

**IN THE UPPER CUSTOMARY COURT OF KADUNA STATE  
IN THE KAFANCHAN JUDICIAL DIVISION  
HOLDEN AT KAFANCHAN**

**UCCK/CV/126/2025**

**5<sup>TH</sup> MAY, 2025**

**BEFORE:**

**HIS WORSHIP EMMANUEL J. SAMAILA, ESQ.  
MR JAMES K. KAJANG**

- **JUDGE**  
- **MEMBER**

**BETWEEN**

**AKILA ILIYA**

- **PETITIONER**

**AND**

**MARTINA ABOI**

- **RESPONDENT**

**JUDGMENT**

[1] The Petitioner seeks the dissolution of his marriage to the Respondent which was contracted in accordance with Marwa custom over 20 years ago. The respondent urged the Court to grant the relief. However, she made a counterclaim for the property they jointly developed. The Petitioner called three witnesses: Samaila Istifanus, Sunday Samuel and himself as Dw1 – Dw3 respectively and closed his case. The Respondent was her lone witness as Rw1. She tendered an "Application for Issuance of Criminal Summons", a Criminal Summons and a record of proceedings from Chief Magistrates Court, Kafanchan as Exhibits D1 – D3 respectively before closing her case. The parties briefly addressed the Court thereafter.

[2] The crux of the Petitioner's case is that he is desirous of having their marriage dissolved. The nub of the Respondent's evidence is that she wants her share of their matrimonial home which they jointly acquired.

[3] Having heard the parties, we frame two questions for determination as follows:

1. Has the Petitioner proved that a valid marriage in accordance with Marwa custom exists between the parties?
2. Did the Respondent, by credible evidence, establish a right to share in their matrimonial home?

[4] Customary Courts are statutorily vested with the power to administer customary laws, the principles of natural justice, equity and good conscience. See Section 24 of the Customary Courts Law 2001. Disputes in the Customary

Courts are to be resolved based on common sense, simplicity, in accordance with substantial justice and devoid of technicalities. See Section 59 of the Customary Courts Law 2001; Agbasi v. Obi (1998) 2 NWLR (Pt. 536) 1 at 14. The Courts are also enjoined to consider the whole evidence of the parties, irrespective of their claims, to fully and justly resolve the real issues in dispute between them. See Ibrahim v. Abashe & Ors (2014) KCCLR-24 (CCA).

### **Question 1**

[5] All the Petitioner's witnesses attested to the fact that the parties are married. Their evidence was not impeached. In fact, the testimony of the Respondent materially supports that of the petitioner and his witnesses.

[6] Considering the evidence of the parties, the first question for determination is answered in the affirmative. We find that a valid marriage in accordance with Marwa custom exists between the parties. We so hold. Therefore, this marriage is hereby dissolved with effect from today, Monday, 5<sup>th</sup> May 2025.

[7] The parties are admonished to relate peaceably with each other in the interest and for the benefit of their child who will invariably bear the consequential pains occasioned by their separation.

### **Question 2**

[8] Pw1 testified that it was the Petitioner who bought the land, built on it and moved in with his family which did not include the Respondent. Apparently, he was referring to the L-shaped building that was first built on the land as Rw1 stated. Under cross-examination, the witness told the Court that he never saw the Respondent or her son at the building site.

[9] The evidence of Pw2 materially corroborates the testimony of Pw1. Under cross-examination, the witness added that the Respondent was brought to the house after the building was completed. It was obvious that the witness was referring to the L-shaped building which was first built on the land as Rw1 stated.

[10] In his testimony, Pw3 said he was the one who bought the land on which the property was developed. He added that he left the Respondent at the place where he works because of the conflicts between her and his other wives and children. He also stated that the Respondent and their child were imprisoned at

his instance after they threatened to burn his house. The house referred to here is the flat which the respondent which is now claiming joint ownership. Under cross examination, the witness admitted that the Respondent was beaten by some of his female children who also removed the Respondent's belongings out of the house.

[11] Rw1 told the court that the land upon which the matrimonial home was built was jointly purchased and jointly built by her and the Petitioner. Her testimony that she had given birth when the L-shaped building was been built on the land explains her absence at the site and the reason why Pw1 and Pw2 did not see her there. The witness narrated how the Petitioner had instigated Salama Centre to send her two children from her previous marriage out of their (parties') home. Under cross-examination, the witness clarified that it is only their matrimonial home that she is claiming joint ownership of not the L-shaped building on the land.

[12] There is no doubt from the evidence of the parties that they jointly purchased the land upon which the L-shaped building and the flat were built. It is also clear that it is only the flat that the Respondent is claiming joint ownership of excluding the L-shaped building which she has apparently left for the Petitioner. Given the fact that the parties' marriage has been dissolved, living together in the flat and in the same compound becomes difficult. It is therefore necessary that a solution is provided to ensure that justice is done to the parties in connection with their matrimonial home. We shall return to this later.

[13] We wish to state that it is an irresponsible act for a man to marry a woman of means only to frustrate her at a time he feels he no longer needs her as a wife. It is an inconsiderate and insensitive act for the Petitioner to take the Respondent and her two children from her previous marriage only to have them thrown out of the house subsequently. A man must count the cost before marrying any woman, especially a widow with children. A man who decides to marry a widow must be willing to take her children along with her and treat them as his own if he truly loves their mother. The reason why the Respondent agreed to marry the Petitioner could have included his willingness to take her along with her children. No widow who desires to remarry should be separated from her children just because a man desires to take her as wife. There is no

way that such a woman will be happy and satisfied in the new marriage without her children whom she will feel she has abandoned because of the marriage.

[14] It is not a good thing to marry an enterprising woman with the subtle aim of benefiting from her wealth and sending her away after the goal has been accomplished. It became apparent in the instant case that the Respondent has landed properties. It is unfortunate that while the Respondent trusted the Petitioner to allow him to put his name in the documents of title of her properties, the Petitioner still had reason to maltreat her by sending her out of the matrimonial home they jointly build to a single room he allocated in the L-shaped building. He also sent her children from her previous marriage out of their (parties') matrimonial home. As if that was not enough, the Petitioner had the Respondent and her child, his son, locked up in prison after a dispute over their matrimonial home. No woman who has invested in the progress of her marriage deserves to be so treated. These facts show to the court that the petitioner comfortably instituted this action with the hope of ultimately and absolutely retaining the sole ownership of their matrimonial home. No Court will endorse such act of injustice against the Respondent or any other woman.

[15] Considering the foregoing, the second question for determination is answered in the affirmative. We find that the respondent has credibly established her right to share in their matrimonial home and we so hold. Therefore, judgment is hereby entered as follows:

1. The parties' matrimonial home, a flat located at Angwan Wakili, is hereby declared the joint property of the Petitioner and the Respondent.
2. It is hereby ordered that the house shall be valued, sold and the proceeds shared equally between the parties. The Registrar, in conjunction with the parties shall oversee valuation, sale and distribution of the proceeds of the sale. This order shall take effect after 30 days from today, 5<sup>th</sup> May 2025.

[16] Parties shall bear their own cost.

[17] Any party that is dissatisfied with this decision may appeal to the Customary Court of Appeal, Kaduna within 30 days from today, 5<sup>th</sup> May, 2025.

Signed 05.05.2025

Signed 05/05/25