

**CIVIL COURTS
(FAMILY SECTION)**

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

Hearing of the 8th of April 2024

Application no. : 518/2023JPG

Case no. : 19

**VG
Vs
PD**

The Court:

Having seen the Application filed by Plaintiff, dated 27th September 2023, at page 1 (translation at page 21), wherein it was held:

1. *That the parties married each other on the third (3rd) of June one thousand nine hundred and ninety-five (3.6.1995), as it appears from the copy of marriage certificate marked as Doc A.*
2. *That no children were born from this marriage.*
3. *That the parties have been legally separated since the fourteenth (14th) of June of the year one thousand nine hundred and ninety-six (1996) as it results from the contract of separation in the acts of Notary Peter Fleri-Soler hereby attached and marked as Doc B.*
4. *That there is no reasonable or remote prospect for reconciliation between them and today they have a totally separate life from each other.*

5. *That the applicant is bringing this request given that on the date of filing of the divorce proceedings are being initiated, the parties have not lived together for a period of at least one year out of the previous two years and this is in accordance with article 66B of the Head of the Laws of Malta.*
6. *That the parties have waived the right to request/receive maintenance from each other.*
7. *That the applicant wishes that divorce is pronounced between the parties;*
8. *Therefore she humbly requests this Honorable Court to:*
 - a. *Pronounce the divorce between the parties.*
 - b. *Order the Registrar of the Court so that, in the time given to him for as much from this same Court, informs the Director of the Registry Public with the divorce of the parties so that this is properly done registered in 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 that Respondent failed to file a reply and fail to appear before this Court for sittings scheduled, therefore he is contumacious at law;

Having seen the faculty given to the Defendant to file his submissions according to Article 158(10) of Chapter 12 of the Laws of Malta;

Having seen that Defendant failed to file written submissions;

Having examined testimony on oath;

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 fol 9 et seqq.) that the parties were married on the 3rd of June 1995, and no children were born from this marriage. She stated that this marriage broke down and the parties separated by virtue of a contract dated 14th of June 1996 in the acts of Notary Dr Peter Fleri-Soler. They have been living completely separate lives for more than twenty-five (25) years. She declared that there is no prospect for reconciliation with her husband. Moreover, she stated that there are no pending maintenance arrears.

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 3rd June 1995, which Marriage bears the certificate number 787/1995 (vide page 5) 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 Peter Fleri-Soler on the 14th June 1996 (vide Fol 5 et seqq). Therefore, it is established that the parties have been separated in excess of the timeframe required by law.

The record shows 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 bears the Certificate Number 787/1995 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**