

**CIVIL COURTS  
(FAMILY SECTION)**

**MADAM JUSTICE**

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

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

**Application no. : 97/2020 JPG**

**Case no. : 29**

**CT**

**Vs**

**PT**

**The Court:**

Having seen the sworn application filed by CT, dated 4<sup>th</sup> March 2020, at page 5 et seqq., wherein it stated:

- 1) That the parties were married on the eighteenth (18) August of the year two thousand and one (2001) in Floriana, and their marriage is registered in the public registry by the number 1285/2001 annexed hereto and marked as Doc A;*
- 2) That the parties of this marriage had an offspring, i.e. HT, born on the X (copy of the birth certificate attached and marked as Doc B).*
- 3) That the parties have been de facto separated from each other for more than four years, in the period from the thousand and sixteen (2016), resulting from the personal separation contract published in the records of Dr Daniela Mifsud Buhagiar copy here attached and annexed marked as Doc C.*
- 4) That in the year two thousand and eighteen (2018) the applicant presented a letter to start the mediation process, and subsequently the parties were legally separated by a contract drawn up by Notary Dr Daniela Mifsud Buhagiar Doc*

C.

- 5) *That there is no reasonable prospect for reconciliation between the parties.*
- 6) *That the applicant has always honoured her obligations arising from the separation contract including the payment of maintenance for a child, HT.*
- 7) *That no maintenance is due, according to said separation contract to the respondent.*
- 8) *That all this is confirmed by the applicant in her affidavit annexed and marked as Doc D.*
- 9) *That the above facts satisfy all the conditions required for obtaining a divorce pursuant to article 66 A et seq of the Civil Code Chapter 16 of the laws of Malta.*

*The applicant therefore reverently pleads with respect to this honourable Court preventing any necessary and opportune statements and for the reasons premised:*

- i. To pronounce the divorce, dissolution of marriage between the parties;*
- ii. Order the registry of the court to inform the Director of the public registry, within the time allowed by this court, of the dissolution of this marriage.*

*With costs equally divided between the parties.*

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 Malcolm Mifsud in the name and representation of PT at page 23 wherein he stated that:

*Whereas the respondent confirms that the parties contracted marriage on the 18th August 2001 in Floriana Malta.*

*Whereas the parties had a daughter born in wedlock, HT.*

*Whereas the parties signed the contract of separation dated 6th January 2020 (attached with the court application).*

*Whereas the respondent confirms that there is no reasonable prospect of reconciliation between the parties.*

*Whereas there are no pending arrears of maintenance payments;*

*Whereas the above mentioned facts satisfy the requests for the attainment of divorce in terms of Article 66 A et seq of the Civil Code, Chapter 16 of the Laws of Malta.*

*Whereas the respondent claims that since the applicant instituted these proceedings, it is the applicant who has to pay for the expenses in connection with these proceedings.*

*For the above reasons, the respondent humbly and respectfully requests this Honourable Court to uphold the pleas of the applicant and pronounce divorce, as well as dissolve the marriage between the parties, and this saving any ulterior provisions that this Honourable court deems fit and appropriate in the circumstances.*

Having heard all the evidence on oath and seen the evidence tendered by the procedure of affidavit;

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;**

CT testified (vide affidavit – doc D, at page 8) that she married her husband on the 18<sup>th</sup> August 2001 and a daughter was born from this marriage. She testified that as from the beginning of the year 2016 they started living distinctly apart, despite being under the same roof. That the parties

obtained a personal separation on 6<sup>th</sup> January 2020. She further testified that she is under no obligation to pay maintenance to her husband.

**PT** testified on oath – page 31 – confirmed and corroborated the testimony of his wife and further added that since the separation, there was never any reconciliation between the parties. He also added that there was never any maintenance due to his wife, and that the maintenance due to the minor daughter is paid regularly and there are no arrears of the same.

**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 18<sup>th</sup> August of the year 2001 in Floriana,

(vide Doc A, page 9) and have a child, H;

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 Daniela Mifsud Buhagiar dated the 6<sup>th</sup> of January 2020 (vide Dok C, page 11). From the testimony of the parties, it further results that the parties have been separated *de facto* since 2016, 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 for reconciliation.

**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**