

**CIVIL COURTS
(FAMILY SECTION)**

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

Hearing of the 10th of January 2023

Application no.: 529/2022 JPG

Case no.: 25

**SW
And
EB**

The Court:

Having seen the sworn Joint Application filed by the parties dated 5th of October 2022, at page 1, translation in English at page 48, wherein it was held:

That the parties were married on the 14th April of the year 2012 and this in accordance with the marriage certificate herewith annexed and marked 'Doc A';

That from this marriage two children were born namely MB who was born in A on the X and KB also born in A on the Y who have always received regular maintenance as per the terms and conditions of the contract indicated hereunder;

That the parties have been legally separated since the 25th May of the year 2021 by virtue of a deed published by Notary Clinton Bellizzi which is attached herewith and marked as 'Doc 'B';

That in accordance with the said contract of separation, the parties have

reciprocally renounced to any form of maintenance on from the other;

That in the contract of separation, SW, previously WB opted to revert to her maiden surname W.

That because the parties are not domiciled in Malta and do not have the intention to become domiciled in Malta, they are herewith confirming that their contract of separation and any legal arrangements therein shall remain valid, prevailing and effective between them even after their marriage is declared dissolved and that any disputes between the parties in context to such arrangements (including those regulated by virtue of Council Regulation (EU) 2016/1103 of the 24th June 2016 and Council Regulation (EC) No 4/2009 of 18 December 2008) shall be ruled by Maltese Courts;

That there is no reasonable hope for reconciliation between the parties since the parties lead separate lives from each other;

That in support of this the parties are attaching their sworn affidavits to this application which are annexed and marked as 'Doc C' and 'Doc D' respectively;

That for the above mentioned reasons the conditions and qualification of Article 66B of Chapter 16 of the Laws of Malta have been satisfied in the manner required by the Law and therefore there is no impediment which exists to decline the request for the dissolution of their marriage;

Therefore, the applicants do hereby respectfully ask this Honourable Court to:

- 1. Declare the dissolution of the parties' marriage in accordance with Article 66D of Chapter 16 of the Laws of Malta;*
- 2. Order the Registrar of the Courts to inform the Director of the Public Registry of the said divorce within the stipulated time allowed by law so that the decree of divorce will accordingly be registered in the records of the Public Registry.*

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

Having seen the note filed by both parties dated 8th November 2022 where they declared that they had no further evidence to proffer or submissions to make and invited the Court to proceed to judgment (vide page 50);

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:

SW testified (*vide affidavit page 41*), that during their marriage, the parties had two children. She added that the parties separated by virtue of a separation contract in the acts of Notary Dr Clinton Bellizzi. Furthermore she declared that there is no reasonable prospect of a reconciliation with the Defendant and that there are no pending maintenance issues.

Defendant testified (*vide affidavit Dok F at page 42*) and 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.

(omissis)

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 14th of April 2012, which marriage certificate bears the number 188/2012 (*vide* marriage certificate at page 8) and that two children were born from this marriage who are still minors.

From the acts of the case it transpires that the parties' marriage broke down and they obtained their personal separation by means of a public deed in the acts of Notary Clinton Bellizi dated 25th of May 2021 (*vide* contract of separation at page 12 *et seqq*). The Court observes that as indicated

by the parties' in their respective testimonies, the parties have been living apart for more than a year, have renounced to their right to receive maintenance from one another but that there are no issues of pending maintenance arrears.

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 188/2012 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.

Costs shall be divided equally between the parties.

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

Christabelle Cassar

Deputy Registrar