



**CIVIL COURT  
(FAMILY SECTION)**

**MR. JUSTICE MR. ANTHONY G. VELLA**

**Sitting of Thursday, 25th February 2021**

**Application number : 18/2017 AGV ;**

**ABC**

**Vs**

**DC**

The Court;

**Having seen the application ABC, dated 8<sup>th</sup> May 2019 respectfully submits;**

- 1. That the parties married on the 1<sup>st</sup> June 2012 from which marriage they had one child EC;**
- 2. That the community of acquests is the matrimonial regime regulating their marriage;**
- 3. That the parties have been leaving separately from one another since March 2016;**

4. That this means that the spouses could incur debts which would be chargeable to the community of acquests thus the applicant should not be exposed to any of such risks or consequences;
5. That the termination of the community of acquests should be beneficial to both parties since it will not only avoid the possibility of any of the parties incurring debits attributable to the community, but the parties would also acquire the right to do all the acts of civil and commercial life without the need of the other party' s consent , assistance or any Court intervention ;
6. That there were also warrants in place to safeguard the parties' share of the community of acquests, particularly the garnishee orders number 83/2016 and 76/2016;
7. That this application, is being made in terms of article 55 (1) of the Civil Code and the applicant holds that this will not create any disproportionate prejudice against the defendant;

**That of these reasons, the applicant requests this Honourable Court to;**

1. Order the cessation of the community of acquests between the parties in terms of article 55 (1) of the Civil Code;
2. Consequently authorise the applicant to register the judgement given by this Honorable Court, in the Public Registry.

**The Court having seen the reply of DC, dated 22<sup>nd</sup> May 2019 humbly submits;**

1. It results from the records of the suit that the parties married on the 1<sup>st</sup> June 2012 in Italy, and that for some time after they resides together in the Isle of Man, where they own property;

2. That respondent is English, and the applicant is French. The parties have lived in Malta since July 2014 and separated in March 2016;
3. It is unclear from the records to date,
  - a. What assets parties acquired or what liabilities they contracted since July 2014;
  - b. What assets parties acquired or what liabilities they contracted between the date of marriage and their setting in Malta;
  - c. What property parties held in common prior to their marriage and or what reciprocal claims they possesses prior to their marriage.
4. Respondent respectfully submits that the absence of any form of evidence on these topics, would constitute in itself, a serious prejudice arising from the cessation of the community since the community of acquests would be being terminated in any environment where either party could claim to have acquired assets or contracted debits before the commencement or after the cessation of the community of acquests as would best suit the party making such allegations.
5. Under the circumstance the respondent respectfully states that the Court causes parties to state all assets, in which the parties, or either of them possesses any interest, and supply such documents as are available, by sworn note to be filed by each such party, within such time as is ordered by the Court, here upon the Court, could proceed to accept the demand made by plaintiff, in her said application.

Having heard the submissions made by the parties.

Having seen the acts of the proceedings.

**CONSIDERS;**

By means of this application, plaintiff is requesting that the regime of the community of acquests between the parties is declared terminated. Such an order may be requested by either party in separation proceedings even during the hearing of the case. The effects of such an order are simply that, from the date of the judgment *in parte* ordering the cessation of the community of acquests, the parties are free to acquire immovable property in their own name, without this forming part of the community, where both parties share equal rights. Such an order would be without prejudice to the property already forming part of the community of acquests. The order of termination does not alter the content or the nature of the community. That property would be divided and assigned upon the case being decided in the final judgment.

In this case, defendant did not object to the request made by plaintiff but stated that the parties should file a joint note in the acts of the proceedings to list their immovable property. Such note was in fact filed jointly by them in these acts, as a result of which the Court may order the termination of the regime of community of acquests between them.

**DECIDE:**

The Court;

Upholds the request.

1. Orders the cessation of the community of acquests between the parties in terms of article 55 (1) of the Civil Code;
2. Authorises the applicant to register the judgement given by this Court in the Public Registry.

Without costs.

**Anthony J Vella**

**Judge**

**Concetta Gauci**

**Deputy Registrar**