

**CIVIL COURTS
(FAMILY SECTION)**

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

Hearing of 17th of January 2021*

Application no.: 180/2021

Case no.: 23

BF

Vs

AA

The Court:

Having seen the sworn Application filed by BF, dated 7th of July 2021, at page 1 (translation at page 5), wherein it was held:

- 1. That the parties got married on the twenty eighth (28th) day of March of the year two thousand and fifteen (2015), copy of the marriage certificate here annexed and marked as Dok BF1, and from this marriage the parties did not have any children.*
- 2. That the parties have been legally separated by means of a contract drafted by the Notary Jean Carl Debono on the thirty first (31st) day of January two thousand and eighteen (2018), a legal copy here annexed and marked as Dok BF2.*
- 3. That there is no reasonable prospect for reconciliation between the parties since they have been separated for three years and that today they live a totally separate life from each other.*

4. *That the parties in the same contract of the 31st of January 2018 reciprocally renounced to their right to receive or ask for maintenance from each other.*
5. *That these facts above indicated satisfy all the necessary conditions for the granting of a divorce according to Article 66B of Chapter 16 of the Laws of Malta as amended by Act XXV of 2021.*

Therefore, and for the reasons above-indicated, the applicant is requesting this Honourable Court:

1. *Pronounce the dissolution of marriage between the parties which was celebrated on the twenty eighth (28th) day of March of the year two thousand and fifteen (2015).*
2. *Order the Registrar of the Court to within the time allowed for by the same Court, to advise the Director of the Public Registry with the divorce of the parties in order for it to be registered with the Public Registry;*

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 AA dated 31st of August 2021, at page 23 et seq., wherein it was stated that:

The applicant was served with the sworn application filed by plaintiff, together with her statement and the documents exhibited where she essentially requested that this Honourable Court pronounce the parties divorced.

That the applicant for all intents and purposes of law confirms the content of the documents presented by the same applicant, the documents and the statement made by her, and consequently declares that he has no objection to the requests.

That finally the applicant should not be ordered to pay any of the costs in connection with this pronounce.

Having heard 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:

Plaintiff BF testified by means of an affidavit (*vide affidavit at page 15*), and held that she married Defendant on the 28th of March 2015 and has been separated for the last three years. She added that no children were born from this marriage and that the parties had reciprocally renounced to their right to receive maintenance from each other. Plaintiff declares that there is no reasonable prospect of a reconciliation with the Defendant.

Defendant AA testified *viva voce* before this Court on the 18th of November 2021 and confirmed that he married Plaintiff on the 28th of March 2015 in Malta. Defendant confirmed the marriage certificate exhibited in the acts of the case and that the parties separated by means of a contract of separation dated 21st January 2018 (Vide Fol 10) of the of the acts of the case. Defendant confirms that there was no reconciliation between him and his wife and that there is no prospect for such reconciliation to take place. Moreover, no children were born from this marriage. Defendant also testified that there are no maintenance arrears and that he has no objection to the divorce.

Considers:

According to Law, it is confirmed in Articles 66A and 66B of Chapter 16 of the 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.

Deliberates:

The Court has seen that the parties contracted their marriage on the 28th of March 2015, (*vide* Doc BF1, page 8-9) and that no children were born from this marriage.

From the acts of the case it transpires that the parties' marriage broke down and they regulated

their personal separation by means of a public deed in the acts of Notary Doctor Jean Carl Debono dated 31st January 2018 (*vide* Dok BF2, page 10 *et seqq*). The Court observes that as indicated by the parties' in their respective testimonies, the parties are now leading separate lives and have renounced to their right to receive maintenance from each another.

Therefore, it is established that the parties have been separated in accordance with the time frame required by law.

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 500/2015 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)

**Lorraine Dalli
Deputy Registrar**

*And by virtue of decree dated 4th March 2022, the date of the judgment shall read 'the 17th January 2022'.

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

**Lorraine Dalli
Deputy Registrar**