

**CIVIL COURT
(FAMILY SECTION)**

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

Today 25th of January 2024

Sworn App. No. : 650/2023 JPG

Case No. : 19

**JC
Vs
CB**

The Court:

Having seen the joint application filed by the parties dated 7th December 2023, wherein it held:

Whereas the parties celebrated their marriage in J, SA, on the 27th September of the year 2003, as resulting from a copy of their marriage certificate, a copy of which will be filed in the records of this case in the next few days;

Whereas two children were born from this marriage, namely LC, born on the X, hence a adult, as well as AC born on the Y, and therefore still a minor;

Whereas the parties are legally separated by means of a contract in the record of Notary Dr Peter Fleri Soler, dated the 6th November 2023 (Vide Dok. B);

Whereas there is now hope for reconciliation, as they have been de facto separated for over two (2) years and moreover they lead completely separate lives;

Whereas there is no issue with regards to maintenance between the parties, as they reciprocally renounced to their right to claim and/or receive maintenance from each other, as resulting from clause 2 of the attached deed of personal separation. With regards to maintenance for LC (who though over the age of majority is still a full-time student) and the minor AC, both parties hereby declare that their maintenance was always paid on time as laid out in the said deed of personal separation, with the result that there is no issue in this regard.

Whereas the parties have been residing in Malta from July 2017 and their ordinary residence is here too, with the result that they satisfy all the requirements of Article 66N(b) of Chapter 16 of the Laws of Malta;

Whereas all the above satisfy all the conditions required for the obtainment of divorce as per Article 66B of Chapter 16 of the Laws of Malta;

Thus the parties humbly ask this Honourable Court to:

- 1. Declare the dissolution of the marriage celebrated between the parties;*
- 2. Order the Register of Courts to inform the Director of Public Registry of the said dissolution of the public registry enabling such registration, within a time-frame established by the said Court.*

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:

JC testified (*vide affidavit page 14*), that the parties were married on the 27th of September

2003 and from this marriage two children were born. He testified that the parties have been legally separated by means of a public deed in the acts of Notary Dr Peter Fleri Soler dated the 6th November 2023 however the parties have been living apart for more than two years. Furthermore, he declared that there is no reasonable prospect of a reconciliation between the parties and that there are no pending maintenance issues.

CB testified (*vide affidavit fol 15*) 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.

(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 September 2003 which marriage certificate bears the number **J494935 of the year 2003** (*vide* marriage certificate Dok 2 at page 16). The parties had two children 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. Alicia Agius dated 6th November 2023 (*vide* contract of separation at page 4 et seqq). However the parties have been living apart for more than two years. 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 J494935 of year 2003 and orders

Swrn App No.: 650/2023JPG

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.

Costs shall be divided between the parties.

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

Christabelle Cassar

Deputy Registrar