



CIVIL COURT – FAMILY SECTION

Madam Justice

**Onor. Abigail Lofaro LL.D., Dip. Stud. Rel. Mag. Jur.
(Eur. Law)**

Today, 23rd November 2022

Application Number : 447/2022 AL

A B

-vs-

C D B

(M.R. number 156/2010)

The Court,

Having seen the application filed applicant by virtue of which applicant premised:

That the parties contracted marriage on the tenth (10th) day of April of the year two thousand and ten (2010), which marriage was duly registered in the Public Registry of Malta, as per attached marriage certificate which is hereby being exhibited and marked as **Doc. 'A'**.

That from this marriage the parties have two children, namely E and F, who are both still minors.

That the parties have been legally separated since the twenty-first (21st) day of June of the year two thousand and twenty-two (2022), in terms of the deed of separation in the acts of Notary Clinton Bellizzi, an authenticated copy of which is hereby being attached, exhibited, and marked as **Doc. 'B'**.

That there is no reasonable prospect of reconciliation since, besides being legally separated, the parties have also been separated *de facto* since the first (1st) of May of the year two thousand and twenty-one (2021), as confirmed in clause (iii) of the said deed of separation and are leading totally separate lives.

That additionally there is no issue between the parties regarding any payment of maintenance, since in terms of clause five (5) of the said deed, they have renounced to their respective right to claim maintenance from each other.

That there is also no issue either in relation to the maintenance payable for the minor children since this is being paid regularly, in terms of article nine (9) of the said deed of separation.

That the applicant is hereby attaching his affidavit, which is hereby being attached and marked as **Doc. 'C'**.

That the facts above-mentioned satisfy all the conditions required for the attainment of a divorce in terms of Article 66B of the Civil Code, Chapter 16 of the Laws of Malta.

Consequently, the applicant humbly asks this Honourable Court to:
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- (1) Pronounce the dissolution of the marriage (divorce) between the parties;
- (2) Order the Registrar of Courts to, within the time-frame stipulated for such purpose, advise the Director of the Public Registry of the dissolution of the marriage (divorce) of the parties so that this will be registered in the Public Registry.

And this under such dispositions that this Honourable Court may deem fit and opportune.

Having seen the documents filed with the application;

Having seen applicant's affidavit;

Having seen its decree of the 12th September 2022;

Having seen the reply filed by respondent whereby she objected to the divorce on the grounds that in the exhibited contract of separation signed by the parties and duly published according to law there is a flaw and said contract cannot be used in these proceedings or be corrected;

Respondent further stated that she will not give her consent so that any corrections may be made to said contract because of applicant's behaviour towards her;

Having seen Section 66 A and B of the Civil Code, Chapter 16 of the Laws of Malta;

Having noted that, after the Court made it clear that parties need not even be legally separated so as to be granted a divorce, but it would be enough if they lived separately from each another for the time stipulated by law, Dr. Brincat at that stage and not before requested an opportunity to be given by the court so that he could contest the validity of the contract of separation;

The Court considered that the contract was signed on the 1st June 2022 and that the present application for divorce is dated 24th August 2022, however respondent took no action to institute legal proceedings to have said contract be declared null. It was only when the court mentioned that the parties need not be legally separated that respondent's lawyer raised the matter in court. He did not even do so in respondent's reply;

Therefore the Court having seen Section 66A and 66B of Chapter 16 of the Laws of Malta and having also seen all the acts of these

proceedings, considers that applicant has satisfied all the legal requirements to be granted a divorce as he has proved that parties have been *de facto* separated since 1st June, 2021;

Applicant also proved that there is no reasonable prospect that they can reconcile and that he has paid all the maintenance as agreed between the parties and this was also confirmed by respondent who testified that applicant always paid maintenance, school fees, school uniforms, books etc. on time without even waiting for respondent to ask for payment. Respondent also testified that she did not ask applicant to pay half the children's medical expenses simply because of his attitude towards her and therefore it is through no fault of applicant that said expenses might not have been paid by him;

The Court reiterates that the law stipulates that parties need not be legally separated so long as it is proved to the court that the parties have lived apart for a period of at least one year and this requirement has been amply proved.

Therefore the Court accedes to the request, declares that the marriage between the parties is dissolved and orders the Court Registrar to inform the Director of the Public Registry within ten days from today with the dissolution of the parties' marriage so that it will be registered in the Public Registry;

The Court orders that each party is to bear its own costs.

The Court reduces the term for appeal to four days.