



**CIVIL COURT
(FAMILY COURT)**

MR. JUSTICE HON. ANTHONY G. VELLA

Sitting of Thursday 16th May 2024

Sworn Application number : 226 /2023 AGV

OA

vs

**Dr Martha Mifsud and PL
Quentin Tanti, appointed as
curators for the absent IA**

The Court;

Having seen the Sworn Application of OA

Respectfully submits and on oath declares:

1. That the parties got married on 19th June 2013 in Moldova, and from such marriage the parties had one minor child VA who was born on 15th July 2016 (see Dok A and Dok B);
2. That the parties' marriage has irremediably broken down on the grounds of violence, excesses, threats, grievous injuries, amongst other valid grounds at law which rendered married life impossible and which gives ground to this personal separation, to which the defendant is solely responsible for the breaking down of the marriage;
3. That the defendant refused to attend to the mediation sittings although the applicant had sent him the date herself. That thus, the parties have been authorised to proceed at this instance by virtue of a court decree of this Honourable court dated 31st July 2023 (see Dok. C);
4. That the facts here declared are known personally by the plaintiff;

For these reasons the plaintiff contends, saving any necessary and opportune decisions, why this Honourable Court should not:

1. Pronounce and declare the personal separation between the parties for reasons attributable to the defendant, including violence, excesses, grievous offences, threats, and grave offences by her that rendered the married life impossible, and consequently authorises the applicant to live separately from the defendant;

2. Awards the exclusive care and custody of the minor child VA be given to the plaintiff and authorises him to take any decisions relating to the minor children, including those relating to residence permits, health, issuance of passports, travel, and education of the minor children without the defendant's consent, presence and signature;
3. Orders that the minor child resides with the plaintiff;
4. Determines and liquidates an adequate amount of maintenance which should be payable by the defendant to plaintiff for the minor child, and which should remain payable until the minor child reach the age of eighteen (18) years if the minor child stop pursuing his studies and start working on a full time basis or payable up to the age of twenty three (23) years if the minor child decide to pursue their studies on a *full-time* basis; as well as ordering that the alimony be deducted directly from the salary or income of defendant or work or any other benefits that he would be receiving and deposited directly in a bank account that is to be indicated by the plaintiff and further provides how the said maintenance is to be reviewed and increased yearly so that it reflects the increase in cost of living, as well as ordering that the plaintiff receives any benefits relating to the minor child, including but not limited to the children's allowance in its entirety;
5. Orders that the defendant pays arrears of maintenance towards his minor child VA , as well as ordering him to pay arrears of health, education, and any extra-curricular expenses;

6. Orders the defendant to pay half of the health and education expenses of the minor child, including but not limited to uniforms, transport, donations, stationary, private lessons, nursery, transport to childcare and any other expenses related to the education, including expenses related to extra-curricular activities. In absence, orders that these expenses are reflected in the sum of maintenance;

7. Orders the cessation of the existing community of acquests between the parties; liquidates the same community of acquests and orders that the objects forming part therein are divided in two portions as ordered and established by this Honourable Court, which portions are assigned one to the plaintiff and the other to the defendant, and this by the appointed experts and by appointing a notary to receive the relative acts and a curator to represent the defendant if he is contumacious on the same act;

8. Orders that the defendant has given cause to separation as found in article 48 *et seq* of Chapter 16 of the Laws of Malta and applies against her all the articles or in part the dispositions of articles 48, 51 and 66 of Chapter 16 of the Laws of Malta;

9. Declares which are the paraphernal movable and immovable credits and assets of the plaintiff as will be proven during the case whilst also ordering and condemning the defendant to return to the plaintiff all her paraphernal things and credit and this in a short and peremptory time given by this Honourable court;

10. Appoints a curator to represent the defendant in case he is contumacious in the relative act of division at a time and place as established by this Honourable Court;

11. Authorises the Court Registrar to register the eventual judgment of this Honourable Court in the Public Registry of Malta.

With costs and interests against the defendant, who is demanded for a reference on oath.

Having seen the reply of Curators Dr Martha Mifsud and PL Quentin Tanti, dated 20th October 2023, and submitted in the Maltese language;

1. Illi l-esponenti mhux edotti mill-fatti.
2. Illi l-esponenti jirriservaw kull dritt spettanti lilhom sabiex iressqu kemm provi jew sottomissjonijiet f' mumentu opportuni, galadarba huma jigu edotti mill -fatti.

Having seen the documents exhibited.

Having seen all the evidence produced by the parties.

CONSIDERS:

The facts of the case are as follows. The parties met in 2010 in Moldova and lived together for a while in plaintiff's mother's apartment. They subsequently got married in Moldova on the 19 July 2013. Defendant showed traits of excessive jealousy and paranoia, and these increased as time went by. Plaintiff had asked for and obtained a divorce in August 2014 in Moldova, after barely one year of marriage, as the situation between them worsened. In the meantime, they had had a difficulty in bearing children, so they opted for IVF treatment. This happened both before and after the divorce was granted.

Plaintiff became pregnant in this way in October 2015, and gave birth to V on the 15 July 2016. The parties decided to remarry in that same year, barely a few days before the child was born. In the meantime, their relationship was turbulent, full of ups and downs. Plaintiff started working as a beauty therapist, in order to make ends meet and cover for expenses, as defendant was not working at the time. After the birth of their child, defendant started working and training with what appears to be a paramilitary company, and plaintiff says that this made him even more paranoid, suspecting that everyone was spying on him and that they were members of special forces.

They moved to Malta in 2019, to find employment here, as they both spoke English. He became more paranoid, thinking that people were out to poison them. Plaintiff struggled financially at this time, as defendant was still not working, so she decided to move back to Moldova in 2021, but once the war in Ukraine started, they returned here in 2022. Again, there were several incidents between the parties, resulting in defendant leaving and becoming homeless, without a fixed address. He even went as far as saying that the teachers at Vladimir's school are poisoning him, and that the helpers at Club 3-16 are bioterrorists. At a certain

point, defendant was living on the streets homeless, without a fixed residence, and was thus receiving assistance at Dar Papa Frangisku. At present, defendant might be in Bulgaria with his family, but his exact whereabouts are unknown.

Plaintiff is requesting separation because she cannot keep up with this situation and wants to give her son a stable future and a healthy upbringing. She is registered as a full-time self-employed beauty therapist since September 2019, whereas defendant spent only four weeks in employment here, in November 2022. From the evidence submitted, plaintiff never had a car registered in her name here in Malta, whereas defendant had one vehicle, marked as Dok TM7 at fol. 50 of these proceedings.

The evidence submitted to the Court does not show further property jointly owned by the parties. Both parties have or may have had bank accounts in their name, and these may be divided according to the name they are registered in. The same can be said with regard to vehicles. They do not own immovable property in their name. Plaintiff was in a shelter at a point in time, and now she is renting a property in her name.

The remaining factor left to decide concerns the care and custody of the minor child, V , and the maintenance payable for his upbringing. Again, the evidence shows that it was plaintiff who took care of the needs of the child, almost single-handedly. The minor has been under the care of his mother, who has seen to all his needs since birth, and therefore all plaintiff's requests in this regard shall be upheld. Defendant appears absent from his son's life, possibly exacerbated by the father's doubtful mental stability. In view of these circumstances, the Court is

finding for plaintiff in that care and custody of the minor shall be entrusted with the mother.

As regards maintenance payable for the child, the Court is in the difficulty that the father has been absent in these proceedings. The Court does not know the exact whereabouts of defendant, and what his financial means are at present, although various indicators show that these are probably very limited. Nonetheless, as it is both parents' obligation to maintain their children, the Court will not allow the defendant to abdicate from his responsibility and exonerate him from effecting some form of payment, even if minimal, for his son's needs. The Court is therefore liquidating maintenance payable by the father in the amount of €200 per month, excluding his share of expenses in the minor's health and education.

Plaintiff is also requesting that defendant pays arrears in maintenance. In this regard, the Court has her declaration stating that the father hardly ever contributed to their son's needs. Again, evidence is understandably lacking in this regard. The parties had moved to Malta in 2019, then they moved back to Moldova, only to return here in 2022. The Court will take this last date to calculate arrears in maintenance, whereby the Court is awarding €200 per month for two years, between May 2022 and May 2024, **amounting to €4,800.**

With regard to the community of acquests existing between the parties, there was no evidence of immovable property owned by them. The rest of the property jointly owned by the parties may be easily divided. Each party shall retain any

bank accounts and vehicles registered in their name. Any other moveables are to be retained by the party in whose possession they are at present.

DECIDE:

NOW, THEREFORE, THE COURT;

UPHOLDS PLAINTIFF'S CLAIMS.

1. Pronounces and declares the personal separation between the parties for reasons attributable to the defendant, including violence, excesses, grievous offences, threats, and grave offences on plaintiff that rendered the married life impossible, and consequently authorises her to live separately from the defendant;
2. Awards the exclusive care and custody of the minor child VA be given to the plaintiff and authorises her to take any decisions relating to the minor children, including those relating to residence permits, health, issuance of passports, travel, and education of the minor children without the defendant's consent, presence and signature;
3. Orders that the minor child resides with the plaintiff;
4. Determines and liquidates an adequate amount of maintenance which shall be payable by the defendant to plaintiff for the minor child, in the amount of €200 per month, and which shall remain payable until the minor child reach the age of eighteen (18) years if the minor child stop pursuing his

studies and start working on a full time basis, or payable up to the age of twenty three (23) years if the minor child decide to pursue their studies on a *full-time* basis; as well as ordering that the alimony be deducted directly from the salary or income of defendant or work or any other benefits that he would be receiving and deposited directly in a bank account that is to be indicated by the plaintiff.

Provides further that the said maintenance is to be reviewed and increased yearly so that it reflects the increase in cost of living, as well as orders that the plaintiff receives any benefits relating to the minor child, including but not limited to the children's allowance in its entirety;

5. Orders that the defendant pays arrears of maintenance towards his minor child VA , in the amount of €4,800 as aforesaid, together with arrears of health, education, and any extra-curricular expenses;
6. Orders the defendant to pay half of the health and education expenses of the minor child, including but not limited to uniforms, transport, donations, stationary, private lessons, nursery, transport to childcare and any other expenses related to the education, including expenses related to extra-curricular activities.
7. Orders the cessation of the existing community of acquests between the parties; liquidates the same community of acquests and orders that the objects forming part therein are divided in two portions as ordered and established in this judgment, which portions are being assigned one to the plaintiff and the other to the defendant.

8. Orders that the defendant has given cause to separation as found in article 48 *et seq* of Chapter 16 of the Laws of Malta, and therefore applies against him all the dispositions of articles 48, 51 and 66 of Chapter 16 of the Laws of Malta;
9. Abstains from taking further cognisance of the ninth and tenth pleas, as no evidence was submitted regarding the parties' paraphernal property, and there is no need for a notary or a curator to be appointed to publish a deed of separation between them.
10. Authorises the Court Registrar to register the eventual judgment of this Honourable Court in the Public Registry of Malta.

Expenses are to be temporarily borne by plaintiff and shall become recoverable in their entirety from defendant once his whereabouts are determined.

Judge

Hon Anthony G Vella

DEP REG

Cettina Gauci