

**CIVIL COURTS
(FAMILY SECTION)**

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

Hearing of the 7th July 2022

Application no.: 514/2021 JPG

Case no.: 24

**DP
Vs
MS**

The Court:

Having seen the sworn Application filed by DP dated 29th October 2021, at page 1 (translated copy at page 36), wherein it was held:

- 1. That the parties married each other on the twenty-second (22) day of August of the year two thousand and seven (2007) in M;*
- 2. That from this marriage they had one child CS who is a minor and who was born on X;*
- 3. That the parties have been separated for more than two years. In fact, they are separated by virtue of a separation contract made in the deeds of Notary Valerie Said on the tenth (10) of June of the year two thousand and nineteen (2019), a copy of which is being annexed as Document 'A'. this contract was made after it was authorised by the First Hall Civil Court, Family Section, by decree of the twenty-fifth (25) of May of the year two thousand and nineteen (2019);*
- 4. That the applicant wishes for the parties' divorce to be granted;*

Therefore, the applicant DP humbly requests this Honourable Court to:

- 1. To declare the dissolution of the said marriage between the parties by means of a divorce.*
- 2. To order the Registrar of Courts to notify the Director of the Public Registry, within the time period allotted to him by this Honourable Court, to register the divorce 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 is not objecting to the divorce;

Having seen that Defendant gave evidence on oath assisted by a duly sworn interpreter;

Having seen that the parties declare *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 (*vide page 40*) that she married Defendant on the 22nd of August 2007 and that a child was born from this marriage who is still a minor. She testified that this marriage broke down and that the parties separated by virtue of separation contract in the acts of Notary Dr Valerie Said on the 10th of June 2019. 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 42 et seqq) and confirmed and collaborated 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 22nd of August 2007, bearing M marriage certificate number 23 P.II S.C/2007 (*vide* Doc DP1 at page 20) and a child was born from this marriage who is still a minor.

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 Valerie Said dated 10th of June 2019 (*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 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 M Marriage Certificate Number 23 P.II S.C/2007 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 noted in the Public Registry.

Senza Tassa.

Read.

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

Lorraine Dalli

Dep Reg