

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT COURT NO. 4, MAITAMA ON THE

15TH DAY OF DECEMBER, 2022

BEFORE HIS LORDSHIP: HON. JUSTICE U. P. KEKEMEKE

SUIT NO. FCT/HC/NY/PET/11/2020

COURT CLERKS: *JOSEPH ISHAKU BALAMI & ORS.*

BETWEEN:

FAITH MICHAEL AMEH PETITIONER

AND

AMEH MICHAEL ODOH RESPONDENT

JUDGMENT

The Petitioner’s Notice of Petition against the Respondent is dated 11th of November 2020 but filed on the 20th of November 2020. It prays for the following reliefs:

- (1) A Decree of dissolution of marriage between the parties on the ground that the marriage has broken down irretrievably and the Petitioner cannot reasonably be expected to live with the Respondent.

(2) The sum of ₦3 Million as damages.

The Respondent was served with the Petition and all other processes including Hearing Notices. He failed, refused and or neglected to enter appearance or file an Answer.

The Petitioner opened her case and gave evidence for herself. She is Faith Okechi Ameh, a businesswoman. She is of the Byhazin Yam Market, Kubwa, Abuja. She knows the Respondent. He is her estranged husband. She met him in the Church during her Youth Service in Lagos in the year 2016. He approached her for marriage.

After six months, she accepted him. They proceeded to Abuja and got wedded under the Act at Dunamis, Area 1, Garki, Abuja, a license place of worship on the 9th day of December 2017. After the wedding, they proceeded to the hotel for honeymoon like every other couple.

Their problem started in the hotel. He had no urge to sleep with her.

By virtue of church restriction and her personal life style, she did not sleep with him before the marriage. He was not coming close to sleeping with her. His erection was weak. He could not penetrate. She made excuse for him that it could be stress.

He mentor asked if he was able to break her and she said yes. She received money from her mentor to further stay in the hotel but he could still not able to do it. She gave him a book to read to enable him resolve the matter but he threw the book at her.

The left Abuja to Lagos to further live as husband and wife. He did not respond. He was sleeping in the parlour and when she complains, he says sex was not food.

She suggested hospital but he was not showing concern. She was making smoothies for him to help but it was still the same.

He came back one day to announce he has resigned from work. He did not tell her the reason for the resignation.

She will stay for three months without her husband coming close to her. He failed to provide food and water. She will stay two days without eating. She became a beggar on the street. She could not tell her family members.

She met him eating in a fellow Benue man's house while she was hungry.

The church intervened but he was not changing. She began to have heart palpitation. He did not ask what happened to her. Her blood pressure started to rise.

Her pastor asked her to inform her family members. Her family members called him. He promised to change but refused to change.

She left the matrimonial home after 7 months. He said he would not go to the village because his people are

witches. Her mentor gave her ₦300,000 to pay house rent which she gave to him. He failed to use the money for rent but rather squandered the money. She finally left in 2018.

There has been no communication with the Respondent since. Certified True Copy of the Marriage Certificate is Exhibit A.

The Respondent was in Court. He said he had no question for the Petitioner and that he was not entering a defence. The above is the case of the Petitioner.

Parties were ordered to file Final Written Addresses. The Petitioner's Final Written Address is dated 26/04/2022.

Learned Counsel to the Petitioner posited a sole issue for determination: *Whether having regard to the facts of the Petition and the evidence, the Petitioner has proved her Petition to be entitled to a decree of dissolution of marriage between the parties.*

The Learned Counsel to the Petitioner argues that the Petitioner has sufficiently proved her Petition and therefore entitled to a decree of dissolution of marriage between her and the Respondent.

That the Respondent has failed, refused and neglected to consummate the marriage, failed to cater for the Petitioner and that both parties have lived apart for a period of more than 2 years preceding the presentation of the Petition.

The evidence of the Petitioner was unchallenged, uncontradicted and uncontroverted. That the Court should accept and act on the unchallenged evidence of the Petitioner to find for her and grant her prayers in consonance with Section 15 (2) (a) (c) & (e) of the Matrimonial Causes Act.

The evidence before this Court is one way. From the pleadings and evidence before the Court, the Petitioner seeks for dissolution of the marriage between her and her husband on the ground:

- (1) That the husband failed to consummate the marriage.
- (2) That they have lived apart for a period of 2 years preceding the presentation of the Petition.

The law is that proof of any of the above can ground a dissolution of the marriage.

Section 15 (2) (a) and (e) of the Matrimonial Causes Act state that the Court upon hearing a Petition for 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 namely:

- (1) That the Respondent has willfully and persistently refused to consummate the marriage.
- (2) That since the marriage the Respondent has committed adultery and the Petitioner finds it intolerable to live with the Respondent.

- (3) That since the marriage the Respondent has behaved in such a way that the Petitioner cannot reasonably be expected to live with the Respondent.
- (4) That the Respondent has deserted the Petitioner for a continuous period of at least one (1) year immediately preceding the presentation of the Petition.
- (5) That the parties to the marriage have lived apart for a continuous period of at least 3 years immediately preceding the presentation of the Petition.

See **IBRAHIM vs. IBRAHIM (2007) 1 NWLR (PT. 1015) 383.**

By virtue of Section 16 (1) of the Matrimonial Causes Act, leaving the Petitioner without reasonable means of support constitutes the fact that the Respondent has behaved in such a way that the Petitioner cannot reasonably be expected to live with the Respondent.

See **HARRIMAN vs. HARRIMAN (1989) 5 NWLR (PT. 119) 6.**

MEGWALU vs. MEGWALU (1994) 7 NWLR (PT. 359) 718 at 730.

The evidence is that Respondent has failed to cater for the Petitioner. That he failed to provide food and water. That she became a beggar in the street. She will stay two days without food. She had high blood pressure and palpitation but he did not take any steps to make good her health.

The above facts are not controverted. They are therefore deemed admitted.

There is also evidence that the Respondent failed to consummate the marriage. That his erection was weak, he could not penetrate. He had no urge to sleep with her. He refused medication. He was sleeping in the parlour and when she complains, he said sex is not food.

It is also my view and I so hold that the Respondent failed, refused or neglected to consummate the marriage. The Petitioner left the matrimonial home in 2018.

The Petition was filed on 12/11/2020. The Petitioner and the Respondent has lived apart for a continuous period of at least two years immediately preceding the presentation of the Petition.

The law is that the proof of one ground or fact out of the grounds contained in Section 15 (2) of the Matrimonial Causes Act, in the eyes of the law is a conclusive proof of irretrievable breakdown of the marriage.

See SHOKUNBI vs. SHOKUNBI (1976) SUIT IK/28WD/73, HIGH COURT OF LAGOS STATE.

It is my view and I so hold that the Petitioner has conclusively proved Section 15 (2) (a), (c) & (e) of the Matrimonial Causes Act.

Consequently, the marriage between the Petitioner, FAITH MICHAEL AMEH and the Respondent, AMEH MICHAEL ODOH has broken down irretrievably.

The Petitioner further claims damages of ₦3 Million. She did not give evidence to support the claim neither did the Petitioner's Counsel raise the issue in his Written Address. Consequently, relief 2 is deemed abandoned. It is struck out.

1. However, an Order Nisi is hereby granted dissolving the marriage between the Petitioner, FAITH MICHAEL AMEH and the Respondent, AMEH MICHAEL ODOH.
2. The Order Nisi shall become absolute after three (3) months.

HON. JUSTICE U. P. KEKEMEKE
(HON. JUDGE)
13/12/2022

Parties absent.

Solomon Aor, Esq. holding the brief of Imoter
Gbimbande, Esq. for the Petitioner.

COURT: Judgment delivered.

(Signed)

HON. JUDGE

13/12/2022