

**CIVIL COURTS
(FAMILY SECTION)**

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

Hearing of the 9th November 2022

Application no.: 342/2022

Case no.: 22

**DM
And
IB**

The Court:

Having seen the sworn joint application filed by DM and IB, dated the 21st of June 2022, at page 1 (translation at page 5), wherein it was held:

- 1. That the parties got married on the 11th March 2011 in the Public Registry Valletta as can be seen from the attached document marked as Doc A;*
- 2. That the parties do not have any children between them;*
- 3. That the parties obtained personal separation by virtue of a contract of separation dated 30th August 2018 in the acts of Notary Patricia Vella Haber, copy of which is being attached and marked as Doc. B;*
- 4. That there is no reasonable prospect of reconciliation between the parties since not only have been separated for more than six (6) months but they lead totally separate lives, independent from one another;*
- 5. That there are no pendencies relating to the payment of maintenance from one party to another and this owing to the fact that the parties have renounced*

reciprocally to the right of obtaining the payment of maintenance as can be seen from clause three (3) in the contract of separation.

6. *That these facts satisfy the conditions and criteria laid down in relative civil acts of the Republic Registry in terms of Article 66B Chapter 16 of the Laws of Malta in order for the Parties to obtain divorce.*

Therefore, the applicant respectfully asks this Honourable Court to:

1. *Pronounce the divorce, and therefore the dissolution of marriage between the parties;*
2. *Order the Court Registrar so that within a short and peremptory time as established by this Honourable Court, to warn the Director of the Republic Registry with the dissolution of the marriage of the parties, so that the relevant registrations and annotations are done in the relative civil acts of the Public Registry in terms of Article 66A(4) Chapter 16 of the Laws of Malta.*

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 the exhibited documents and all the case acts;

Having seen the Articles 66A, 66B u 66C of Chapter 16 of Laws of Malta;

Considers:

DM testified by means of an affidavit (*vide affidavit at page 7*), that after marriage, the parties separated four years ago. That no children were born from this marriage. Furthermore, she declared that both parties do not pay any maintenance to one another, since they renounced to such right in their contract of separation

IB testified by means of an affidavit (*vide fol 15*) and confirmed and corroborated his wife's testimony.

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 March 2011, which marriage bears certificate number 155/11 (vide fol 13) 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 Patricia Vella Haber dated 30th of August 2018 (*vide* 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 one 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 155/11 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)

Christabelle Cassar

Deputy Registrar