

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

**9<sup>TH</sup> DAY OF FEBRUARY, 2023**

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

**SUIT NO. FCT/HC/NY/PET/02/2020**

COURT CLERKS: *JOSEPH ISHAKU BALAMI & ORS.*

**BETWEEN:**

GLORIA EMEH IGWE ..... PETITIONER

AND

OKEOMA KINGSLEY IGWE ..... RESPONDENT

**JUDGMENT**

The Petitioner’s Petition against the Respondent is dated the 29<sup>th</sup> day of May, 2020. She prays the Court for the following:

- (1) A decree of dissolution of the marriage between her and the Respondent.

The grounds for the dissolution of the marriage as stated on the face of the Petition are:

- (1) The Respondent willfully and persistently refused to consummate the marriage.
- (2) The Respondent deserted the Petitioner for a continuous period of over two (2) years immediately preceding the presentation of this Petition.
- (3) Both the Petitioner and the Respondent have lived apart for a continuous period of over two (2) years immediately preceding the presentation of this Petition and the Respondent does not object to a decree being granted.
- (4) That since the marriage, the Respondent has behaved in such a way that the Petitioner cannot reasonably be expected to live with the Respondent.

The Petition and all other Originating Processes were served on the Respondent. The Respondent failed, refused and or neglected to enter appearance or file an Answer to the Petition. The Respondent was further served with Hearing Notices.

On the 29<sup>th</sup> day of September, 2021, the Petitioner opened her case and gave evidence for herself in proof

thereof. She is Chiagoziem Emeh Igwe. She lives at No. 3, Ikiwe Street, NAF Valley Estate, Abuja. She is a civil servant.

The Respondent she states is her husband. She got married to him on 30/03/2013 at Methodist Church, World Bank, Umuahia, Abia State. She has photocopy of the Marriage Certificate from the Church. The Respondent carried most of their belonging including the Marriage Certificate when he was deserting the matrimonial home.

After the marriage, she observed in 2017 he was not touching her. They were not having sexual relationship. He was not showing interest. She called the elder sister but she did not want to discuss it. She also drew the attention of another sister called Nwankwo but she said she should manage him.

When she could no longer bear it, she called her brother and narrated the incident. He directed her to their uncle,

Amuchia. He told her uncle not to disturb him. That he should go to Court or Welfare.

The Respondent eventually abandoned the house. That her uncle contacted their Chief who constituted a committee and invited the Respondent but he refused to show up.

On the 31<sup>st</sup> of December 2008, her people went to Respondent's village. They discussed and they told them to go.

That the Respondent deserted the home on the 18<sup>th</sup> of February 2018. That she has not had contact with him since. She went through his social media post and discovered that Respondent had a baby while they were together. She also read that he has given birth to a second baby. The facebook pages of the post are Exhibits A, A1, A2 and A3.

There is no issue of the marriage. She does not know where he stays. The original Certificate of Marriage and Form E are Exhibits B & B1.

She continued to persist if they could settle but they heard he was no longer interested. She prays for a divorce.

The Respondent failed to cross-examine the PW1 (Petitioner) and enter his defence despite the service of Hearing Notices. He was subsequently foreclosed and Final Written Addresses ordered.

The Petitioner's Final Written Address is dated 13/04/2022 but filed on the 14<sup>th</sup>. The Petitioner's Counsel raised one (1) issue for determination:

*Whether the Petitioner has shown good and sufficient ground for the dissolution of her marriage with the Respondent having regard to Section 15 (1) & (2) of the Matrimonial Causes Act.*

Learned Counsel argues that by virtue of Exhibit A, there is a valid marriage. That Exhibit A raises a presumption of a valid marriage by virtue of Section 21 of the Marriage Act.

That the Petitioner in her evidence has been able to prove the grounds contained in her Petition. That the evidence before the Court is not challenged neither is it controverted.

That the Petitioner has proved the requirement in Section 15 (2) (a), (d) & (e) of the Matrimonial Causes Act and deserves the grant of the relief sought.

I have read the only evidence available and have also considered the Written Address of Counsel. Exhibit B is the Certificate of Marriage of the parties under the Marriage Act.

The dissolution of marriage contracted pursuant to Nigerian Marriage Law is guided by the Matrimonial Causes Act, Cap 220, Laws of the Federation of Nigeria. See **IBRAHIM vs. IBRAHIM (2007) 1 NWLR (PT. 1015) 383.**

By virtue of Section 15 (2) of the Matrimonial Causes Act, 1970, 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:

- (a) That the Respondent has willfully and persistently refused to consummate the marriage.
- (b) That since the marriage the Respondent has committed adultery and the Petitioner finds it intolerable to live with the Respondent.
- (c) That since the marriage, the Respondent has behaved in such a way that the Petitioner cannot reasonably be expected to live with the Respondent.

- (d) That the Respondent has deserted the Petitioner for a continuous period of at least one (1) 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, etc.

In effect, there are eight grounds for divorce and proof of one ground in the eye of the law is a conclusive proof of irretrievable break down of the marriage.

See **IBRAHIM vs. IBRAHIM (supra)**.

**ASH vs. ASH (1972) WLR 347.**

The Petitioner has listed four specific grounds for divorce, which were earlier listed in this Judgment. See **DAMULAK vs. DAMULAK (2004) 8 NWLR (PT. 874) 151.**



The evidence of the Petitioner is clear and unambiguous. She said the Respondent failed or refused to have intimacy with her since 2017. All efforts to make him fulfill his conjugal obligations failed.

She further stated in evidence that the Respondent deserted the matrimonial home on the 18<sup>th</sup> day of February, 2018. This Petition was initiated on the 1<sup>st</sup> day of June, 2020. The Respondent deserted more than two (2) years before the presentation of the Petition.

There is evidence to the effect that the Respondent was committing adultery during the pendency of the marriage. Exhibits A, A1, A2 & A3 are photographs of children of the Respondent born out of wedlock recovered from his facebook account. The Respondent did not controvert the above facts.

In my humble view, the Petitioner has satisfied all the grounds for divorce listed in the Petition beyond the requirement of the law.

In the circumstance, the Petition succeeds. Judgment is entered in favour of the Petitioner against the Respondent as follows:

1. A Decree Order Nisi is hereby granted for the dissolution of the marriage between GLORIA EMEH IGWE (Petitioner) and OKEOMA KINGSLEY IGWE (Respondent) contracted on the 30<sup>th</sup> of March, 2013.
2. The Order Nisi shall become absolute after three (3) months.

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**HON. JUSTICE U. P. KEKEMEKE**  
(HON. JUDGE)  
09/02/2023

Parties absent.

O. D. Emole, Esq. for the Petitioner.

**COURT:** Judgment delivered.

(Signed)  
**HON. JUDGE**  
09/02/2023