

**CIVIL COURT
(FAMILY SECTION)**

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

Today 16th May 2024

Sworn App. No. : 124/2024 JPG

Case No. : 24

**IM
And
LP**

The Court:

Having seen the joint application filed by the parties dated 11th of March 2024, fol 1, wherein it held:

Whereas the above-mentioned parties were civilly married in Malta, on the twenty-fifth day of January of the year two thousand and nineteen (25/01/2019), whereby a copy of their relative Marriage Certificate is hereto attached and marked as 'Doc. IL1';

Whereas no children were born from this marriage and therefore, there are no pending issues between the parties regarding child alimony.

Whereas the above mentioned parties have been legally separated by means of a separation contract drawn up by Notary Gianluca Sciberras dated the first day (1st) of February of the year two thousand and twenty-four (2024); a legal

copy of said contract is hereto attached and marked ad 'Doc. IL2', which separation contract was published following a decree given by this Honourable Court dated the eighteenth (18th) day of January of the year two thousand and twenty-four (2024).

Whereas the parties have been separated de facto for over a year and a half, precisely since September of the year two thousand and twenty-two (2022).

Whereas there are no issues pertaining to maintenance between the parties in favor of one or the other, given that according to Clause two (2) of the aforementioned separation contract, the same parties have irrevocably renounced to their reciprocal right to claim and/or receive maintenance from each other.

Whereas there is no reasonable prospect of reconciliation between the parties given that, apart from having been legally separated for over a month, and de facto separated for over a year and a half, today they lead a totally separate life from each other.

Whereas the parties have prepared the annexed affidavits, marked as 'Doc. IL3' and 'Doc. IL4' respectively, whereby they confirm the contents of the current court application.

Whereas these above-mentioned facts fulfil all the conditions required by law to obtain a divorce according to Article 66B of the Civil Code (Chapter 16 of the Laws of Malta).

Therefore, the applicants hereby humbly and respectfully, jointly request this Honourable Court to comply with the provisions of Articles 66B and 66C of the Civil Code and proceed to:

- 1. Pronounce the divorce and dissolution of marriage that had been celebrated between the parties on the twenty-fifth day of January of the year two thousand and nineteen (25/01/2019); and*

2. *Order the Registrar of the Court to notify the Director of the Public Registry of the divorce and dissolution of marriage of the parties within the time-period specified by this same Honourable Court so that the divorce is registered in the Public Registry.*

And this under any other provision that this Honourable Court deems to be appropriate and opportune in the circumstances.

With costs being equally split by each of the applicants.

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:

IM testified (vide affidavit at page 13) that the parties were married on the 25th of January 2019 and that no children were born from this marriage. He stated that this marriage broke down and the parties separated by virtue of a contract dated 1st of February 2024 in the acts of Notary Dr Gianluca Sciberras. However, he declared that the parties have been living apart from each other as from September 2022. Moreover, there is no prospect for reconciliation as they both lead separate lives. Moreover, he affirmed that there are no maintenance arrears due.

LP testified (vide affidavit at page 14) 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 25th of January 2019 in which marriage bears the certificate number 173/2019 (vide fol 7). 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 Gianluca Sciberras (vide, page 9 et seqq) dated 1st of February 2024. However, the parties declared that they have been living apart from one another as from September 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, which marriage bears the certificate number 173/2019 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.

Cost to be divided between the parties.

Read.

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

Christabelle Cassar

Deputy Registrar