

**CIVIL COURTS  
(FAMILY SECTION)**

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

**Hearing of Monday 7th December 2021**

**Application no. : 422/2021JPG**

**Case no. : 28**

**CM**

**Vs**

**DT**

**The Court:**

Having seen the Application filed by CM, dated 17th September 2021, at page 1 (translation at page 2), wherein it was held:

1. *That the applicant married DT on the 21st September 2015 at the Marriage Registry in Valletta;*
2. *That the parties legally separated by means of a contract in acts of Notary Doctor Maria Micallef on the 15th December 2017, attached and marked as Dok A;*
3. *That according to the said contract, the parties renounced to their right to ask for maintenance from one another;*
4. *That there are no reasonable prospects of reconciliation; more so since presently both parties lead separate lives, as may be attested through the attached affidavit marked as Dok B;*
5. *That the above-mentioned facts satisfy the conditions required at law for the pronouncement of a divorce decree in accordance with Article 66B of Chapter 16 of the Laws of Malta;*

***THEREFORE***, the applicant humbly requests that this Honourable Court:

- (i) Pronounces the divorce between the parties in terms of Article 66B of Chapter 16 of the Laws of Malta;*
- (ii) Orders the Court's Registrar to notify the Director of the Public Registry with the divorce decree and the latter to register such decree within a time limit this honourable Court so decides to set;*

*And this under any other provision which the same honourable Courts deems fit and proper.*

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 filed by DT, dated 20th October 2021, at page 33 (translation at page 41), wherein it was held:

- 1. That the applicant, CM filed requests before this Honourable Court in order to pronounce the dissolution of the marriage between the parties and to consequently order the registration of the same in the Public Registry;*
- 2. That the respondent, DT submits that the claims should be accepted by this Honourable Court, on the basis of the fact that the requirements set out in Article 66B of the Civil Code (Chapter 16 of the Laws of Malta) are satisfied;*
- 3. That the respondent, DT, married the applicant CM on the twenty-first (21) of September of the year two thousand and fifteen (2015), as it appears from the Act of Marriage, herewith annexed and marked as Dok A;*
- 4. That the parties agreed to separate and they contracted their personal separation in the acts of Notary Maria Micallef on the fifteenth (15) of December of the two thousand and seventeen (2017), herewith annexed and marked as Doc B;*
- 5. That the parties agreed to waive their right to claim maintenance from the other party;*

*6. That there is no reasonable prospect of reconciliation between the spouses and this is clearly shown by the affidavit of DT, herewith annexed and marked as Do C;*

*According, for the reasons set out above, defendant agrees with the pleas as brought forward in the initial application in their entirety.*

*That is all that defendant has to submit for the wise judgement of this Honourable Court.*

Having seen the evidence given by means of sworn 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:**

CM testified (vide affidavit at page 12) that the parties were married on the 21<sup>st</sup> September 2015, and from this marriage no children were born. She stated that this marriage broke down and they separated by virtue of a contract in the records of Notary Dr Maria Micallef dated 15<sup>th</sup> December 2017 and the parties have been living completely separate lives since. She declared that there is no prospect for reconciliation with her husband. Moreover, she declared that there are no pending maintenance arrears due between them.

DT testified (vide affidavit at page 40) and corroborated with all evidence given by his wife.

**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.*

*(omisis)*

*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) upon a demand made jointly by the two spouses, 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 6 months out of the preceding year: Provided that when the demand is made by one of the spouses against the other spouse, 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 one year out of the preceding two years; or*
- (b) on the date of commencement of the divorce proceedings, the spouses are separated by means of a contract or court judgment; and*
- (c) there is no reasonable prospect of reconciliation between the spouses; and*
- (d) 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: Provided further that for purposes of this paragraph, maintenance ordered by the court by a judgement of separation or agreed to between the spouses in a contract of separation, shall be deemed to be adequate maintenance:*

*Provided further that a divorce pronounced between spouses who were separated by a contract or by a judgement shall not bring about any change in what was ordered or agreed to between them, except for the effects of divorce resulting from the law.*

**Considers:**

The Court has seen that the parties were married on the 21<sup>st</sup> September 2015, (vide Doc CS 1, page 21) and no 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 Dr Maria Micallef dated the 15<sup>th</sup> December 2017 (vide Dok A, page 3 et seqq). Therefore, it is established that the parties have been separated in excess of the timeframe required by law.

The record shows that that there are no pending 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 between the parties by divorce, with Marriage Certificate Number 2948/2015 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.**

**Senza Tassa.**

**Read.**

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

**Christabelle Cassar  
Deputy Registrar**