

**CIVIL COURT  
(FAMILY SECTION)**

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

**Today 6th of March 2024**

**Sworn App. No. : 191/2023 JPG**

**Case No. : 22**

**MA  
And  
CA**

**The Court:**

Having seen the joint application filed by the parties dated 17<sup>th</sup> August 2023, wherein it held:

- 1. Whereas the applicants contracted marriage on the tenth (10<sup>th</sup>) April of the year two thousand and thirteen (2013) in the Philippines (vide marriage certificate annexed hereto and marked as **Doc. 'ANG-1'**), which marriage was also registered in Hungary (vide marriage certificate annexed hereto and marked as **Doc. 'ANG-2'**);*
- 2. Whereas from their marriage the Parties had no issue;*
- 3. Whereas the Parties have been de facto separated since the year two thousand and sixteen (2016);*

4. *Whereas the marriage between them has irrevocably broken down and the Parties see no reasonable prospect that they can reconcile;*
5. *Whereas the Parties hereby agree to liberate one another from the reciprocal obligation of co-habitation and assistance;*
6. *Whereas the Parties hereby renounce to their reciprocal rights and claims of succession in respect of each other's estates and to the reserved portion. The Parties agree that the effects of this stipulation shall extend to testamentary dispositions made by either spouse in favour of the other prior to this application such that, by operation of this application, any such disposition shall lapse and be deemed ineffective and this without the need of further formality; provided, however, that this stipulation shall not extend to any testamentary dispositions made after the date of this application;*
7. *Whereas the Parties hereby declare that they have received and are now in the exclusive possession of all their respective paraphernal movable and immovable property;*
8. *Whereas the Parties hereby renounce to their right to receive maintenance from each other in any manner; such renunciation is irrevocable;*
9. *Whereas the Parties are hereby agreeing to terminate the effects of the community of acquests formerly existing between them;*
10. *Whereas the Parties declare that all debts contracted after the date of this application shall be the exclusive responsibility of the spouse who contracts them whilst all debts entered into by either of the spouses prior to this application without the express consent of the other are to be borne exclusively by the spouse who incurred such debt;*
11. *Whereas, the Parties declare that each one of them will be solely responsible towards the payment of any debts due to any respective family member(s) albeit*

*contracted prior to this application;*

12. *Whereas the Parties undertake to indemnify one another in the event that either spouse is constrained to repay a debt or any part thereof which is due by the other spouse;*

13. *Whereas the Parties declare that from the date of this application they will file separate income tax return. Each respective spouse shall be exclusively responsible for the prompt settlement of any arrears related to income tax, fines, Value Added Tax (VAT), social security contributions or any tax liability in respect of that spouse's earnings or other income. Consequently the Parties undertake to reciprocally indemnify each other in respect of any payments, charges, costs or other expenses which may be incurred in the event that any spouse is, at any time hereafter, sued or otherwise demanded or constrained to pay any liability which is, in terms of this paragraph, the exclusive responsibility of the other spouse;*

14. *The Parties agree not to molest one another;*

15. *Whereas there is no dispute in connection with maintenance or any arrears of maintenance due at this stage;*

16. *Whereas, saving what is stated herein, the Parties declare that they have no other claim, right or pretense against each other.*

17. *Whereas the applicant MA, wishes to revert to her maiden surname which is that of 'GU' and this in line with Article 62(1) of Chapter 16 of the Laws of Malta;*

18. *Whereas the above facts satisfy all those conditions required for the attainment of divorce in terms of Article 66B of the Civil Code, Chapter 16 of the Laws of Malta;*

19. *Whereas this joint application for Divorce is also being confirmed on oath by*

*the Parties;*

*Therefore, the applicants humbly request<sup>1</sup> that this Honourable Court :*

- 1. To authorize the division and dissolution of the parties' Community of Acquests;*
- 2. To order the Court Registrar to inform the Director of the Public Registry with the dissolution and division of the parties' community of acquests so that such is registered in the Public Registry;*
- 3. Declare that their marriage is dissolved and therefore pronounces the Divorce;*
- 4. Orders the Court Registrar to inform the Director of the Public Registry with the dissolution of the Parties' marriage so that such is registered in the Public Registry.*
- 5. Authorizes applicant MA to revert to her maiden surname 'GU'.*

*and this under all those provisions which this Honourable Court deems to be adequate and appropriate.*

Having examined the evidence on oath;

Having seen the exhibited documents and all the case acts;

Having seen the note of Dr Helen Caruana dated 4<sup>th</sup> January 2024 in terms of article 66(G) and 66(H) of Chapter 16 were duly filed (vide note at page 27);

Having seen the Articles 66A, 66B, 66C and 66N of Chapter 16 of Laws of Malta;

Having seen the application dated 12<sup>th</sup> December 2023, wherein the parties requested this Court to revise their requests as indicated in said application;

Having seen that that during the sitting dated 15<sup>th</sup> January 2023, (Vide page 33), Plaintiff MA **withdrew the request to revert to her maiden surname** and declared that she wished to retain her married surname.

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<sup>1</sup> Which requests were amended by the joint Application of the 12<sup>th</sup> December 2023 and upheld by this Court.

Having seen that the Court declared withdrawn Plaintiff MA demand to revert to her maiden surname.

**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 marriage on the 10<sup>th</sup> of April 2013, as evidenced by the marriage certificate at page 36 Doc ANG-1. No children were born from this marriage.

The record shows that the parties' marriage broke down and have been *de facto* separated since the year 2016 and declared that there is no reasonable prospect of a reconciliation between them. However, the parties never initiated proceedings for a personal separation and in fact this Court as diversely presided by means of a decree dated 21<sup>st</sup> June 2023, (*vide page 22 of the acts*), declared mediation proceedings to have been terminated and authorized the parties to proceed with litigious proceedings.

The Court observes that there are no maintenance arrears due and it also finds that there is no reasonable prospect of reconciliation between the parties and that in this respect, the Court also notes that the parties adhered to the legislative dispositions of article 66G and article 66H of Chapter 16 f the Laws of Malta.

Therefore, the Court holds that the parties have satisfied all the requisites envisaged in the law for the pronouncement of divorce.

With regards to the request for the termination and liquidation of the community of acquests, the Court notes that the community of acquests is still operative.

Article 66D(3) provides that:

*Where the spouses are not separated by means of a contractor a court judgement, the spouse making the demand for divorce may, together with the same demand, make all those demands that are permissible in a cause for separation in accordance with Sub-Title III of this Title. The court shall hear and determine these demands as provided in the said provisions mutatis mutandis. The other party may, in addition to the defences mentioned in previous sub-article, put forward all those defences which that party would have been entitled to make in a cause for separation.*

From the evidence produced it appears that the community of acquests was devoid of any assets and that no immovable property or other assets were held jointly by the parties. The parties declared that any debts contracted after the date of the filing of the sworn application, shall be the exclusive responsibility of the party who contracts the said debt. Similarly the parties agreed that any debts entered into by one of the parties prior to the filing of the sworn application, without the express consent of the other party is to be borne exclusively by the spouse who incurred such debt.

The Court has also seen that the parties have renounced to their reciprocal rights and claims of succession in respect of each other's estates and to the reserved portion and have also renounced to their right to receive maintenance from each other.

**For these reasons, the Court, declares withdrawn the fifth demand made by MA regarding her maiden surname; but accedes to the rest of the demands by:**

- 1. Pronouncing the dissolution of the marriage between the parties by divorce, which Marriage bears the Certificate Numbers S.N. 15A-0373649 and 0784 of the 7<sup>th</sup> July 2016 (see page 39);**
- 2. Orders the cessation of the community of acquests between the parties, and liquidates and divides the same community as follows:**

- i. Orders that all monies and movable assets already in the respective parties's possession, are assigned and belong to that party in possession;**
  - ii. Orders that in the event that the parties hold bank accounts and/or investments in their name, said accounts and/or investments are assigned to the party in whose name such account and/or investment is designated, and each party is thus to retain full ownership of the bank account and/or investment in his or her name.**
  - iii. Orders that in the eventuality that there are debts which burden the community of acquests, such debts or obligations are the sole responsibility of the party who has contracted said debt or obligation, each party retaining the right to claim reimbursement from the other party in the event of payment of dues owing by the other party.**
- 3. Orders the Court Registrar to advise the Director of the Public Registry of the cessation and liquidation of the community of acquests obtaining between the parties;**
- 4. Orders the Court Registrar to advise the Director of the Public Registry of the dissolution of the marriage between the parties which Marriage bears the Certificate Numbers S.N. 15A-0373649 and 0784 of the 7<sup>th</sup> July 2016 so that this may be noted in the Public Registry;**

**Costs shall be equally divided between the parties.**

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

**Lorraine Dalli  
Deputy Registrar**