



**CIVIL COURT
(FAMILY SECTION)**

MR JUSTICE HON ANTHONY VELLA

Sitting of Thursday 16th MAY 2023

**In the Acts of the Sworn
Application no 214/2023
AGV in the names of:**

FAM

v.

**Dr Simon Micallef Stafrace
and PL Veronica
Rossignaud as curators for
the absent MMA**

The Court;

Having seen the Sworn application of FAM dated 15th September 2023.

Humbly submits and under oath declares:

1. That the parties got married on the twenty-fifth of July two thousand and fourteen (25.07.2014) from which marriage they had no children (see marriage certificate hereby attached and marked as Doc A)
2. That your marriage has broken down irremediably because of adultery, abandonment which rendered matrimonial life impossible and which gives ground to this personal separation, to which the defendant is solely responsible for breaking down;
3. That therefore matrimonial life is not possible;
4. That the parties have been authorized to proceed at this instance by virtue of court decree of this Honorable Court dated 18th July 2023 (see court decree hereby attached and marked as Doc B).
5. The facts hereby declared are known personally by you.
6. 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 the personal separation between the parties on the ground of adultery and abandonment, amongst other valid grounds at law, committed by the defendant and consequently authorise the plaintiff to live separately from the defendant;
2. Determines and liquidates an adequate amount of maintenance which should be payable by the defendant to the plaintiff for herself and orders 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;
3. 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 him all the articles or in part the dispositions of article 48, 51 and 66 of Chapter 16 of the Laws of Malta;
4. 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;

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

6. 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;

7. Authorises the plaintiff 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 curators' sworn reply, filed in the Maltese language:

Rat ir-risposta ta 'Dr. Simon Micallef Stafrace u PL Veronica Rossignaud datata 23 ta' Ottubru 2023,

1. Illi l-esponenti mhux edotti mill-fatti u ghalhekk qed jirriservaw d-dritt li jipprezentaw risposta motivata f' kaz u jekk jigu edotti mill-fatti.
2. Salv risposta ulterjuri

Having seen the evidence brought.

Having seen the documents exhibited.

CONSIDERS:

The parties had met in Malta in 2009, and married under the Islamic rite in 2011, subsequently formalising their union in the Maltese Registry on the 25 July 2014. The relationship seemed to be going well until 2021, when defendant declared to plaintiff that she was too old for him, and that he wanted a younger woman in his life. Things deteriorated rapidly between them, and he even started calling another woman on the phone in her presence and started leaving the house at night. In January 2023, plaintiff left the house, and subsequently defendant told her that she could stay in the house instead of him, and he left. That seems to be the last time she spoke to him. Later she found out that he may have left Malta and gone to live in another country, but she has no definite proof of this.

During the marriage, defendant worked as a full-time plasterer, and the bank accounts show that over the months there were a few significant deposits made from the various contracts of works that he had from time to time. From Transport Malta records, defendant owns three vehicles, two of which are commercial vans

used in his trade. The bank accounts held in his name have little or no funds at all. Plaintiff's financial position is difficult, to say the least. She is in contact with the Migrants Commission who have offered her help after defendant left in January 2023. She has no property in her name, her bank accounts are practically empty, she has no vehicles registered in her name, and she has a number of debts which she is trying her best to settle.

The evidence submitted in this case consists essentially of plaintiff's affidavit and other witnesses summoned to testify on the property owned by the parties. Since defendant's whereabouts are unknown, the Court only has her version of events. These have not been rebutted or contradicted in any way, and therefore the Court is considering plaintiff's version of events as having been factual and proven. The Court shall move to consider her claims in the light of the evidence brought in these proceedings.

In this case, plaintiff is requesting the following. She is seeking to obtain separation from her husband on the grounds of adultery and abandonment. She is seeking maintenance for herself from her husband, and she is asking that the community of acquests existing between the parties be liquidated, and that she be assigned a portion of the property jointly owned by the parties. From the evidence tendered in this case, the Court has no doubt that defendant abandoned the marriage after having had at least one extra marital relationship with another woman. Plaintiff's request for personal separation on the grounds herein mentioned and attributable solely to defendant shall therefore be upheld.

Regarding maintenance payable by defendant for plaintiff's needs, the Court has examined defendant's bank accounts. Although these have hardly any funds, it is evident that defendant is very capable in finding work and in earning a decent living. He owns three vehicles, two of which were used for his trade, which leads the Court to believe that he even could have employed other people in the exercise of this business. The Court therefore is of the opinion that defendant should be ordered to pay the sum of €350 a month by way of maintenance to his wife, who he very unceremoniously abandoned and betrayed. It is the least that defendant should be ordered to do in these circumstances.

As regards the liquidation and division of the community of acquests, there is hardly any matter of note. The parties do not own any immovable property. Their bank accounts hold very little funds. Since it has been shown that defendant abandoned the marriage and committed adultery, the Court is of the opinion that all the bank accounts held by defendant and the three vehicles registered in his name should be assigned to plaintiff, whereas plaintiff shall retain any property so registered in her name and any other moveables in her present possession. For this reason, the Court shall appoint curators to appear in defendant's name on the transfer of the vehicles and bank accounts as aforesaid.

It is sincerely hoped that through this judgment, plaintiff will obtain a little respite from the financial straits her husband put her in, so that she may start afresh and turn a new page in her life, putting this chapter behind her.

DECIDE:

NOW, THEREFORE, THE COURT:

UPHOLDS PLAINTIFF'S CLAIMS.

1. Pronounces the personal separation between the parties on the ground of adultery and abandonment, amongst other valid grounds at law, committed by the defendant and consequently authorise the plaintiff to live separately from the defendant;
2. Determines and liquidates an adequate amount of maintenance in the sum of €350 per month, payable by the defendant to the plaintiff for herself, and furthermore orders 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;

Further provides that the said maintenance is to be reviewed and increased yearly so that it reflects the increase in cost of living;

3. 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 him all the dispositions of article 48, 51 and 66 of Chapter 16 of the Laws of Malta;
4. 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 Court in its judgment, which portions are assigned one to the plaintiff and the other to the defendant as aforesaid.

5. Abstains from taking cognisance of the fifth plea as no evidence of paraphernal property was produced.
6. Appoints a curator to represent the defendant in case he is in default in the relative act of division, at a time and place to be established by this Court.
7. Authorises the plaintiff to register the eventual judgment of this Honourable Court in the Public Registry of Malta.

All costs are to be borne temporarily by plaintiff and shall become fully recoverable from defendant when his whereabouts are determined.

Hon Judge Anthony G Vella

Cettina Gauci- DEP REG