

**CIVIL COURTS  
(FAMILY SECTION)**

**MADAM JUSTICE**

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

**Hearing of Tuesday 10th November 2020**

**Joint Application no. : 492/2019 JPG**

**Case no. : 7**

**KM**

**And**

**DM**

**The Court:**

Having seen the sworn application filed by KM and DM, dated 1st November 2019, at page 1 et seqq., wherein it stated:

- 1) *That the parties contracted their marriage in England on the 13 December 1999 and of this marriage two children were born, O, who was born on the X and P, who was born on Y;*
- 2) *That the said parties separated from one another by means of a contract of separation published by Notary Francesca Cachia Zammit on the 2 April 2019 (Document A) and as mentioned in the said contract of separation the parties had been living apart from April of the year 2015 and have therefore been living apart for over four of the last five years;*
- 3) *That all obligations concerning maintenance are being adhered to and there are no arrears due;*
- 4) *That there is no reasonable prospect of reconciliation between the parties;*

- 5) *That therefore the conditions stipulated in section 66B of Chapter 16 are satisfied and in light of the fact that parties are separated by means of a contract of separation, no mediation proceedings are necessary.*
  
- 6) *For these reasons applicants request with respect that this court deems it fit, in accordance with the provisions of section 66B of Chapter 16, to, saving any hearing required by section 66C of Chapter 16 in order to ascertain the satisfaction of the conditions contemplated in section 66B, pronounce divorce between the parties as envisaged in section 66C.*

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

Having heard the evidence on oath;

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:**

**KM** testified (Vide page 12) that she has been separated from her husband for the past five years. She also testified that no maintenance arrears are due. Finally she declared that there is no reasonable prospect of reconciliation, and there has been no reconciliation in the past ten years.

**DM** testified on oath (Vide page 23) that he married KM on the 13<sup>th</sup> December 1999 and of this marriage two children were born, both of age and still studying. The marriage did not work out and the parties stopped living together in April 2015. He further testified that there are no maintenance arrears due and that there is no hope that the parties will reconcile.

**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:[...]*

**Considers:**

The Court has seen that the parties were married in England on the 13<sup>th</sup> December 1999 (Vide page18) and of this marriage two children were born, one aged twenty (20) and the other aged eighteen (18), both are still pursuing their studies.

The record 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 Francesca Cachia Zammit on the 2<sup>nd</sup> April 2019 (Vide page 3). From the testimony of the parties, it has been established that the parties have

been separated *de facto* since 2015, and therefore for a longer period than the four years required by Law.

The record shows that there are no maintenance arrears. Furthermore, the Court finds that there is no reasonable prospect of a 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**