

**IN THE HIGH COURT OF JUSTICE OF THE
CAPITAL TERRITORY ABUJA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT MAITAMA - ABUJA**

BEFORE: HON. JUSTICE O. C. AGBAZA

COURT CLERKS: UKONU KALU & GODSPower EBAHOR

COURT NO: 6

SUIT NO: FCT/HC/PET/167/2019

BETWEEN:

JOHN JIDE ASHADE.....PETITIONER

VS

JIDE IDONGESIT ASHADE.....RESPONDENT

JUDGMENT

By a Notice of Petition filed on 17/10/2019, the Petitioner – John Jide Ashade, seek the following reliefs:-

- (1) An Order of Dissolution of Marriage contracted with the Respondent on 21/2/2009 on the grounds, cruelty, deceit, lack of love and care, the said marriage has broken down irretrievably and that since the marriage, the Respondent has behaved in such a way that the Petitioner could not reasonably be expected to live with her.
- (2) An Order granting custody of the children of the marriage, wit: Dara-Abasi Olamilikan Asade and Uwak-Mfon Olaoluwa Ashade, born on 1st June, 2009 and 18th June, 2012 respectively

- (3) An Order granting to the Respondent right to visit and access to the children at reasonable times.

The grounds upon which the Petition is predicated for dissolution of the marriage is as contained in Para 10 of the Petition.

FACTS

10. The facts relied on by the Petitioner as constituting the ground that the marriage has broken down irretrievably as specific above are as follows:-
 - a. **The Petitioner** from the beginning of the marriage did not anticipate any difficulty in the marriage despite their cultural differences. They agreed that they would live together as husband and wife based on love, affection, care and build a family that will be an envy among their peer-group and colleagues.
 - b. **Unfortunately**, the Respondent attitude towards the Petitioner changed immediately after the marriage, not even the birth of their first son helped! The Respondent developed negative attitude towards the Petitioner. All efforts by the Petitioner to salvage the situation were futile. The Respondent become queer and cruel anew daily!
 - c. The Respondent's attitude towards the Petitioner became grossly unbearable even the joy of the birth of the second could not provide any succor.

- d. **CRUELTY:** The Respondent has always been out to traumatize and disturb the peace and well-being of the Petitioner.
- e. **The Respondent** always stoke the fire of unwarranted heated argument and thereby occasion restlessness for the Petitioner whenever the latter is around at home.
- f. **The Petitioner** had always been subjected to mental torture by the Respondent. As such, the Respondent had been continuously threatened the Petitioner as to cause fear for his safety around the home.
- g. **The Respondent** while the marriage lasted enjoyed denying the Petitioner conjugal rights at will.
- h. **The Respondent** has not not been friendly nor restrained.
- i. **Lack of Care and Love:** The Respondent has refused to show the Petitioner love, affection and care since the marriage.
- j. **The Petitioner** was not regarded as a loveable person by the Respondent so much more that she abandoned the Petitioner without any justification.
- k. Even the children of the marriage were not spared in the ill-treatment by the Respondent. She never allowed the

children to enjoy perks from the Petitioner and such would not allow the children to have fun even within the house.

- I. **Deceit:** The Respondent was not the same person the Petitioner knew before the marriage.

The marriage has broken down irretrievably due to further facts that:

- m. The Respondent become more intolerable to live with and has behaved in manners that the Petitioner cannot reasonably be expected to live with her.
- n. Flowing from the above, the Respondent has left the Petitioner and lived apart since March 2017.

The Petition was served on the Respondent on 13/12/2019 and in response the Respondent filed an Answer and Cross-Petition on 25/2/2020, seeking for the following reliefs:

- (1) That the marriage between the Respondent and the Petitioner be dissolved.
- (2) That the Respondent be granted custody of the children of the marriage.
- (3) That the Petitioner takes responsibility for the school fees of the children making adequate Provisions for their welfare.
- (4) That the Petitioner be granted the right to visit and have access to the children at reasonable times especially during holidays.

The grounds upon which the Cross-Petition is predicated are as contained in Paras 12 as follows:-

FACTS

12. The facts relied on by the Respondent/Cross-Petitioner as constituting the grounds that the marriage has broken down irretrievably as specified above as follows:

CRUELTY

- (a) The Petitioner persistently demonstrated hatred and cruelty towards the Respondent/Cross-Petitioner.
- (b) In 2012, during the pregnancy for our second baby, Uwak-Mfon Olaoluwa Ashade the Respondent suffered from deadly ailment which doctors described as eclampsia characterized by convulsion and sometimes coma which threatened the Respondent's life and the baby's. Upon a safe delivery, the doctors advised that the Respondent should get a house-help to assist the Respondent due to her poor health of which the Petitioner refused. The Petitioner knowing that Respondent's skeletal computer business in Lokoja had virtually collapsed refused to support her with a house-help thus forcing her to relocate to her family house at Uyo. The Petitioner is cruel and lacks compassion.

- (c) In furtherance of the Petitioner's brazen display of cruelty and lack of care for the Respondent, the Petitioner being aware that the Respondent was due for delivery of the second baby on the 18th June, 2017 and fully aware that there was not a single helping hand, neglected and refused to come home to Lokoja and heartlessly kept himself at Ilorin. Thus on the delivery day on the 18th June, 2012 the Respondent had to drive herself with Labour pains to the hospital.
- (d) The Petitioner kept threatening the life of the Respondent/Cross-Petitioner asking her to go back to her parent's home and threatened to disfigure her if she does not.
- (e) Sometime in 2015, the Petitioner, without any reasonable cause (just because she corrected and disciplined their son for urinating on the floor of the bath-room despite various contrary instructions) assaulted the Respondent by hitting her severally on her spine which caused her severe pains and bodily harm.

The Respondent reported the assault and bodily harm to their Catholic Priest, Reverend Father John Femi Ogunleyi, the Priest in charge of St. Theresa Catholic Church, Ganaja, Lokoja. The Petitioner rebuffed the Priest's invitation and effort at settlement whereupon the

Priest advised that the Respondent reports the matter to the Police. The Respondent reported the assault to the Police Station at the new 500 Units Housing Estate, Ganaja Road, Lokoja.

- (f) Following the hatred and assault on the Respondent's spine by the Petitioner that caused severe pains as aforesaid and the continued threat of further attack instead of remorse, the Respondent and the Petitioner stopped and/or ceased having any form of conjugal relationship in 2015 and the situation has remained so till date.
- (g) In the year 2012 and 2014 the Petitioner refused to pay the house rent and shop rent even when he knew that the Respondent/Cross-Petitioner's business had virtually collapsed. The Respondent's mother paid the rent for 2012 and 2014 though after pressure, he refunded only the rent sum of 2014 to the Respondent's mother.
- (h) The Petitioner sometimes transfers his anger on the Respondent to the children like when he without a reasonable cause refused to pay their school fees in 2014 and 2017. The mother of the Respondent paid the school fees for the children in whose two years namely 2014 and 2017.

- (i) That the Petitioner, in a reprehensible act of criminality and cruelty subjected the children of the marriage to despicable cruelty and atrocious recklessness on the 30th day of August, 2019. The children who live happily with the Respondent/Cross-Petitioner were forcefully and furtively whisked away and abducted by the Petitioner from Uyo to Abuja without the knowledge of the Respondent in a bid to forcibly assume custody of the two children of the marriage. Not minding the psychological trauma such abduction caused on the children and totally disregarding the effect of the long distance by road in an unholy hour on the children, the Petitioner abducted the children to Abuja.
- (j) The Respondent/Cross-Petitioner reported the said violation of the children's rights and abduction to the Child Welfare under the Ministry of Women Affairs in Uyo Akwa Ibom State, pursuant to which a Petition was lodged with the Inspector General of Police whose special tactical squad consequently rescued the two children where they were held in a deplorable condition by the Petitioner in a house in Abuja without anyone to take care of them.

The Respondent/Cross-Petitioner shall rely on a copy of a letter by the Government of Akwa Ibom

State to the Inspector General of Police dated 3rdSeptember, 2019 and a letter from the Police dated 7th September, 2019 to the Hon. Commissioner for Agriculture & Women's Affairs on the rescue of the two children of the children of the marriage abducted by the Petitioner. The children were quite traumatized and had since happily reunited with the Respondent and their school at Uyo.

- (i) Emmanuel Dara-abasi Ashade and Uwak-Mfon Olaoluwa Ashade had been enrolled in Eeulah International School and Christ the King International School respectively, all in Uyo, Akwa Ibom State.

The Respondent shall rely on the copies of the admission letters and school fees receipts during the hearing.

After several Interlocutory applications were taken and determined by the court, the case proceeds to trial. On 4/10/2021, the Petitioner as PW1 testify and stated that the marriage between himself and the Respondent on the grounds stated in Para 10 of the Petition. He testified that the marriage was contracted on 21/2/2009 at the Marriage Registry of Agege Local Government and the certificate received as Exhibit "A". That sequel to this evidence, the parties resolved on terms and filed Terms of Settlement dated 15/1/2021 with respect to custody and its ancillary Reliefs and urge

the court to grant the relief on dissolution of the marriage on grounds relied, and the said Terms of Settlement be entered as Consent Judgment.

There was no Cross-examination of the PW1. The Respondent Counsel rest their case on that of the Petitioner and urged the court to grant their prayers.

At the close of evidence and the Respondent resting their case on that of the Petitioner and the Terms of Settlement filed on 15/1/2021. And consequent upon that the parties waived their rights to filing Final Addresses.

In this instant Petition, the court is invited to consider the fact that this marriage has indeed broken down pursuant to Section 15 (1) of Matrimonial Causes Act. At this stage, the duty of the court is to find from the processes before it whether or not the Petitioner has satisfied any of the facts stated in Section 15 (2) (a – h) of the Matrimonial Causes Act. A careful perusal of the grounds relied on as gleaned from the grounds, Section 15 (2) (d) suffice as a grounds which reads;

“That the Respondent has deserted the Petitioner one (1) years immediately preceding the presentation of the Petition”

The evidence of the PW1 – Petitioner, which remained unchallenged, is that the Respondent left the matrimonial home since March, 2017 and has continued to stay away. This facts support the ground for dissolution of marriage which has broken down irretrievably. Accordingly, hold that this marriage has broken down and therefore avail the Petitioner.

It must be mentioned that consequent upon the Respondent not leading evidence on their Cross-Petition, it is deemed abandoned.

On the Terms of Settlement filed on 15/1/2021 wherein the parties are agreed in respect of the custody of the children and other ancillary Reliefs sought, I shall allow it and, in consequence enter it as Consent Judgment of the parties in respect of the custody of the children and other ancillary Relief.

From all of these, and the Petitioner having satisfied this court on the ground relied on for dissolution of the marriage, the Respondent cross-Petition having been abandoned, entered Judgment as follows:-

- (1) The marriage celebrated on 21/2/2009 at the Marriage Registry of Agege Local Government Area, of Lagos State between the Petitioner – John Jide Ashade and Jide Idongesit Ashade has broken down irretrievably and hereby pronounce a decree Nisi dissolving the Marriage between them.
- (2) The said Decree Nisi shall become absolute after three months from the date of the Judgment.
- (3) In respect of custody of the children of the marriage and other ancillary reliefs sought, the Terms of Settlement filed on 15/1/2021 is hereby entered as Consent Judgment of the parties.

Signed

HON. JUSTICE C. O. AGBAZA

Presiding Judge.

5/7/2022

APPEARANCES:

OLUWATOMISI RICHE – ADEWUSI ESQ. - FOR THE PETITIONER

C.J. EDEMEKA ESQ. WITH V OKWUDIRI ESQ, Y.U. DOZIE - FOR THE
RESPONDENT