

**CIVIL COURTS
(FAMILY SECTION)**

MADAM JUSTICE

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

Hearing of the 27th of October 2021

Application no. : 258/2021 JPG

Case no. : 23

RV

Vs

TMV

The Court:

Having seen the sworn application filed by RV, dated 21st of June 2021 at page 1 et seqq., wherein it stated:

That the two parties wed on the tenth (10) of July of the year two thousand and four (2004) in St George's Chapel, B'Bugia as shown by the marriage certificate attached hereto and marked as Doc 'A'.

That from the parties' relationship two children were born, namely MEV on X, who today has reached the age of majority, and KSV on Y who is still a minor;

That the parties have been legally separated by a contract drafted by Notary Dr. James Grech as of the first (1) of June of the year two thousand and sixteen (2016), a copy of the separation contract is hereby annexed and marked as Doc 'B';

That there is no reasonable prospect for reconciliation between the parties given that apart from being separated for more than four years, today they have a totally separate and independent life from each other;

That they have no common assets between them;

That the parties have no maintenance allowances due to each other;

That regarding child maintenance, RV is paying monthly maintenance in favour of the minor child. MEV is not due given that today he is of legal age;

That these above mentioned facts satisfy all the necessary conditions for obtaining the divorce according to Article 66B of the Civil Code, Chapter 16 of the Laws of Malta;

Accordingly, in view of the foregoing, the applicant humbly requests that the Honourable Court should:

- 1. Pronounce the divorce, that is, the dissolution of marriage between the parties;*
- 2. Order the Registrar of Courts to, within the time allowed for this by the same Honourable Court, notify the Director of the Public Registry of the dissolution of the marriage of the parties so that he may take all necessary steps for the divorce to be registered in the Public Registry, in terms of Article 66A (4) of the Civil Code [Chapter 16 of the Laws of Malta].*

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

Having seen the reply filed by TMV, dated 3rd of August 2021, wherein it stated:

- 1. That preliminary the respondent declares that she does not speak and does not understand the Maltese language, and hence requests that these proceedings are converted into the English language in such manner that the eventual divorce judgments is delivered in English. In this regard, the respondent is also presenting a translation into English of this reply and all other acts requested by this Honourable Court in its decree of the 30th June 2021, are being presented in Maltese together with a translation into English;*

2. *That the respondent declares that she agrees with all the premises contained in the divorce application as submitted by the applicant;*
3. *That thus the respondent declares that she has no objection for this Honourable Court to proceed to accede to the applicant's demands and to consequently pronounce the dissolution of the marriage by virtue of a divorce, provided that the parties shall bear their own costs in the proceedings.*

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:

TMV testified (vide affidavit Dok TV) that she married Plaintiff on the 10th of July 2004 and that from this marriage two children were born. This marriage was not a successful one and the parties signed a contract of consensual separation on the 1st of June 2016 before Notary Dr. James Grech. She also testified that from the date of the separation there was no reconciliation between the parties and that there is no reasonable prospect of reconciliation. Moreover, she testified that there are no maintenance arrears.

RV gave evidence on oath (vide affidavit Dok RV3) and corroborated and confirmed the testimony given by **TMV**.

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 on the 10 of July 2004 (vide Dok A, which certificate bears the number 1275/2004) and that two children were born from this marriage.

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 Dr James Grech dated 1st of June 2016 (vide Dok B). Therefore, it is established that the parties have been separated for a period in excess of the four years required by law.

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 (marriage certificate number 1275/2004) 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 in the time prescribed by law.

The expenses of these proceedings are to be borne by the Plaintiff.

Read.

Mdm. Justice Jacqueline Padovani Grima LL.D. LL.M. (IMLI)

**Lorraine Dalli
Deputy Registrar**