

**CIVIL COURTS
(FAMILY SECTION)**

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

Hearing of the 17th of October 2022*

Application no.: 380/2022 JPG

Case no.: 22

**NL
And
MC**

The Court:

Having seen the sworn application filed by NA and MC dated 14th of July 2022, at page 1, wherein it was held:

- 1. Parties got married on the 2nd October of year two thousand and eight (2/10/2008), Marriage Certificate is hereby attached, animo ritirandi.*
- 2. The parties contracted a consensual separation in the acts of Notary, Dr Patrizia Mallia on the 13th May of the year two thousand and twenty two, (13/5/2022)m a copy hereby attached.*
- 3. The parties have not lived together for the last years, they never reconciled and the wife has been residing in Malta since the year two thousand and nineteen (2019).*
- 4. There is no possibility of reconciliation between the parties.*
- 5. There are no arrears of maintenance since the parties had renounced to the*

right to ask for maintenance, and no children were born from this marriage.

Thus for the above mentioned reasons, the parties humbly ask the Honourable Court to:

- 1. Declare the marriage between the parties on the 2nd October 2008 is dissolved according to article 66A of Chapter 16 of the Laws of Malta.*
- 2. To order the Registrar of Courts to direct the Director of Public Registry to annotate 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 examined 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:

NA testified by means of an affidavit (*vide affidavit at page 3*), and held that parties got married on the 2nd of October 2008 in Hollywood, Florida, United States of America and that from this marriage no children were born. She added that the parties separated by virtue of a separation contract in the acts on Notary Dr Patrizia Mallia dated the 13th of May 2022. She stated that the parties have been living separately for the last three years. Furthermore, she declared that there is no reasonable prospect of a reconciliation. Regarding maintenance, she declared that there are no pending maintenance issues.

MC testified (*vide affidavit fol 10*) and confirmed and corroborated his wife'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 2nd of October 2008, bearing marriage certificate number 2008-128273 (*vide* marriage certificate at page 4) 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 Dr Patrizia Mallia dated 13th of May 2022 (*vide* contract of separation at page 5 *et seqq*). The Court observes that as indicated by the parties' in their respective testimonies, the parties have been living separately for the last three years. Furthermore, the parties 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, which marriage bears the Certificate Number 2008-128273 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.

The Court orders that costs shall be equally divided between the parties.

Read.

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

**Lorraine Dalli
Deputy Registrar**

***And by virtue of the decree dated 26th of July 2023, the date of the judgment shall read the 7th of November 2022 instead of 17th of October 2022.**

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

**Lorraine Dalli
Deputy Registrar**