

**CIVIL COURT
(FAMILY SECTION)**

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

Today 15th May 2024

Sworn App. No. : 103/2024 JPG

Case No. : 20

RV and TV

VS

X

The Court:

Having seen the joint application filed by the parties dated 27th February 2024, fol 3, wherein it held:

- 1. That they celebrated their marriage in Rio De Janeiro, Brazil, on the fourth (4th) of July two thousand and eight (04.07.2008).*
- 2. That they have two (2) children together, namely EV born on X and MV born on Y, who are therefore both Minors.*
- 3. That the parties have been de facto separated since the 27th December 2022.*
- 4. That the parties have been separated by virtue of a contract in the acts of Notary Fiona Zammit Armeni dated 10th January 2024;*

5. *There is no reasonable prospect of reconciliation between the parties and each of them leads a separate life independent of one another;*
6. *That there is no maintenance due between the parties*
7. *That these facts satisfy the conditions established by article 66B of the Civil Code for the attainment of divorce.*

The applicants requests:

- a) *That the Court pronounces the divorce between the parties;*
- b) *That the Court orders the Registrar of Courts to notify the Director Public Registry with the pronouncement of divorce of the parties so that such changes will be registered in the Public Registry;*
- c) *The applicant requests that in terms of the dispositions in Article 66B of Chapter 16 that this Honourable Court, after hearing the parties as intended in Article 66C of Chapter 16 and in order to be established the existence of the conditions mentioned in Article 66B, pronounces the divorce between the parties as intended in the said Article 66C*

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

Having examined the 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:

RV testified (vide affidavit at page 28) that the parties were married on the 4th of July 2008

and that two children were born from this marriage. He stated that this marriage broke down and the parties separated by virtue of a contract dated 10th of January 2024 in the acts of Notary Dr Fiona Zammi Armeni. However, he declared that the parties have been living apart from each other as from December 2022. Moreover, there is no prospect for reconciliation as they both lead separate lives. Moreover, he affirmed that there are no maintenance arrears due.

TV testified (vide affidavit at page 29) and corroborated all evidence given by the other party.

Deliberates:

Articles 66A and 66B of Chapter 16 of laws of Malta provide:

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 4th of July 2008 (vide page 6) in Rio de Janeiro, Brazil which marriage bears the certificate number 37058 inserted at page 169 in book no. BE-82 (vide fol 5 and 6). That two 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 Fiona Zammit Armeni (vide, page 8 et seqq) dated 10th January 2024. However, the parties declared that they have been living apart from one another as from December 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

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parties by divorce, which marriage bears the certificate number 37058 inserted at page 169 in book no. BE-82 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 noted in the Public Registry.

Cost to be divided between the parties.

Read.

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

Christabelle Cassar

Deputy Registrar