

**CIVIL COURTS
(FAMILY SECTION)**

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

Hearing of the 12th March 2025

Application no.: 363/2023

Case no.: 18

MH

VS

**And by virtue of a decree dated 10th April 2024
Dr Martin Fenech and LP Gillian Muscat were
appointed Deputy Curators to represent the
absent IS**

The Court:

Having seen the sworn application filed by MH dated the 27th of June 2023, (vide translation at page 5), wherein it was held:

Whereas the parties above-cited were married in Valletta, Malta on the twenty-seventh of April of the year two thousand and eighteen (27/04/2018), whereby a copy of their relative Marriage Act is hereto attached and marked as 'Doc. MHA1'.

Whereas no children were born from this marriage, and therefore, there are no pending issues between the parties pertaining to maintenance relative to any minor children.

Whereas the above mentioned parties have been legally separated by means of a

separation contract drawn up by the late Notary Dr Ivan Barbara dated the twenty fifth (25th) of September of the year two thousand and twenty (2020); a legal copy of said contract is hereto attached and marked as 'Doc. MHA2', which separation contract was published following a decree delivered by this Honourable Court bearing number 3083/19 and dated the twenty- seventh(27) of December of the year two thousand and nineteen (2019), and another decree handed down by this Honourable Court dated the twelfth (12th) of August of the year two thousand and twenty (2020), that had extended the authorization of the publication of the said separation contract above-cited in view of the fact that during the said period the Covid-19 pandemic was prevalent in its full force.

Whereas the parties have been separated de facto for a number of year, precisely, since the twenty- seventh(27th) of September of the year two thousand and nineteen (2019).

Whereas there are no issues pertaining to maintenance between the parties in favour of one or the other, given that according to Clause four (4) of the section entitled 'General Dispositions' within 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 almost three years, and de facto separated for almost four years, today they lead a totally separate life from each other.

*Whereas the applicant has prepared the annexed affidavit, marked as ' **Doc MHA3**', through which he is confirming 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 applicant humbly and respectfully requests 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-seventh of April of the year two thousand and eighteen (27/04/2018); 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 against the respondent.

Having seen that the application and documents, the decree and notice of hearing have been duly notified according to law;

Having heard the evidence on oath;

Having seen the note in the records of the proceedings dated 29th January 2025 whereby Dr Martin Fenech informed the Court that all attempts to communicate with the Defendant proved futile;

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:

MH, testified by means of an affidavit (*vide affidavit at page 19*), that the parties married on the 27th of April of the year two thousand and eighteen (2018) and that from this marriage no

children were born. The parties separated de facto since 27th September of the year two thousand and nineteen (2019) and signed a contract of personal separation in the acts of notary Dr Ivan Barbara on the 25th September of the year two thousand and twenty (2020). Plaintiff testified that the parties lead an independent life and therefore there is no possibility of a reconciliation and there are no pending maintenance arrears.

Having seen that Dr Martin Fenech, Deputy Curator informed the Court that communication with Defendant was not successful and therefore he had no evidence to adduce (viva voce 29th January 2025 at pg 49);

Considers:

According to Law, it is confirmed in Articles 66A and 66B of Chapter 16 of the 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.

Deliberates:

The Court has seen that the parties contracted their marriage on the 27th April 2018 which marriage bears the certificate number 844/2018 (vide fol 8). No children were born from this marriage.

From the acts of the case it transpires that the parties' were separated by means of a contract of personal separation in the acts of Notary Dr Ivan Barbara dated 25th of September 2020 (at page 10 et seq). The parties have been separated de facto since 27th September 2019.

Therefore, it is established that the parties have been separated within the time frame required by law.

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 844/2018 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.

Senza Tassa.

Read.

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

Lorraine Dalli

Deputy Registrar