

**CIVIL COURTS  
(FAMILY SECTION)**

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

**Hearing of 24th of May 2023**

**Application no. : 220/2023 JPG**

**Case no. : 22**

**MA  
And  
BR**

**The Court:**

Having seen the Application filed by the parties dated 18th April 2023, at page 1 (translation at page 2), wherein it was held:

*Whereas the parties contracted marriage on the seventh (7<sup>th</sup>) March of the year two thousand and eighteen (2018) at the Marriage Registry in S and subsequently registered their marriage in Malta in virtue of Marriage Certificate reference number six hundred and thirty-five of the year two thousand and eighteen (635/2018) (vide marriage certificate annexed hereto and marked as **Doc. 'MB-1'**) and from this marriage there was no issue;*

*Whereas the Parties have been legally separated for the past two (2) years and this in virtue of a deed of personal separation published in the records of Notary Dr Sylvana Borg Caruana on the nineteenth (16<sup>th</sup>) October of the year two thousand and twenty (2020);*

*Whereas, for all intents and purposes, the applicants hereby declare that this application should not have any effect/impact on the validity or the application of the obligations and clauses emanating from the above mentioned personal separation agreement;*

*Whereas there is no dispute in connection with maintenance or any arrears of maintenance due at this stage and this due to the fact that the conditions stipulated in the mentioned personal separation agreement, a copy of which is being herewith annexed and marked as **Doc. 'MB-2'**, are being honoured;*

*Whereas the applicants do not see any reasonable prospect that they can reconcile since, apart from the fact that they have been separated for the past two (2) years, they today lead a totally separate life from each other;*

*Whereas the applicant MR, wishes to revert to her maiden surname which is that of 'A' and this in line with Article 6(2) of Chapter 16 of the Laws of Malta;*

*Whereas the above facts satisfy all those conditions required for the attainment of divorce in terms of Article 66B of the Civil Code, Chapter 16 of the Laws of Malta; Whereas this application for Divorce is also being confirmed on oath by the Applicants;*

*Therefore, the Applicants humbly request that this Honourable Court :*

- 1. Declares that the marriage between the parties is dissolved and therefore pronounces the Divorce*
- 2. Orders the Court Registrar to inform the Director of the Public Registry with the dissolution of the Parties' marriage so that such is registered in the Public Registry.*

*and this under all those provisions which this Honourable Court deems to be adequate and appropriate.*

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

Having seen the exhibited documents and all the case acts;

Having seen the joint note dated 24th May 2023;

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

**Considers:**

**MA** testified (vide affidavit Vide Fol 14) that the parties were married on the 7<sup>th</sup> of March 2018 and that from this marriage no children were born. She stated that this marriage broke down and the parties separated by virtue of a contract dated 16<sup>th</sup> of October 2020 in the acts of Notary Dr Sylvana Borg Caruana. She declared that there is no prospect for reconciliation with her husband. Moreover, she affirmed that there are no maintenance arrears due.

**BR** testified (vide page 14 joint affidavit of the parties) and corroborated 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 7<sup>th</sup> March 2018 in S which marriage was also registered in Malta, (vide marriage certificate Dok MB – 4 at page 5 and page 15) which marriage bears certificate number 635/2018. No children were born from this marriage.

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 Dr Sylvana Borg Caruana (vide Dok MB, page 6 et seqq) dated 16<sup>th</sup> of October 2020. 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, which marriage bears the certificate number 635/2018 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.**

**The Court further notes that Plaintiff A had already reverted to her maiden surname in the separation contract and therefore the Court abstains from taking further cognisance of her request for reversion to her maiden surname.**

**Costs shall be divided equally between the parties.**

**Read.**

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

**Lorraine Dalli  
Deputy Registrar**