

**CIVIL COURTS
(FAMILY SECTION)**

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

Hearing of 30th September 2024

Application no. : 371/2024JPG

Case no. : 17

PER And AER

Vs

X

The Court:

Having seen the joint Application filed by parties, dated 19 July 2024, at page 1 (translation at page 3 et seqq.), wherein it was held:

- 1. That the parties were married on the twenty-fourth (24) day of August of the year two thousand and twelve (2012) at Coconut Bay Beach Resort, Vieux Fort, West Indies, which marriage was registered at the Public Registry of Malta with progressive number two, seven, five, eight of the year two thousand and twelve (2758/2012) as is apparent from the marriage certificate annexed hereto and marked as 'Dok A';*
- 2. That the parties have a daughter who bears the name of RER who was born on X, and therefore today is of age;*
- 3. That the conjugal life of the parties was no longer possible for valid reasons which according to Civil law gave rise to a personal separation, and the parties legally separated by a public deed in the acts of Notary Dr. Malcolm Licari on the thirty-first (31) of May, of the year two thousand and sixteen (2016) a true copy of the contract here attached and marked as 'Doc B';*

4. *That the parties have not lived together since then and have thus lived apart for a period of at least six months out of the preceding year on the date of the commencement of the divorce proceedings, and this in accordance with **Article 66B (a) of the Civil Code, Chapter 16 of the Laws of Malta;***
5. *That there is no reasonable prospect of reconciliation between them given that today they have a life which is totally separate from each other;*
6. *That according to the above-mentioned public deed the parties have no maintenance obligations towards each other due to mutual renunciation, and there are no pending lawsuits between them;*
7. *That in addition there are no maintenance arrears due to the parties' daughter;*
8. *That these aforesaid facts satisfy all the conditions necessary for obtaining a divorce in accordance with Article 66B of the Civil Code, Chapter 16 of the Laws of Malta;*
9. ***That in view of the fact that one of the parties does not understand the Maltese language, but understands the English language, a translated copy of this application in English is being submitted so that the eventual decision given by this Honourable Court will be in the English language.***

The applicants therefore humbly request this Honourable Court to:

1. *Declare the dissolution of the marriage between the parties, as they have no further documents and evidence to present, nor do they have further submissions to make;*
2. *Order the Registrar of Courts to notify the Director of the Public Registry, within the time allowed by the same Court, of the dissolution of this marriage, so that it may be registered in the Public Registry.*

Having seen the evidence given by means of sworn affidavit;

Having seen the parties' declaration that they have no further documents and evidence to adduce nor do they have further submissions to make;

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:

PER testified (vide affidavit at page 12) that the parties were married on the 24th August 2012. From this marriage one child was born and is of age. He stated that this marriage broke down and they separated by virtue of a contract of personal separation dated 31st May 2016 in the acts of Notary Dr Malcolm Licari. They have been living completely separate lives from each other since 2016. He declared that there is no prospect for reconciliation with his wife. Moreover, he stated that there are no pending maintenance arrears due between them.

AER testified (Vide affidavit Fol 13) and confirmed and corroborated her husband's testimony.

Deliberates:

According to Law, it is confirmed in Articles 66A and 66B of Chapter 16 of laws of Malta:

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 24th August 2012 in the West Indies which marriage was duly registered in Malta and bears the Certificate Number 2758/2012 (vide page 5). A child was born from this marriage and is of age.

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 Malcolm Licari on the 31st May 2016 (vide Fol 5 et seqq). 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 2758/2012 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.

Costs shall be equally divided between the parties.

Read.

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

**Lorraine Dalli
Deputy Registrar**