

**CIVIL COURTS
(FAMILY SECTION)**

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

Hearing of 9th March 2023

Application no. : 646/2022JPG

Case no. : 19

KA

Vs

MA

The Court:

Having seen the Application filed by KA, dated 15th December 2022, at page 1 (translation at page 11), wherein it was held:

*That the parties contracted marriage, on the third (3rd) day of August of the year two thousand and thirteen (2013), as per attached marriage certificate which is hereby being exhibited and marked as **Doc. 'A'**.*

That from this marriage the parties have a child, namely FA born on X, who is thus still a minor.

*That the parties have been legally separated since the eleventh (11th) of October of the year two thousand and twenty-two (2022), in terms of the deed of separation in the acts of Notary Andre Farrugia, an authenticated copy of which is hereby being attached, exhibited, and marked as **Doc. 'B'**.*

That there is no reasonable prospect of reconciliation since, apart from being legally separated, the parties have also been separated de facto since the twelfth (12th) of May of the year two thousand and nineteen (2019) as confirmed in the parties' deed of separation, and additionally the parties are leading totally independent lives.

That additionally there is no issue between the parties regarding any payment of maintenance between the spouses, since in terms of clause four (4) 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 child since this is being paid in terms of article 9(a) of the deed of separation, signed between the parties.

*That the applicant is hereby attaching her affidavit, which are 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 applicants humbly ask this Honourable Court to: -

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

Having seen that Defendant appeared unassisted and after the Court explained his legal rights Matthew Attard replied that he did not require legal assistance and he was not objecting to the divorce (Vide Fol 17.)

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:

Plaintiff testified (vide affidavit at page 13) that the parties got married on the 3rd August 2013, and from this marriage they had one child who is still minor. She stated that this marriage broke down and they separated by virtue of a contract of personal separation dated 11th October 2022 in the acts of Notary Andre Farrugia. They have been living completely separate lives since the 12th of May 2019. She declared that there is no prospect for reconciliation with her husband. Moreover, she stated that there are no issues to any maintenance since they have both renounced to their right to claim maintenance from each other.

Defendant testified (vide Fol 18 et seq) and corroborated with all evidence given by his wife.

Deliberates:

According to Law, it is confirmed in Articles 66A and 66B of Chapter 16 of 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.

Considers:

The Court has seen that the parties were married on the 3rd August 2013, (vide page 3) which marriage bears the certificate number 1986/2013 and one child was born from this marriage who is still minor.

The record shows that the marriage broke down and the parties obtained a personal separation by means of a public deed in the acts of Notary Andre Farrugia (vide Dok B, page 4 et seqq) dated 11th October 2022, but have been living separately since 12th of May 2019. Therefore, it is established that the parties have been separated in excess of the timeframe required by law.

The record shows that that there are no pending maintenance arrears.

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 1986/2013 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**