

DIV.CC 741/2023 2023 T. NO. 4

IN THE HIGH COURT OF SIERRA LEONE

(FAMILY AND PROBATE DIVISION)

BETWEEN

VICTORIA AYODELE E. TAYLOR – PETITIONER

AND

VICTOR EMMANUEL OCTAVIUS TAYLOR - RESPONDENT

J.O.P. Manley-Spain Esq. for the Petitioner

RULING DELIVERED ON THE 28TH DAY OF FEBRUARY, 2024

This is an undefended petition dated the 27th day of October, 2023 issued by VICTORIA AYODELE EVENLY TAYLOR (the petitioner herein) against VICTOR EMMANUEL O. TAYLOR (the respondent herein) seeking the following orders:

1. That the marriage between the petitioner and respondent solemnized on the 20th day of May, 2006 be dissolved
2. Any further order that this Honourable Court deems fit and just
3. That the respondent be made to pay the cost of this application.

The petitioner petitioned this Court for dissolution of their marriage on the grounds that the marriage has irretrievably broken down due to the respondent's conduct and also abandoning the matrimonial home.

The brief background giving rising to this petition is that the petitioner and respondent were lawfully married, which said marriage was solemnized at Christ Church Parish, Pademba Road, Freetown in the Western Area of the Republic of Sierra Leone on the 20th day of May, 2006. The marriage certificate was tendered and marked exhibit A.

Following the celebration of the marriage the parties cohabited at No. 61 Circular Road, Freetown in the Western Area of the Republic of Sierra Leone. The marriage was not blessed with kids.

PARTICULARS OF CRUELTY

That during the subsistence of the marriage the respondent disregarded the emotional and physical needs of the petitioner. He also neglected his marital and spiritual responsibilities. The respondent has acted in a way that amounts to alienating himself permanently from the family and has the intention of bringing the matrimonial union to an end.

That the respondent does not render any financial support to the petitioner for her personal use or contribute to the upkeep of the home, claiming the petitioner was in a lucrative job with Standard Chartered Bank- when she was fit and well.

The respondent would on many occasions abandoned the petitioner in Freetown and spent most of his time in Makeni in the guise of setting up an IT Business. He will not communicate with the respondent and refused to allow the petitioner to visit him in Makeni.

The respondent lured the petitioner into obtaining loan from the Bank with a promise to repay same but will failed to do so. The petitioner contributed the sum of Le 12,000,000,00 old notes for a purchase of a piece of land in Lungi and up to the time of filing this petition the respondent was yet to show her the document pertaining to the land.

That the respondent in 2012cajoled the petitioner to resign from her banking job, collect her benefit on the pretext that they were going to relocate abroad. When the respondent got the money, he began telling stories. The petitioner since that day remains jobless.

That in 2019 the petitioner was involved in a terrible accident which left her permanent disability, during her illness the petitioner's mother bore the brunt of her medical bills and it later came that the respondent had been busy collecting monies from friends and relatives claiming it was for the use of the petitioner's illness.

The respondent showed no sympathy for the petitioner's condition and insists that the petitioner should join him in taking some white powder to make her sexier again. In 2021 the respondent packed out of the matrimonial home saying he was leaving for Turkey.

The respondent did not only deprive the petitioner conjugal right but also refused to cooperate with the medics when he was diagnosed with low sperm count.

The actions of the respondent have put a lot of strain on the marriage and through his conduct he has clearly shown that he had no regard for the union and as such he cannot continue to be in a marital relationship with the respondent.

THE LAW

It is a trite law that the burden of proof in divorce cases is on the party alleges misconduct on the other the part of the other party, there being a presumption of innocence. **See Redpath v Milligan (1950) 1 ALL ER 600.**

Though divorce cases are civil in nature, the standard of proof in such cases is slightly higher than the ordinary civil cases in which it is only on the preponderance of probability, although it is not as high as in criminal cases which has to be beyond reasonable doubt.

Section 4 of the Matrimonial Causes Rules Cap 102 of the Laws of Sierra Leone 1960 outlines the grounds for divorce namely: Cruelty, Adultery and Desertion.

The petitioner's ground for seeking the dissolution of his marriage to the respondent due to her cruel behavior. What is cruelty or what acts amounts to cruelty?

Cruelty was defined as "*conduct of such character as to have caused danger to life, limb or health-bodily or mentally or to give rise to a reasonable apprehension of such dander*" see **Rayden on Divorce.**

In the case of **Habyarimana v Habyarimana (1980) HCB 139**. It was held that there is no single definition of cruelty but case law has established that no conduct can amount to cruelty unless it has the effect or producing actual or apprehended injury to the petitioner's physical and mental health. That there must be danger to life, limb or health, bodily or mental or reasonable apprehension of it to constitute cruelty.

The petitioner's evidence was a tale of psychological and emotional abuse melted out by the respondent. The respondent told the petitioner that she was no longer interested in the marriage and can get as many women as he can. As if that was not enough, she abandoned her matrimonial home and cut off all communication with the petitioner.

The respondent was duly served with the petition as evidence by the affidavit of service but opted not to file an answer or cross petition.

It was held in the case of **Habre International Co. Ltd v Ebrahim Alakaria Kassam & Others SCCA No. 41999**. It was held whenever an opponent declines to avail himself of the opportunity to put his essential and material case.....it follows that they believed the allegations and the testimony given could not be disputed.

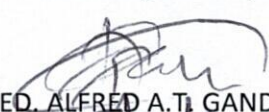
There is no doubt in my mind therefore that the attitude of the respondent towards the petitioner was cruel to say the least. The fact that he abandoned the petitioner in her time of need speaks volume of the animosity and anger in that home and by extension denying her sex amounts to cruelty. In my view the marriage was on the rock from the get go and the fact that the parties are no longer living together for a good period during their marriage is an indication that they are not planning reconciliation.

The evidence is that the parties have been living apart for the better part of their marriage and the respondent has no intention of coming back to the petitioner means this union is done.

Looking at the evidence in its entirety, the relations of the parties during the subsistence of their marriage coupled with the fact that the parties are no longer living together and are not planning any reconciliation. It is evident that the marriage between the petitioner and the respondent has broken down irretrievably. I am of the view that the respondent committed the matrimonial offence of cruelty.

Accordingly, I make the following orders:

1. A decree nisi is hereby entered dissolving the marriage between the petitioner and the respondent solemnized on the on the 27th April, 2019.
2. That the petitioner can file for decree Absolute 14 day from date of this order.
3. This being a family matter, I make no order as to cost.


SIGNED ALFRED A.T. GANDA
18/2/24
(JUSTICE OF THE HIGH COURT)