

**CIVIL COURTS
(FAMILY SECTION)**

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

Hearing of the 31st of October 2022

Application no.: 301/2022 JPG

Case no.: 20

**JA
And
LJ**

The Court:

Having seen the sworn joint Application filed by JA and LJ dated 27th May 2022, at page 1, wherein it was held:

- 1. That parties married on the eleventh (11) of June of the year two thousand and eleven (2011) as results from a copy of the marriage certificate, herewith attached, exhibited and marked as Dok. JA1, and from this marriage there was no offspring.*
- 2. That parties separated from one another by means of a contract of separation in the Acts of Notary Dr Peter Fleri Soler dated the twenty second (22) of March of the year two thousand and eighteen (2018), as results from a true copy of the contract herewith attached, exhibited and marked as Dok. JA2.*
- 3. That through marriage, LJ took her husband surname, A, and reverted to her maiden surname, J by means of the contract separation.*
- 4. That, as results from same contract of separation, parties have renounced to pay*

maintenance to one another. Consequently, there are no pending issues regarding maintenance between parties.

5. *That parties agree that there is no hope for reconciliation between them.*
6. *That, hence the conditions considered in Article 66B of Chapter 16 of the Laws of Malta are satisfied in view of the fact that parties are separated by means of a contract of separation, there is no need for there to be any mediation between them.*
7. *That parties confirm all this under oath by means of an affidavit drawn up in the English language, in which they feel more comfortable and conversant, and which are herewith attached exhibited and marked as Dok JA3 and JA4.*

Hence, parties respectfully demand that this Honourable Court, if it so pleases:

- a) *To pronounce the dissolution of the marriage existing between parties;*
- b) *To order the Registrar, Civil Courts and Tribunals, so that he gives formal notice to the Director of the Public Registry of the parties' divorce so that it can be duly registered in the public Registry, within a timeframe to be determined by this same Honourable Court.*

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

Having seen that the parties declared on the 1st of August 2022 that they had no further evidence to proffer or submissions to make and invited the Court to proceed to judgment (vide fol 14);

Having examined the evidence on oath;

Having seen the note filed by Plaintiff dated 26th of May 2022;

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:

JA testified by means of an affidavit (*vide affidavit at page 8*), and stated that the parties got married on the 11th June 2011, and that no children were born from this marriage. He added that the parties separated by virtue of a separation contract in the acts on Notary Peter Fleri Soler dated the 22nd of March 2018. Furthermore, he declared that there is no reasonable prospect of a reconciliation with the Defendant and that there are no pending maintenance issues.

LJ testified (*vide affidavit at page 9*) 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 11th June 2011, which marriage bears the certificate number 50/2011 (*vide* marriage certificate at page 5), 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 Peter Fleri-Soler dated 22nd March 2018 (*vide* contract of separation at page 6 *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.

The Court notes 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 Marriage Certificate Number 50/2011 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**