

**CIVIL COURTS  
(FAMILY SECTION)**

**MADAM JUSTICE**

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

**Hearing of 3rd February 2021**

**Application no. : 298/2020 JPG**

**Case no. : 19**

**SA  
And  
SAH**

**The Court:**

Having seen the sworn and joint application filed by the parties, dated 7<sup>th</sup> of September 2020, at page 1 et seqq., wherein it was held:

- 1) *That the applicant married the respondent SAH, holder of identity card number X, on the twenty-eight (28<sup>th</sup>) of May of the year two thousand and fifteen (2015) at the Marriage Registry in Valletta, Malta, Marriage Certificate number one, one, four, eight of the year two thousand and fifteen (1148/2015), as can be seen from the copy of the Marriage Certificate here attached and marked Doc. 'A';*
- 2) *That the parties terminated and liquidated their community of acquests and effected their personal separation in virtue of the Separation Contract published by Notary Doctor Annalisa Caruana on the ninth (9<sup>th</sup>) of August of the year two thousand and eighteen (2018), a photocopy of the said Separation Contract is being attached and marked as Doc. 'B'.*
- 3) *That the applicant had renounced to her respective right to claim and/or receive maintenance and assistance from her husband and that the respondent had renounced to his respective right to claim and/or receive*

*maintenance and assistance from his wife;*

- 4) *That no children were born from the said marriage;*
- 5) *That the applicant discussed with her legal consultant, here undersigned, the possibility of reconciliation of the said marriage and concluded that there is no reasonable prospect of reconciliation;*
- 6) *That the parties have been de facto separated from the seventh (7<sup>th</sup>) July of the year two thousand and sixteen (2016), today more than four (4) years have passed from the date of the de facto separation of the parties;*
- 7) *That in view of the above, the parties have all the criteria required at law for the dissolution of the said marriage and the divorce of the parties.*

*Therefore, the applicant SA humbly requests this Honourable Court to:*

- a) *Declare the said marriage as dissolved and subsequently pronounces that the parties are divorced for all the effects and purposes at Law, and*
- b) *Orders the Registrar of Courts so that in the time permitted by this Honourable Court, informs the Director of the Public Registry with the divorce of the parties in order to register it according to the Law in the Public Registry.*

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

Having seen that Defendant wished to be legally represented by the same Lawyer as the Applicant, therefore, the parties requested a correction in the application, so as to read 'joint application' instead of 'application'. The Court acceded to the request. (vide fol 17, sitting dated 1<sup>st</sup> of December 2020);

Having heard all 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:**

SA testified (vide page 19) that she married SAH on the 28<sup>th</sup> of May 2015 and that from this marriage no children were born. She stated that although they got married in May, they started living together from the 1st of August 2015, and that throughout that year they quarrelled and lived apart three times. On the 6th July they officially separated and that from that date onwards there was no reconciliation between the parties and there is no reasonable prospect of reconciliation. Moreover, she testified that there are no maintenance arrears.

SAH gave evidence on oath (vide page 21) and corroborated and confirmed the testimony given by SA.

**Deliberates:**

According to Law, it is confirmed in Articles 66A and 66B of Chapter 16 of laws of Malta:

*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 at The Marriage Registry, Valletta Malta on the 28<sup>th</sup> of May 2015 (certificate marriage number 1148/2015, vide Doc A, page 6) and no children were born of this marriage;

The record shows that the marriage broke down and the parties separated de facto on the 7<sup>th</sup> of July 2016 but obtained a personal separation by means of a public deed in the acts of Notary Doctor Annalisa Caruana dated the 9<sup>th</sup> of August 2018 (vide Dok B, page 3). Therefore, it is established that the parties have lived separately for more than four years.

The record shows that that there are no maintenance arrears.

Furthermore, the Court finds that there is no reasonable prospect of a reconciliation between the parties

**For these reasons, the Court pronounces the dissolution of the marriage (certificate number 1148/2015) 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.**

**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**