

**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/330/2021

BETWEEN:

OLAWALE WALIU IBRAHIM.....PETITIONER

VS

CATHERINE DOOSE SHOSU.....RESPONDENT

JUDGMENT

By a Notice of Petition filed on 6/9/2021, the Petitioner – Olawale Waliu Ibrahim, seeks the following reliefs:

- (a) A Decree of Dissolution of the Marriage on the ground that the marriage has broken down irretrievably.
- (b) Petitioner may be granted such further on other reliefs as may be just in the circumstance.

The grounds upon which the Petition is predicated for dissolution of the marriage is as contained in Para 7.2 of the Petition.

- (i) The Respondent is quick to anger and at the slightest opportunity resorts to explosive outburst thus making the

Petitioner live in fear for his life.

- (ii) In the course of the marriage, the Respondent has repeatedly assaulted the Petitioner at the slightest of any misunderstanding and threatened to kill the Petitioner.
- (iii) Respondent has left the Petitioner without the love, support, comfort and friendship of a wife.
- (iv) The Respondent on the 28th day of October, 2014 shortly after the wedding while having an argument strangled the Petitioner who was lucky to survive the onslaught on him by the Respondent.
- (v) Further on one of the numerous episodes of violence against the Petitioner, on the 24th day of August, 2017, the Respondent instructed the Petitioner shortly after he got home from work to switch off his phones as she wanted to have a conversation with the Petitioner and upon the Petitioner's refusal to so do, the Respondent went to carry pestle from the kitchen threatening to smash the Petitioner's head and phones.
- (vi) Further to Paragraph v above, the Petitioner ran into the room and locked the doorthus causing the Respondent to use the pestle in an attempt to break the door and shouting "come outside and see if I won't break your head with the pestle I am holding". The picture of the door is attached pleaded herewith and shall be relied upon during trial.

- (vii) Further on the 18th of April 2020 the Respondent in one of her violent rage, had threatened to stab the Petitioner to death while asleep. A Statement the Petitioner took very seriously thus causing the Petitioner to run for his life.
- (viii) The Petitioner is afraid for his life and no longer feels safe being married to the Respondent.
- (ix) The Petitioner has lost interest in continuing with the marriage of the parties hence lack of compatibility.

The Petition was served on the Respondent on 7/12/2021, and in response, the Respondent filed an Answer to the Petition on 10/1/2022 and prayed for the following reliefs;

- (a) A Decree of dissolution of the marriage between the Petitioner and the Respondent on the 13th September, 2014 at the Federal Marriage Registry, Abuja on the grounds that the marriage has broken down irretrievably due to the action/inaction of the Petitioner.
- (b) An Order striking out the Petition as same is unfounded and the Respondent has not condoned or connived with the Petitioner in presenting same.
- (c) An Order of maintenance to be paid to the Respondent by the Petitioner.

(d) And for such order or further orders as the Honourable Court may deem fit in the circumstances of this case.

On 24/4/2022, the Petitioner opened his case. He gave evidence that he got married to the Respondent on 13/9/2014 at the Federal Marriage Registry Abuja and the marriage certificate was admitted as Exhibit "A". He gave a catalogue of facts leading to the breakdown of the marriage, which include acts of cruelty, threat to life and violence, which he finds intolerable to live with the Respondent.

Concluding his testimony, the Petitioner – PW1, stated that the parties filed Terms of Settlement and urged the court to enter it as Consent Judgment.

There was no cross-examination by the Respondent, rather aligns with the evidence of the Petitioner in urging the court to grant the reliefs sought and enter the Terms as Judgment of court.

In the instant case, the court is invited to consider whether the Petitioner has established a case deserving of dissolution of the marriage on grounds that it has broken down irretrievably. To determine this, the court must be satisfied from the evidence that the marriage has broken down irretrievably and to arrive at that conclusion, the Petitioner must prove to the reasonable satisfaction of the court of any of the facts as prescribed by Section 15 (2) of Matrimonial Causes Act categorized in sub-section 2 (a – h).

In this instant, the Petitioner relies on Section 15 (2) (c) of the Matrimonial Causes Act as the grounds for the dissolution of the marriage.

It must be stated that the Respondent who was served with the Petition and indeed filed an Answer did not lead evidence in support of the Answer, and it deemed abandoned, the court will treat the evidence of the PW1 as unchallenged and uncontroverted.

The grounds relied on by the Petitioner which were copiously stated in Paras 7.2 of the Petition, were not disputed by the Respondent. It is trite that where evidence remains unchallenged, the court can act on it as true and correct. See case of Gana Vs F.R.N.(2012) ALL FWLR (PT.617) 793 & 800 Para D – E, moreso, that the Respondent failed to lead evidence in support of the Answer. In consequence therefore, this court holds that the evidence of the Petitioner- PW1 is supportive to the ground relied on for the dissolution and therefore hold that indeed the marriage has broken down irretrievably.

In respect of the other ancillary matters, to which the parties have filed Terms of Settlement, and urged the court to enter its as Consent Judgment, this court will allow it and enter it as the Consent Judgment of the parties in the suit.

From all of these, the Petitioner having satisfied this court, on facts relied on for the dissolution of the marriage, the Petition succeeds and judgment is entered as follows:-

- (1) The marriage celebrated on 13/9/2014, under the Marriage Act at the Federal Marriage Registry, Abuja between the Petitioner – Olawale Waliu Ibrahim and the Respondent – Catherine Doose Shosu, has broken down irretrievably and hereby

pronounce a Decree Nisi dissolving the marriage between the parties.

- (2) The said Decree Nisi shall become absolute after three (3) months from the date of this Judgment.
- (3) The Terms of Settlement filed on 25/4/2022 is hereby entered as Consent Judgment of the parties.

TERMS OF SETTLEMENT

1.0 INTRODUCTION & FACTS

- 1.1 The Petitioner filed a Notice of Petition and Witness Statement on Oath on the 6th September, 2021.
- 1.2 The Respondent on her part filed an Answer on the 5th January, 2022.
- 1.3 The subject of this Suit is in respect of Petition for decree of dissolution of marriage. The Petitioner filed the instant Petition seeking the following reliefs:
 - (a) A decree of dissolution of the marriage on the ground that the marriage has broken down irretrievably.
 - (b) An Order that the Petitioner may be granted such further or reliefs as may be just in the circumstance.
- 1.4 Upon the meetings and deliberations held by parties, parties have now agreed and resolved to settle this matter amicably by filing the

instant Terms of Settlement, to be adopted as Consent Judgment in this case as stated hereunder:

- (i) Both parties agree that the marriage between the Petitioner and the Respondent shall be dissolved by Order of this Honourable Court upon parties' ability to prove any grounds for dissolution in the course of proceedings.
- (ii) Both parties agree that the sum of Two Million Naira only (₦2,000,000.00) be paid to the Respondent by the Petitioner as the full and final settlement and the said sum shall be paid on or before three (3) days after Judgment of this Honourable Court.
- (iii) Both parties agree that the Respondent shall remain in occupation of their apartment until the condition stipulated in paragraph ii above is met.
- (iv) Both parties agree that both the Petitioner and the Respondent shall be restrained from being in physical proximity to each other except in public places in the case of an unavoidable situation.
- (v) The Respondent shall retain the Ownership and possession of the under listed properties;
 - 1. TV Wall Stand
 - 2. Shoe Stand
 - 3. A Blue Big Basket with Cover

4. Traveling Bags
5. Kitchen Cabinet
6. Pressing Table
7. Passage Kitchen Cabinet
8. Make up stand
9. Cosmetic stand
10. Side Stood for Mrs Azuna
11. A Black Coffee Chair for Mrs Ene
12. Ox Standing Fan
13. Center Rug Medium
14. Small Gas
15. Wall Mirror
16. Toaster
17. Two Orange Colour Curtain
18. Mortar and Pestle
19. Pots, Plates and Spoons.

1.5 Upon the signing of this Terms of Settlement, parties shall take every step necessary to put an end to every dispute, animosity and litigation pending anywhere else between them.

1.6 Whereof both parties hereby agree to adopt this Terms of Settlement as Consent Judgment on all issues apart from the requirement of law to prove grounds of dissolution of marriage contracted by parties herein before the Honourable Court during hearing.

This is the Judgment of the court.

Signed

HONOURABLE JUSTICE O.C. AGBAZA

(Presiding Judge)

7/7/2022

APPEARANCE

OLUSEGUN ADELEYE ESQ - FOR THE PETITIONER

SHADE USMAN ESQ - FOR THE RESPONDENT