

**CIVIL COURTS
(FAMILY SECTION)**

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

Hearing of the 22nd April 2024

Application no. : 10/2024 JPG

Case no. : 21

**SG
vs
GF**

The Court:

Having seen the application filed by Plaintiff dated 12th January 2024, at page 1 wherein it was held:

- 1. That the Parties got married on the twenty eighth (28th) of June of the year two thousand and nineteen (2019) at the Pinu Sanctuary, in Għarb, Gozo and this as results from the attached marriage certificate, marked as Document A.*
- 2. That from this marriage, the minor OF was born, on X and therefore his is a minor.*
- 3. That the parties are legally separated in virtue of a consensual separation deed, published in the acts of Notary Doctor Roland Wadge, dated the thirty first (31st) of August of the year two thousand and twenty three (2023) true copy of original of the said deed of separation is hereby attached and marked as Document B.*

4. *That there are no issues relating to arrears of maintenance as far as the minor child OF is concerned. As far as maintenance paid to each other, the Parties had renounced to this right to claim maintenance from each other.*
5. *That there is no reasonable prospect for reconciliation between the parties since besides the fact that the parties are today legally separated from each other, the parties have been separated de facto since the year two thousand and twenty two (2022), and today the parties have a total separate and independent life from one another.*
6. *That these facts satisfy all the requirements for the attainment of divorce in terms of Article 66B of the Civil Code, Chapter 16 of the Laws of Malta.*
7. *That the applicant is hereby attaching her affidavit with this present application, marked Document C.*

Therefore the applicant humbly requests this Hon. Court to:

- A. *Pronounces the dissolution of marriage between the parties, in terms of Article 66A et sequitur of Chapter 16 of the Laws of Malta.*
- B. *Orders the Court Registrar so that in the period stipulated by this Hon. Court, informs the Director of Public Registry with the dissolution of the marriage of the parties, so that this will be 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 the reply filed by Defendant dated 8th March 2024, wherein it was held that :

1. *That the respondent confirms that the parties have been legally separated by virtue of a contract in the acts of Notary Doctor Roland Wadge dated the thirty-first of August of the year two thousand and twenty three (31.08.2023);*
2. *That the respondent finds no objection to the applicant's claims;*

3. *That to this end, the respondent is hereby submitting an affidavit on oath together with this reply, marked as Dok A.*

Having heard the parties 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 affidavit fol 29 et seqq.) that the parties were married on the 28th of June 2019 and from this marriage one child was born. She stated that this marriage broke down and they separated by virtue of a contract dated 31st of August 2023 in the acts of Notary Dr Roland Wadge. They have been living completely separate lives as from 2022. 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 fol 38 et seqq) and corroborated with 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 28th June 2019, which Marriage Certificate bears the number 76/2019 (vide page 5) and a child was 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 Roland Wadge on the 31st of August 2023 (vide Fol 6 et seqq) however the parties have been living apart from each other as from 2022. 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, with Marriage Certificate Number 76/2019 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)

**Christabelle Cassar
Deputy Registrar**