

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

BEFORE HON. JUSTICE J. ENOBIE OBANOR
ON THIS 14TH DAY OF NOVEMBER, 2023

PETITION NO.: PET/296/23

BETWEEN:

MR. FRANCIS ONOME OHWODO ... PETITIONER

AND

MRS. RITA OHWODO ... RESPONDENT

JUDGMENT

The Petitioner filed this Petition on the 17th of March, 2023 wherein he prayed the Court of an order of dissolution of the marriage between him and the Respondent. The grounds upon which the dissolution is sought are as follows:

- a. That the parties to the marriage have lived apart for a continuous period of at least two (2) years immediately preceding the presentation of this petition
- b. That the Respondent has caused the Petitioner to live in desertion for a continuous period of at least two (2) years immediately preceding the presentation of this petition

- 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 Petitioner now finds it intolerable to live with and continue in marriage with the Respondent.
- e. The Respondent is disrespectful to the Petitioner's family and constituted authorities that have tried to call her to order, as all efforts to achieve results have proved abortive.
- f. The Respondent has returned the traditional bride price which is a prerequisite for customary marriage back to the family of the Petitioner.
- g. The Respondent cannot undertake the moral and financial responsibility of catering for the three children.
- h. The Respondent is very violent and even attacked and threatened the Petitioner's sister during a misunderstanding and caused serious bodily harm.
- i. That the Petitioner has made all efforts to reconcile with the Respondent but all efforts were met with lies and allegations by the Respondent against the Petitioner
- j. That the Petitioner has been a Responsible father to the children by providing all their educational, emotional and financial needs through payment of fees and medical expenses.
- k. That the Petitioner shall also rely on the facts constituting the ground for the divorce as grounds for seeking custody.

The Petitioner seeks the following orders:

1. A decree of dissolution of the marriage between the Petitioner and the Respondent contracted at the marriage registry of the Abuja Municipal Area Council on the 6th day of August, 2012, on the ground that the marriage has broken down irretrievably.
2. An order of the Court granting to the Petitioner absolute custody of the three children of the marriage:
 - a. Imelda Oghenekewe Ohwodo- Female- born 18th February, 2013
 - b. Mitchell Ogheneovie Ohwodo- Male- born on 21st June, 2015
 - c. Salvador Efeoghene Ohwodo – Male- born 20th December, 2017.
3. An order compelling the Respondent not to take the three children of the marriage outside jurisdiction or abroad without the consent of the Petitioner.

On 13th September, 2023, both Counsel to the Petitioner and Counsel to the Respondent informed the Court that the parties were still trying to settle out of Court. Consequently, both parties have filed Terms of Settlement before this Court. The Terms of Settlement was dated the 14th of November, 2023 and also filed on the same day. The parties have agreed to the following terms:

1. That the marriage celebrated between the Petitioner and the Respondent at the Abuja Municipal Area Council on the 6th August, 2012 be and is hereby dissolved on the basis that the marriage has broken down irretrievably based on the facts asserted and or admitted by the parties in their respective processes before this Honourable Court that the parties have lived apart for a period of 2 years.
2. That the Respondent who currently has custody of the children shall continue to do and the Petitioner shall have unrestricted access to the children as it is convenient for the three (3) children of the marriage.
3. That the Respondent shall provide the Petitioner all necessary information at all times with regards the welfare, accommodation and schooling of the three (3) children of the marriage.
4. The Respondent shall provide a valid Residential address and telephone number that the Petitioner can always use to reach the children.
5. The Respondent shall ensure that the children visit Nigeria once every year for any of the holidays which shall be discussed by the parties.
6. The Respondent shall be responsible for the welfare, accommodation and medical expenses of the children and

the Petitioner shall support the Respondent when it is convenient for him since it was the Respondent's decision to take the children out of the country.

7. That the foregoing shall be the consent judgment and or Order of this Honourable court in this proceedings.

It is trite that one of the grounds upon which the an order of dissolution of marriage can be made is that the marriage must have broken down irretrievably as a result of the parties living apart continuously for a period of not less than two years. Section 15(2)(e) of the Matrimonial Causes Act provides thus:

(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 acts:

(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 the decree being granted.

+The parties in this suit have unequivocally admitted to the fact that the Petitioner and the Respondent have lived apart for a period of two years, the Respondent having moved out of the matrimonial home on 17th September, 2022. The parties are also in agreement that they both no longer want to continue to stay

married. Accordingly, it is hereby declared that the marriage between the Petitioner and Respondent Contracted at the Abuja Municipal Area Council on the 6th of August 2012 is hereby dissolved.

In addition, all terms agreed to by the parties as filed in their Terms of Settlement dated and filed on the 14th of November, 2023 are hereby granted and binding on both parties.

HON. JUSTICE J. ENOBIE OBANOR

Hon. Judge

Appearance:

For the Petitioner;

Khoni Bobai Esq.

For the Respondent;

E. u. Chinedu Esq., I. O. Bamekule (Mrs)