection to the dissolution of the marriage.

Learned counsel for the petitioner urged the Court to hold that the petitioner's marriage with the respondent has broken down irretrievably and to make an order *nisi* for the dissolution of the marriage.

Now, as rightly stated by learned counsel for the petitioner, the Court shall hold that the marriage between the petitioner and the respondent has broken down irretrievably once the petitioner satisfies it of one of the facts in section 15[2][a]-[h] of the Matrimonial Causes Act. The unchallenged evidence of the petitioner is that sometime in December 2018, the respondent packed out of their home in Onitsha to an unknown destination without his knowledge and consent; and since then, all forms of communication between them completely broke down.

The petitioner presented this petition on 25/3/2021, which is a period of more than two years from December 2018 when the respondent packed out of their home and the parties started living apart. Thus, the petitioner has satisfied the Court of the fact in section 15[2][e] of the Matrimonial Causes Act that he and the respondent have lived apart for a continuous period of at least two years immediately preceding the presentation of the petition. From the respondent's affidavit of no objection, she has no objection to the grant of a decree of dissolution of the marriage.

From the foregoing and without further assurance, the Court holds that the petitioner has satisfied it that the marriage between him and the respondent has broken down irretrievably. Accordingly, the petition succeeds.

In conclusion, the Court grants a decree *nisi* for the dissolution of the marriage between the petitioner and the respondent celebrated at Federal

Marriage Registry, Owerri, Imo State on 23/9/2017. The decree *nisi* shall become absolute after three [3] months from today.

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HON. JUSTICE S. C. ORIJI  
[JUDGE]

*Appearance of Counsel:*

ChideraOnoh-Cosmas Esq. for the petitioner; holding the brief of Christopher IlokaEsq.