

CIVIL COURTS
(FAMILY SECTION)

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

Hearing of 25th of May 2023

Application no. : 178/2023 JPG

Case no. : 23

AZ
and
DM

The Court:

Having seen the joint Sworn Application of AZ and DM dated 29th of March 2023, at page 1 (translation at page 2), wherein it was held:

1. *THAT the parties got married on the twenty-third (23rd) day of March of the year two thousand and eighteen (2018) at the Preluna Hotel, Sliema, as evidenced in the extract of the Marriage Certificate annexed hereto and marked as 'Dok AD1';*
2. *THAT from their marriage they had no children;*
3. *THAT in virtue of a deed published in the acts of Notary Timothy Ellis LL.D. on the twenty-second (22nd) day of April of the year two thousand and twenty-one (2021), a copy of which is being annexed hereto and marked as 'Dok AD2', the parties separated amicably after being duly authorised by the Maltese Court in virtue of a decree issued by the Civil Court (Family Section) on the twenty-third*

(23rd) March of the year two thousand and twenty one (2021) ;

- 4. THAT in terms of clause number three (3) of the aforementioned deed, the parties renounced to the right to claim and receive maintenance from each other;*
- 5. THAT the conditions for the pronouncement of divorce as listed in terms of Article 66B of Chapter 16 of the Laws of Malta are satisfied because:*
 - i. The parties are legally separated from each other;*
 - ii. There is absolutely no reasonable prospect for reconciliation between the parties who, nowadays, are leading totally separate and distinct lives from each other;*
 - iii. In terms of the aforementioned separation deed, the parties have renounced to the right to claim and receive maintenance from each other;*
 - iv. From the marriage no children were born and, thus, there are no issues regarding maintenance to children;*
- 6. THAT this is also declared and confirmed by the applicants by means of Sworn Declarations annexed hereto and marked as 'Dok AD3 and 'Dok AD4' respectively;*
- 7. THAT for the purposes of Article 66N (1)(a) and (b), it is being declared that the parties have their ordinary residence in the Maltese islands and that this has been so for more than one year;*
- 8. THAT in view of the fact that the parties do not understand Maltese but understand the English language a translated copy in English of this application is being submitted so that any eventual judgement that this Honorable Court gives will be given in the English language.*

THEREFORE, in light of the above, the applicants are respectfully requesting

this Honourable Court, in terms of any declaration and/or order which it deems opportune in terms of Article 66A et. sec. of Chapter 16 of the Laws of Malta, to:

- 1. PRONOUNCE the dissolution of the marriage between the parties of the twenty-third (23rd) day of March of the year two thousand and eighteen (2018) which was celebrated at the Preluna Hotel, Sliema;*
- 2. ORDER the Registrar of Courts to notify the Director of Public Registry of the divorce and the dissolution of the marriage within the period established for this purpose by this Honourable court, so that this is duly registered in the Public Registry.*

And all this in terms of all those orders which this Honourable Court deems appropriate and opportune.

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 of the parties dated 11th of April 2023 (Vide page15);

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

Considers:

AZ testified (vide affidavit at page 11) that the parties were married on the 23rd of March 2018 and that no children were born from this marriage. He stated that this marriage broke down and the parties separated by virtue of a contract dated 22nd of April 2021 in the acts of Notary Timothy Ellis. He declared that there is no prospect for reconciliation. Moreover, he affirmed that there are no maintenance arrears due.

DM testified (vide page 12 et seq) and corroborated all evidence given by her husband.

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 23rd of March 2018, (vide page 7) which marriage bears certificate number 533/2018. 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 Timothy Ellis (vide Dok AD2, page 8 et seqq) dated 22nd of April 2021. 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 533/2018 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.

Costs shall be divided equally between the parties.

Read.

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

**Lorraine Dalli
Deputy Registrar**