

**CIVIL COURTS  
(FAMILY SECTION)**

**MADAM JUSTICE**

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

**Hearing of Friday 30th of October 2020**

**Application no. : 82/2020 JPG**

**Case no. : 28**

**FE**

**Vs**

**Dr Josette Sultana and Legal Procurator  
Lilian Buhagiar as Deputy Curators to  
represent the absent AKE**

**The Court:**

Having seen the sworn application filed by FE, dated 24<sup>th</sup> February 2020, at page 2, wherein it stated:

*The parties got married on the 16<sup>th</sup> June of the year 2000 and of this marriage one daughter was born namely E on the X.*

*The parties got separated by means of a deed of personal separation published in the acts of Notary Clinton Bellizzi on the 29<sup>th</sup> January of the year 2020 ( doc A).*

*As results from the aforementioned contract, the parties have been living apart for over four years.*

*By means of the aforementioned contract the parties renounced to their right to give and receive maintenance from one another and regulated the maintenance which the plaintiff is due to pay to the parties' daughter E. This maintenance has been*

*paid in full to date and there are no arrears.*

*There is no reasonable prospect of reconciliation between the parties.*

*Therefore the conditions as envisaged in section 66 B of Chapter 16 of the Laws of Malta are satisfied and on account of the fact that the parties got separated by means of a contract of separation, no mediation is necessary.*

*For these reasons applicant respectfully requests that in line with section 66 B of Chapter 16 this Honourable Court deem it fit to pronounce divorce between the parties as envisaged in section 66 C.*

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

Having seen the reply of Dr Josette Sultana and LP Lilian Buhagiar as Curators, representing absent AKE, at page 34, wherein it was stated that:

*That at this stage the applicants are not informed by the facts and therefore reserve the right to present a further answer at a later stage of the proceedings if necessary;*

*Save further pleas.*

Having heard all the evidence on oath and seen the evidence tendered;

Having seen the exhibited documents and all the acts of the case;

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

**Considers;**

**AKE** testified (vide affidavit – page 39 – that she married her husband on the 24<sup>th</sup> August 2001 and from this marriage, a daughter was born. She testified the parties were formally separated by

means of a contract of separation published on the 29<sup>th</sup> January 2020 in the records of notary Dr Clinton Bellizzi. In the said contract, both parties renounced to the right to receive maintenance from one another and therefore no maintenance is due. The parties began to live separately on the 3<sup>rd</sup> July 2015. No reconciliation ever happened since that date to the present date. Finally she testified that there is no reasonable prospect of reconciliation between the parties.

**FE** testified (vide page 44) and corroborated and confirmed the testimony of **AKE**.

**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 notes that the parties were married on the 16<sup>th</sup> June 2000 (vide Doc FOE page 43) and

from had a daughter, E, from this marriage.

It results also that the marriage broke down and the parties obtained a personal separation by means of a public deed in the acts of Notary Doctor Clinton Bellizzi 29<sup>th</sup> January 2020 (vide Doc A , page 3) From the testimony of the parties, it further results that the parties have been separated *de facto* since July 2015, and therefore for longer than the four years required by law.

The record shows that there are no maintenance arrears. Furthermore, the Court finds that there is no realistic prospect of reconciliation between parties.

**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 be registered in the Public Registry.**

**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**