

**CIVIL COURTS
(FAMILY SECTION)**

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

Hearing of the 18th of January 2022

Application no. : 517/2021 JPG

Case no. : 12

**Dr Ludvic Caruana (ID
91570M) as a special
mandatory of the absent VF**

And

CF

Vs

X

The Court:

Having seen the joint application filed by the parties dated 29th of October 2021, at page 1 (translation at page 3), wherein it was held:

- 1. That the parties nominated the undersigned advocates as their special mandatory, by means of a special power of attorney, hereby attached and marked as Doc A.*
- 2. That the parties contracted their marriage on the 3rd day of August of the year 1997 at the Public Registry of Malta, as it results from their marriage certificate hereby attached and marked as Doc B.*
- 3. That from this marriage three children were born by the name of NF, who is now an adult and ThF and TaF who are still minors.*

4. *That the parties separated legally by means of a public deed of the 29th day of March of the year 2021 as it results from the deed of personal separation in the acts of Notary Doctor Ritiene Bugeja Fenech, hereby attached and marked as Doc C.*
5. *That there is no prospect for reconciliation.*
6. *That the parties are not obliged to maintain each other and the maintenance for the children is paid regularly as per clause number six (6) of the separation contract.*
7. *That the above-mentioned facts satisfy all the conditions required to achieve divorce in accordance with Article 66B of the Civil Code, Chap 16 of the Laws of Malta.*
8. *That the parties are hereby presenting two affidavits marked as Doc D and Doc E.*

Therefore, in view of this, the parties respectfully plead with this Honourable Court to:

1. *Pronounce the dissolution of marriage between them;*
2. *Order that the Court Registrar, in the period prescribed by this same Court, inform the Director of the Public Registry with the dissolution of the marriage between the parties in order for it to be recorded in the Public Registry of Malta.*

Having seen that sworn application, all the documents exhibited together with this Court's decree have been duly notified;

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:

VF testified (vide affidavit Dok D, at page 16) that the parties were married on the 3rd of August 1997 and from this marriage, three children were born. That the parties were legally separated by virtue of a public deed in the acts of Notary Doctor Ritienne Bugeja Fenech on the 29th of March 2021. Furthermore, he stated that there is no prospect of reconciliation and that there are no arrears regarding maintenance.

CF testified (vide affidavit fol 17) and confirmed her husband's testimony.

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 at on the 3rd of August 1997 (Maltese certificate marriage number 1320/1997, vide Doc B, page 6) and that from this marriage three children were born, one of whom has reached the age of majority and two children who are still minors;

The record shows that the marriage broke down and the parties separated by means of a public deed in the acts of Notary Doctor Ritienne Bugeja Fenech dated the 29th of March 2021 (vide Doc C, page 7 et seqq). Therefore, it is established that the parties have been separated for a period of time in excess of that 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 (certificate number 1320/1997) 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 Court orders that the costs shall be equally divided between the parties.

Read.

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

Christabelle Cassar

Deputy Registrar