

**CIVIL COURTS
(FAMILY SECTION)**

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

Hearing of the 6th July 2022

Application no.: 159/2022 JPG

Case no.: 22

**LA
Vs
CA**

The Court:

Having seen the sworn Application filed by LA, dated 21st of March 2022, at page1, wherein it was held:

That the parties married on the twenty fourth (24th) June two thousand and five (2005) (See Dok A- certificate of marriage). From this marriage they had two children who are still minors: - SA, born on X, and EA born on Y.

That the parties have been legally separated with a separation contract read by and enrolled on the act of Notary Rachel Busuttill on the 28th April 2021 (See Dok B)

That there is no reasonable expectations of a reconciliation between the parties due to the fact that the parties have been separated for three years and that they today have totally separate lives from each other. In fact the Plaintiff lives in Malta and the Defendant lives in Qatar. They have also formed different relationships with third parties.

That the maintenance due is being paid and over and above the parties have renounced irrevocably and indefinitely to receive maintenance from each other and any right to demand or receive maintenance from each other in accordance with the separation contract (See clause 2 Dok B)

That these facts all satisfy the conditions required for the attainment of divorce according to article 66B of chapter 16 of the laws of Malta;

Therefore the plaintiff humbly requests that this Honourable Court:

- 1. Pronounce the dissolution of the marriage that was celebrated on the 24 June 2005 between the parties;*
- 2. Orders the Registrar of Courts, in a time frame given by the same Court, to inform the Director of Public Registry of the Dissolution of the marriage so that this may be registered in the Public Registry.*

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

Having heard the evidence on oath;

Having seen that Defendant appeared unassisted during the sitting scheduled for hearing and that the Court informed him of his legal rights and he answered that he does not require legal assistance and that he does not object to the divorce;

Having seen that the parties declared seduta stante that they have no further evidence to produce or final submissions to make and invited the Court to proceed to judgment; (vide fol 23)

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 testified by means of an affidavit (*vide affidavit at page 4*), and held that she married

Defendant on the 24th of June 2005 and has been separated de facto as from September 2018. She added that two children were born from this marriage who are minors. She stated that there are no maintenance arrears 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 testified (vide fol 25 et seqq) and confirmed and corroborated Plaintiff's evidence.

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 24th of June 2005, bearing marriage certificate number 984/2005 (*vide* Doc page 18) and that two children were born from this marriage, who are still minors.

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 Rachel Busuttill dated 28th of April 2021 (*vide* Dok A, page 5 *et seqq*). The Court observes that as indicated by the parties' in their respective testimonies, the parties are now leading separate lives and had renounced to their right to receive maintenance from each another, whilst the maintenance due to the children was regularly paid.

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, which marriage bears the Certificate Number 984/2005 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**