

**CIVIL COURT
(FAMILY SECTION)**

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

Today 19th of October 2023

Sworn App. No. : 34/2023 JPG

Case No. :17

**SC
Vs
LM**

The Court:

Having seen the application filed by SC dated 25th January 2023, wherein it held:

That the parties got married on the eighth (8) of September 2018 and from this marriage no children were born;

That the requirements for the pronouncement of divorce, as listed in Article 66B of Chapter 16 of the Laws of Malta, are met in that:

- (i) The parties are legally separated by means of a separation contract published in the acts of Notary Dr James Grech on the 29th August 2019, after having obtained authorization through a decree from the Honorable First Hall Civil Court (Family Section), copy hereby attached and marked as 'Doc A';*

(ii) *There is no reasonable or remote prospect for reconciliation between the parties;*

(iii) *There is no maintenance due given that as it results from the separation contract, the parties have waived their right to maintenance.*

Therefore, in view of the above, the applicant respectfully pleads this Honorable Court to, subject to any declaration and/or provision that this Honourable Court may deem opportune in terms of Article 66A et seq of Chapter 16 of the Laws of Malta:

- 1. Pronounce the divorce between the parties and declare dissolved the marriage contracted between the parties on the eighth (8) of September 2018; and*
- 2. Order the Registrar of the Courts to, within a timeframe set by this Court, notify the Director of the Public Registry of the divorce and dissolution of the marriage of the parties, so that this is duly registered in the Public Registry.*

Having seen that Defendant appeared unassisted for the first hearing of the case;

Having seen that the Court informed Defendant of her legal rights, however she declared that did not require legal assistance and did not object to the divorce.

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 page 23*), that the parties were married on the 8th of September 2018. No children were born from this marriage. He testified that they have been legally separated by

means of a public deed in the acts of Notary Dr James Grech dated the **11th of October 2019**¹. Furthermore, he declared that there is no reasonable prospect of a reconciliation between the parties and that there are no pending maintenance issues.

Defendant testified (*vide page 26*) and confirmed and corroborated Plaintiff'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*

¹ And not 29th of August 2019 as cited in the sworn application.

(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 8th of September 2018 which marriage certificate bears the number 3192/2018 (*vide* marriage certificate Dok AG1, at page 22). 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. James Grech dated 11th of October 2019 (*vide* contract of separation at page 4 *et seqq*). 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, with Marriage Certificate Number 3192/2018 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.

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Senza tassa.

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

Christabelle Cassar

Deputy Registrar