

**CIVIL COURT
(FAMILY SECTION)**

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

Today 8th July 2024

Sworn App. No. : 136/2023 JPG

Case No. : 20

DW

And

**By virtue of a decree dated 29th
November 2023, Dr Martin
Fenech and PL Marie Claire
Bartolo were appointed Deputy
Curators to represent the absent
DVW.**

The Court:

Having seen the application filed by the Plaintiff dated 10th March 2023, translation at Fol 53 et seq, wherein it held:

That the parties were married on the twenty-third (23) of August of the year one thousand nine hundred and ninety-one (1991) (marriage certificate attached and marked as Doc A), which marriage was consecrated in the Church of 'Good Shepard' in Thornhill, Ontario;

That from this marriage the parties had a daughter, CW, born on the X and a son, MW, born on the Y, who are now of age (birth certificates here attached and marked as Doc.B);

That the parties have been legally separated by a judgement given by the First Hall of the Civil Court from the eleventh (11) of May of the year two thousand and seventeen (2017), here attached and marked as Doc.C;

That there is no reasonable prospect for reconciliation between them given that, apart from the fact that the parties have been separated for eleven (11) years, today they have totally separate lives from each other and have even formed bonds with other people;

That these aforementioned facts satisfy all the conditions required for obtaining a divorce according to Article 66B of the Civil Code, Chapter 16 of the Laws of Malta;

That the applicant knows about these facts personally;

Therefore, you humbly respectfully request this Honourable Court to:

- 1. Pronounce the marriage vow that was celebrated on the twenty-third (23) of August of the year one thousand nine hundred and ninety-one (1991) between the parties;*
- 2. Order the Registrar of the Courts to notify the Director of the Public Registry of the divorce of the marriage of the parties within the time allowed by the same Court so that it is 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 examined the testimony on oath;

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Having seen the note filed by the Curators (Vide Fol 91).

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 at page 21) that the parties were married on the 23rd August 1991 in Thornhill, Ontario. Two children were born from this marriage who are now of age. She stated that this marriage broke down and the parties separated by virtue of a judgement by the Maltese Courts dated 11th May 2017. She declared that there is no prospect for reconciliation with her husband and that today they both lead separate lives. Moreover, she affirmed that there are no maintenance arrears due.

The Court took cognisance of the note filed by Dr Martin Fenech noe on 20th May 2024 and the declaration made on behalf of Dr Martin Fenech, Curator, that Defendant has no further evidence to adduce.

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:

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The Court has seen that the parties were married on the 23rd August 1991 which marriage bears certificate number 23216/1991(Vide Fol 5). Two children were born from this marriage who are now of age.

The record shows that the marriage broke down and the parties separated by means of judgement (vide, page 9 et seqq) dated 11th May 2017. 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 celebrated in Thornhill, Ontario which marriage bears the certificate number 23216/1991 and orders the Court Registrar to advise the Director of the Public Registry of the dissolution of the said marriage by divorce so that this may be noted in the Public Registry.

Cost to be borne by Plaintiff.

Read.

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

**Christabelle Cassar
Deputy Registrar**