

**CIVIL COURTS
(FAMILY SECTION)**

MADAM JUSTICE

JACQUELINE PADOVANI GRIMA LL.D., LL.M. (IMLI)

Hearing of Wednesday 29th of January 2020

Application no. : 429/2019 JPG

Case no. : 20

**AW
And
MW**

The Court:

Having seen the joint application filed by AW and MW, dated 20th September 2019, at page 1, wherein it stated:

- 1. That the parties got married on the third of April of the year two thousand and three (03.04.2003) and from their marriage, R was born on the tenth of May of the year two thousand and three (10.05.2003);*
- 2. That although the parties have separated by means of a contract in acts of Notary Jean Carl Debono on the tenth of July of the year two thousand and nineteen (10.07.2019) (Dok A attached), they have been living apart since January two thousand and fifteen (2015);*

3. *That according to the said contract, the parties renounced for their right to claim and obtain maintenance from one another, and agreed that no maintenance is to be paid by one to the other for R, since the minor is with each of them equally, whilst they share all the health, education and extra-curricular activities of the minor;*
4. *That there is no longer reasonable prospect that the parties will reconcile given that they both have led a totally independent life from one another;*
5. *That these facts satisfy the requirements requested at law, for the attainment of divorce as per Article 66B of Chapter 16 of the Laws of Malta;*

Therefore, plaintiffs humbly ask that this Honourably Court:

1. *Pronounces the dissolution of marriage in terms of article 66B of Chapter 16 of the Laws of Malta;*
2. *Orders the Registrar of Courts, to notify the divorce of the parties to the Director of Public Registry within the period allowed for this purpose by this Honourably court, so that the same is registered on the marriage certificate of the parties;*

And this save any other order this Court may deem fit.

Having seen that the application and documents, the decree and notice of hearing have been duly notified in according to law;

Having heard all the evidence on oath;

Having seen the note filed on the 28th October 2019 by means of which AW requested authorisation to revert to her maiden surname C (vide page 16);

Having seen the exhibited documents and all the case acts;

Having seen the Articles 66A, 66B u 66C of Chapter 16 of Laws of Malta;

Considers;

AW testified (fol 21) that the parties celebrated their marriage on the third of April 2003, and have a sixteen year old son **RW**. She explained that the parties have been separated *de facto* since November or December 2014, despite the fact that they signed their separation contract on the 10th July 2019. She said that since the date of their de facto separation, there was no reconciliation, and there is no hope of a reconciliation now. She stated that maintenance had always been paid on a regular basis, and that there are no maintenance arrears.

MW testified (fol 24) and confirmed and corroborated the testimony given by **AW**.

Deliberates;

66A. (1) Each of the spouses shall have the right to demand divorce or dissolution of the marriage as provided in this Sub-Title. It shall not be required that, prior to the demand of divorce, the spouses shall be separated from each other by means of a contract or of a judgement. [...]

66B. Without prejudice to the following provisions of this article, divorce shall not be granted except upon a demand made jointly by the two spouses or by one of them against the other spouse, and unless the Court is satisfied that:

(a) on the date of commencement of the divorce proceedings, the spouses shall have lived apart for a period of, or periods that amount to, at least four years out of the immediately preceding five years, or at least four years have lapsed from the date of legal separation; and

(b) there is no reasonable prospect of reconciliation between the spouses; and

(c) the spouses and all of their children are receiving adequate maintenance, where this is due, according to their particular circumstances, as provided in article 57:

Provided that the spouses may, at any time, renounce their right to maintenance: [...]

The Court has seen that the parties were married at the Marriage Registry in Valletta on the 3rd April 2003 (vide Doc A, page 14) and from this marriage they had one child, RW;

The evidence shows that the marriage broke down and the parties obtained a personal separation by means of a public deed in the acts of Notary Doctor Jean Carl Debono dated the 10th July 2019 (vide Dok A1, page 3). From the testimony of the parties, it further results that the parties have been separated *de facto* since 2014, and therefore they satisfy the four years requirement at law. Furthermore, the Court finds that there is no hope of a reconciliation between the parties.

The record shows that there are no maintenance arrears.

For these reasons, the Court pronounces the dissolution of the marriage between the parties by divorce and orders the Court Registrar to advise the Director of the Public Registry of the dissolution of the marriage between the parties so that this may registered in the Public Registry, and authorises AW to revert to her maiden surname, that is C, and orders notification of this to the Director of the Pubic Registry so that the necessary action is taken.

The expenses of these proceedings are to be borne equally by the parties.

Read.

Mdm. Justice Jacqueline Padovani Grima LL.D. LL.M. (IMLI)

**Lorraine Dalli
Deputy Registrar**