

**CIVIL COURTS
(FAMILY SECTION)**

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

Hearing of the 31st May 2023

Application no.: 58/2023JPG

Case no.: 24

**SM
Vs
GG**

The Court:

Having seen the sworn Application filed by SM dated 2nd February 2023, at page 8 et seq, wherein it was held:

- 1. That the parties were married on eleventh (11th) day of March of the year two thousand and nine (2009) and this as results from the marriage certificate attached and marked 'Dok A';*
- 2. That the parties have two (2) children namely MM born on X and AM on Y and this as results from the birth certificates attached and marked 'Dok B' and 'Dok C';*
- 3. That the parties have been living apart since January of the year two thousand and twenty one (2021) which means that the parties have been living apart for almost two (2) years and they have also separated by means of a personal*

separation deed published in the acts of Notary Dr Ritiene Bugeja Fenech on the 4th November 2022 and authenticated copy of which is hereto attached and marked 'Dok D';

4. *That there no long exists any form of relationship between the parties.*

Therefore, the applicant humbly asks this Honourable Court to:

1. *Pronounce the divorce between the spouses;*
2. *Order the Court Registrat to notify the the Public Registry Director with the divorce for it to register such divorce in the Public Registry, and this within the time allowed by the Honourable Court.*

Having seen that the parties accepted service of the acts of the case in the hearing of the 27th April 2023 including the application and documents, the decree and notice of hearing (Vide Fol 46);

Having seen that Defendant did not filed a reply but declared that she did not object to the divorce.

Having examined 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:

Plaintiff testified by means of an affidavit (*vide affidavit at page 10*),and held that parties got married on the 11th March 2009 and that from this marriage two children were born who are still minors. He added that the parties separated by virtue of a separation contract in the acts on Notary Dr Ritiene Bugeja Fenech dated the 4th November 2022 but have lived separately since January 2021. Furthermore, he declared that there is no reasonable prospect of a reconciliation. Regarding maintenance, he declared that there are no pending maintenance arrears;

Defendant testified on the 27th April 2023 (*vide fol 47 et seq*) and confirmed and corroborated

her husband'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.

(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.

Deliberates:

The Court has seen that the parties contracted their marriage on the 11th March 2009 in the Netherlands and which marriage was then registered in Malta, bearing marriage certificate number 259/2019 (*vide* marriage certificate at page 14). 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 regulated their personal separation by means of a public deed in the acts of Notary Dr Ritienne Bugeja Fenech dated 4th November 2022 (*vide* contract of separation at page 17 *et seqq*). The Court observes that as indicated by the parties' in their respective testimonies, the parties had been leading separate lives since January 2021. They affirmed that there are no maintenance arrears regarding their children. They have renounced to their right to receive maintenance from one another.

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, which marriage was celebrated in the Netherlands on the 11th March 2009 and which marriage was registered in Malta bearing the Certificate Number 259/2019 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.

Senza Tassa.

Read.

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

**Lorraine Dalli
Deputy Registrar**