

**CIVIL COURT
(FAMILY SECTION)**

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

Today 31st August 2023

Sworn App. No. : 292/2023 JPG

Case No. : 31

**AM
AND
GCK**

The Court:

Having seen joint application filed by the parties dated 19th May 2023, wherein it held:

WHEREAS the above-mentioned parties were civilly married in Valletta, Malta, on the twenty-seventh (27th) of March of the year two thousand and seventeen (27/03/2017), whereby a copy of the extract of their relative Marriage Certificate is hereto attached and marked as 'Doc. AG1'.

WHEREAS no children were born from this marriage and therefore, there are no pending issues between the parties regarding child alimony.

WHEREAS the above mentioned parties have been legally separated by means of a separation contract drawn up by Notary Gianluca Sciberras dated the nineteenth (19th) of April of the year two thousand and twenty-three (2023); a

legal copy of said contract is hereto attached and marked as 'Doc. AG2', which separation contract was published following a decree given by this Honorable Court dated the twenty-third (23rd) of March of the year two thousand and twenty-three(2023).

WHEREAS the parties have been separated de facto for over a year, precisely, since the end of March of the year two thousand and twenty-two (2022).

WHEREAS there are no issues pertaining to maintenance between the parties in favor of one or the other, given that according to Clause two (2) of the aforementioned separation contract, the same parties have irrevocably renounced to their reciprocal right to claim and/or receive maintenance from each other.

WHEREAS there is no reasonable prospect of reconciliation between the parties given that, apart from having been legally separated for a month, and de facto separated for over a year, today they lead a totally separate life from each other.

WHEREAS the parties have prepared the annexed affidavits, marked as 'Doc. AG3' and 'Doc. AG4' respectively, whereby they confirm the contents of the current court application.

WHEREAS these above-mentioned facts fulfill all the conditions required by law to obtain a divorce according to Article 66B of the Civil Code (Chapter 16 of the Laws of Malta).

THEREFORE, the applicants hereby humbly and respectfully, jointly request this Honorable Court to comply with the provisions of Articles 66B and 66C of the Civil Code and proceed to:

1. Pronounce the divorce and dissolution of marriage that had been celebrated between the parties on the twenty-seventh (27th) of March of the year two thousand and seventeen (27/03/2017); and

2. Order the Registrar of the Court to notify the Director of the Public Registry of the divorce and dissolution of marriage of the parties within the time-period specified by this same Honorable Court so that the divorce is registered in the Public Registry.

And this under any other provision that this Honorable Court deems to be appropriate and opportune in the circumstances.

With costs being equally split by each of the applicants.

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:

AM testified (*vide affidavit Dok AG3*), that the parties were married on the 27th of March 2017. No children were born from this marriage. She testified that the parties have been separated de facto since end of March 2022, whilst legally separated by means of a public deed in the acts of Notary Dr Gianluca Sciberras dated the 19th of April 2023 . Furthermore she declared that there is no reasonable prospect of a reconciliation between the parties and that there are no pending maintenance issues.

GCK testified (*vide affidavit at page 12*) and confirmed and corroborated AM'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 27th of March 2017 which marriage certificate bears the number 533/2017 (*vide* marriage certificate Do AG1). No children were born from this marriage.

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 Dr. Gianluca Sciberras dated 19th of April 2023 (*vide* contract of separation at page 5 *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 and 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 bears the Certificate Number 533/2017 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.

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

**Lorraine Dalli
Deputy Registrar**