

**CIVIL COURTS  
(FAMILY SECTION)**

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

**Hearing of 22nd January 2024**

**Application no. : 526/2023JPG**

**Case no. : 21**

**AS**

**Vs**

**JD**

**The Court:**

Having seen the Application filed by AS, dated 4th October 2023, at page 1 (translation at page 2), wherein it was held:

1. *The parties got married on the 30<sup>th</sup> of April of the year two thousand and six (30/04/2006), Marriage Certificate no 523/2006 is hereby attached;*
2. *The parties contracted a consensual separation in the acts of Notary Dr Angele Rapa on the sixteen of May of the year two thousand and eighteen, (16/5/2018), a copy is hereby attached;*
3. *The parties have not lived together since July 2016 and have never reconciled;*
4. *There is no possibility of reconciliation between the parties;*
5. *There are no arrears of maintenance due and the parties had forfeited their respective right to maintenance from each other;*

*Thus for the above mentioned reasons, applicant humbly asks the Honourable Court to:*

1. *Declare the marriage between the parties on the 30<sup>th</sup> April 2006 is dissolved according to article 66A of Chapter 16 of the Laws of Malta;*

2. *Order the Registrar to notify the Director of Public Registry of the divorce of the parties so that the same be registered at the Public Registry.*

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

Having seen the Reply filed by JD, dated 16th November 2023, at page 27 (translation at page 22), wherein it was held:

1. *That Respondent confirms that the Parties were married on the thirtieth \*(3)\* of April of the year two thousand and six (2006);*
2. *That the Respondent confirms that the parties separated through a public act in the acts of the Notary Doctor Angele Rapa on the sixteenth (16) of May of the year two thousand and eighteen (2018);*
3. *That the Respondent agrees that they have not been living together since July 2016, and have never reconciled.*
4. *That the Respondent agrees that there is no hope of reconciling;*
5. *That the Respondent agrees that no maintenance is due and that the parties had renounced the right to request maintenance from each other;*
6. *That however the Respondent should not bear the costs of this procedure.*

Having seen the evidence given by means of sworn affidavit;

Having seen the exhibited documents and all the case acts;

Having seen the note filed by Defendant (Vide Fol 29) wherein he stated that he has no further evidence to adduce and invited the Court to proceed to judgement.

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

**Considers:**

**Plaintiff** testified (vide affidavit at page 27) that the parties got married on the 30<sup>th</sup> April 2006, and from this marriage **\*\*no children\*\*** were born. She stated that this marriage broke down and they separated by virtue of a contract dated 16<sup>th</sup> May 2018 in the acts of Notary Dr Angele Rapa. They have been living completely separate lives from each other since 2016. She declared that there is no prospect for reconciliation with her husband. Moreover, she stated that there are no pending maintenance arrears due between them.

**Defendant** testified (vide affidavit at page 24) 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 30<sup>th</sup> April 2006, with Marriage Certificate Number 449/2006 (vide page 15) and \*\*\*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 Angele Rapa (vide Fol 3 et seqq). 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 Certificate bears the Number 449/2006 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.**

**Senza Tassa.**

**Read.**

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

**Lorraine Dalli**

**Deputy Registrar**

- \* **By virtue of decree dated 6<sup>th</sup> February 2024, the number ‘(3)’ should read ‘(30)’;**
- \*\* **By virtue of decree dated 6<sup>th</sup> February 2024, the words ‘no children’ shall be deleted and the words ‘three children’ inserted;**
- \*\*\* **By virtue of decree dated 6<sup>th</sup> February 2024, the words ‘no children’ shall be deleted and the words ‘three children’ inserted;**

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

**Christabelle Cassar**

**Deputy Registrar**