

**CIVIL COURTS**  
**(FAMILY SECTION)**

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

**Hearing of the 27th March 2025**

**Application no. : 588/2024 JPG**

**Case no. : 17**

**SS**  
**vs**  
**DM**

**The Court:**

Having seen the application filed by Plaintiff dated 22<sup>nd</sup> November 2024, at page 5 et seq wherein it was held:

- 1. That the parties got married on the 17<sup>th</sup> of October of the year 2014 in Malta and the same marriage was registered in the Malta Public Registry with progressive number 3031/2014 (certificate hereto annexed and marked '**Doc SS1**');*
- 2. That from this marriage, BM was born on X and HM was born on Y (birth certificate marked as '**Doc SS2**' and '**Doc SS3**');*
- 3. That the parties separated by means of a contract signed before Notary David Borg on the 23<sup>rd</sup> of August 2024 (contract hereto annexed and marked as '**Doc SS4**'), and this after being so authorised;*

4. *That the parties have not lived together for over a year and there is no reasonable prospect for reconciliation between the parties;*
5. *That while the obligation of maintenance is contemplated in the contract of separation, it results that maintenance was never paid. That payment of maintenance, education and health as well as payment of amount considered in clause 16 of the separation agreement remains pending between the parties but this application should not be interpreted as a renunciation to the same;*
6. *That since this default is attributable to the defendant, this should not pose an obstacle to the divorce proceedings as considered by this Honourable Court in application number: 261/2020 JPG, JT vs. RT, decided 29<sup>th</sup> January 2021;*
7. *That in the plaintiff's opinion, all the criteria required by law for the dissolution of marriage and for the divorce of the parties, are present;*

***THEREFORE***, the plaintiff humbly requests that this Honourable Court:

- (i) *Declare the marriage between the parties dissolved and pronounce divorce between the parties for all effects and purposes at law;*
- (ii) *Order the Registrar of the Courts so that within the time so fixed by this Honourable Court, he shall notify the Director of the Public Registry of the divorce of the parties in order to be registered;*

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

Having seen that Defendant did not file a reply but appeared for the hearing dated 14th January 2025 assisted by counsel. (Vide Fol 20).

Having 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:**

**Plaintiff** testified (vide affidavit fol 8 et seqq.) that the parties were married on the 17<sup>th</sup> October 2014 in Malta. Two children were born from this marriage, who are still minors. She stated that their marriage broke down and the parties separated by virtue of a contract of personal separation dated 23<sup>rd</sup> August 2024 in the acts of notary Dr David Borg. She declared that there is no prospect for reconciliation with her husband. Moreover, she stated that there are still pending maintenance arrears with regard expenses relating to the health and education of the minors.

**Defendant** testified on oath (Vide Fol 22) and corroborated all evidence given by his wife.

**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 17<sup>th</sup> October 2014 in Malta which marriage was registered at Malta's Public Registry, bearing the certificate number 3031/2014 (vide page 10). Two children were born from this marriage who are still minors;

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 David Borg on the 23<sup>rd</sup> August 2024 (vide Fol 10 et seqq), but have been living separate lives since October 2022. Therefore, it is established that the parties have been separated in excess of the timeframe required by law.

The record shows that that Plaintiff claims the Defendant is in default regarding maintenance payments.

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 3031/2014 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)**

**Nicole Caruana**

**Deputy Registrar**