

GHANA / JUDGMENT

DANSO VRS DANSO (DM/0294/2021) [2023] GHAHC 460 (26 October 2023)

[2023] GHAHC 460

COURT

High Court

CASE / FILE NUMBER

DM/0294/2021

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IN THE HIGH COURT OF JUSTICE, ACCRA HELD ON 26TH OCTOBER 2023, BEFORE HER LADYSHIP JUSTICE ELFREDA AMY DANKYI (MRS), HIGH COURT JUDGE, SITTING IN DIVORCE AND MATRIMONIAL CAUSES DIVISION THREE.

SUIT NO: DM/0294/2021 REV. FAUSTINA DANSO - PETITIONER VS. REV. JACOB DANSO - RESPONDENT

JUDGMENT:

This is a wife's Petition for dissolution of marriage. The Petitioner and Respondent who are Ghanaian citizens domiciled in Ghana, got married on 28th December, 1997, under the Marriage Ordinance (CAP 127) at the Assemblies of God Church, Suhum. After the said marriage the parties cohabited at Taifa, Burkina and later at Abese, Pokuase both suburbs of Accra. There are four issues of the marriage namely; Enoch Danso Nanor twenty two (22) years, Pharis Jacob Nanor aged twenty years, Michael Danso Antwi aged nineteen years and Samuel Bempong Danso aged eighteen (18) years at the time that the petition was filed. The Petitioner caused this Petition to issue on 9th March 2021 and an amended petition on 30th June, 2021 on the ground that the marriage between the parties has broken down beyond reconciliation. She attributed the breakdown of the marriage to the unreasonable behavior of the Respondent and attempts at reconciliation has proved futile. The Respondent entered appearance on 4th May, 2021. And filed an Answer on 18th October, 2021. By his Answer, he denies most of the averments made in the petition. The Petitioner filed a Reply on 10th November, 2021. The pleadings in the suit having closed, the suit was set down for trial. The parties filed Witness Statements, pursuant to the orders of the Court. Case Management Conference was conducted On 22nd May,

2022. The evidence of the parties was taken on 25th July, 2023. In view of the Terms of Settlement filed, the only issue for determination is whether or not, the marriage between the parties has broken down beyond reconciliation. By Section 1 (2) of the Matrimonial Causes Act of 1971 (Act 367), the sole ground upon which an order for dissolution of a marriage can be

made is that the marriage has broken down beyond reconciliation. Section 2 (1) of the said Act, however, requires that the Petitioner prove one or more of the facts set out in the said section as follows:

- (1) For the purpose of showing that the marriage has broken down beyond reconciliation the Petitioner shall satisfy the Court of one or more of the following facts:
 - (a) That the Respondent has committed adultery and that by reason of the adultery the Petitioner finds it intolerable to live with the Respondent;
 - (b) That the Respondent has behaved in a way that the Petitioner cannot reasonably be expected to live with the Respondent;
 - (c) That the Respondent has deserted the Petitioner for a continuous period of at least two years immediately preceding the presentation of the Petition;
 - (d) that the parties to the marriage have not lived as husband and wife for a continuous period of at least two years immediately preceding the presentation of the Petition and the Respondent consents to the grant of a decree of divorce, provided that the consent shall not be unreasonably withheld, and where the Court is satisfied that it has been so withheld, the Court may grant a Petition for divorce under this paragraph despite the refusal;
 - (e) That the parties to the marriage have not lived as husband and wife for a continuous period of at least five years immediately preceding the presentation of the Petition; or
 - (f) That the parties to the marriage have, after diligent effort, been unable to reconcile their differences.” Being a Matrimonial Cause, the Court is duty bound, regardless of the Terms of Settlement filed and in accordance with sections 2 (2) and 2 (3) of the Matrimonial Causes Act, 1971 (Act 367), to inquire into the marriage of the parties, by hearing their testimony, for a determination, as to whether or not, the marriage celebrated between the parties, has broken down beyond reconciliation. From the evidence adduced before the Court by the Petitioner, there is no dispute that the parties had differences. Petitioner attributed the breakdown of the marriage to the unreasonable behavior of the Respondent and attempts at reconciliation has proved futile. Petitioner testified by her witness statement amongst others that she fled the matrimonial home for fear of her life and has since not returned due to the abuse she was subjected to by the respondent and her sister - in law. She further testified that the Respondent had subjected her to all sorts of dehumanizing and undignified treatment. She further said that the Respondent circulated allegations of adultery against her to members of his family and the church. The evidence of Respondent is that the Petitioner stopped performing her duties as a wife long before she packed and left the house; Petitioner would not cook for him or wash his clothes when he was ill and refused to engage in consortium with him. The further testimony of the respondent is that despite the intervention of pastors the petitioner was unwilling to reconcile and packed her things and left the house leaving the children in his care until she relocated them to be with her sometime in 2018. It is obvious that the parties had several disagreements and efforts by

family and pastors to assist the parties to reconcile their differences, proved futile. The parties have not lived as husband and wife for about five years as at the time the petition was filed. By Section 2 (1) (e) (f) of Act 367, supra, where the parties to the marriage have not lived as husband and wife for a continuous period of at least five years immediately preceding the presentation of the Petition, and where the parties have been unable to reconcile their differences the Court may proceed to dissolve the marriage. As the parties have lived apart for six years now and also been unable to reconcile their differences, after diligent effort, I find that the marriage celebrated between them has broken down beyond reconciliation. Upon the evidence adduced before the Court therefore, as I find that the marriage celebrated between the parties has broken down beyond reconciliation, it is hereby decreed that, the marriage celebrated between the Petitioner and the Respondent on 9th December, 1997 in Suhum, under the Marriages Act (CAP 127) be and is hereby dissolved forthwith. The Marriage Certificate is cancelled. On 18th January, 2023, the parties filed Terms of Settlement praying that same be adopted by this Court. This Court hereby adopts the said Terms of Settlement and enters Judgment between the parties as follows: i. That their marriage celebrated on 9th December 1997 by the Registrar of Marriages at the Suhum District Assembly and later solemnized at the Assemblies of Ghana Church, Suhum on 28th December, 1997, be dissolved as having broken down beyond reconciliation. ii. The Petitioner hereby abandons reliefs (b), (c) and (d) of her aforementioned Petition. iii. This Agreement embodies the entire understanding of the Parties in respect of the matters contained or referred to in this suit and there are no promises, terms conditions or obligation, oral or written, express or implied other than those contained in this agreement. iv. The parties shall each bear their own costs.

- v. These terms of settlement shall be filed and adopted by the Court as consent judgment.
(SGD) ELFREDA AMY DANKYI (MRS) JUSTICE OF THE HIGH COURT. COUNSEL: NO LEGAL REPRESENTATION FOR BOTH SIDES.

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Prepared on 30 October 2026 · Esheria