

Kopja Informali ta' Sentenza



**QORTI CIVILI
(SEZZJONI TAL-FAMILJA)**

**ONOR. IMHALLEF
NOEL CUSCHIERI**

Seduta tal-15 ta' Dicembru, 2009

Citazzjoni Numru. 290/2009

**A wife of B C,
known as A D
vs
Doctor Anthony Cutajar nominated deputy curator
to represent B C who is absent from these Islands**

The Court,

Having seen the sworn application by virtue of which applicant A C is requesting this court to declare null and void at law her marriage with respondent B C on the grounds that the matrimonial consent was defective in terms of paragraphs [c],[d] and/or [f] of article 19[1] of Chapter 16 of the Laws of Malta;

Having seen the reply by virtue of which the deputy curators are declaring that they are as yet not aware of the facts of the case, and reserve the right to file a further

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reply when, and if, they succeed in communicating with respondent;

Having seen all the acts of the case, including the affidavit presented by plaintiff;

Having heard the evidence on oath;

Having considered:

That by virtue of the present action plaintiff is requesting the annulment of her marriage to defendant, in terms of the afore-mentioned articles of law.

That from the evidence produced, it results that plaintiff met defendant through a friend of hers who informed her that she knew of a person who was looking for a female companion. Since defendant was at the time residing in Malta, whilst she was still living in Belarus together with her daughter, they started communicating with each other via sms's and phone calls. Eventually plaintiff came over to Malta where she stayed with defendant who has asked her to marry him. She accepted, and the parties got married on the 28 January 2005.

Plaintiff explains that at that time defendant was 53 years old, whilst she was 30 years old. Immediately after the marriage, the parties began encountering matrimonial problems, increased by the fact that a language barrier existed between them because she could not speak English whilst her husband could not speak her language. They had frequent quarrels during which period defendant "kicked me out of our matrimonial home several times."

She also explains that defendant lured her into marriage by constantly saying that he owned a lot of money, whilst later, after the marriage, she found out that he had not. During their brief married life, things went from bad to worse, and after "barely nine [9] months" of married life plaintiff left the matrimonial home and went to live at her friend's house.

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On the 28 June 2007 the parties separated legally by a judgment of this court.

In the light of the above facts, the considered opinion of this court is that when the parties agreed to get married [1] they did not know each other at all, and in fact they used to communicate mostly by sign-language; and [2] that both of them, though for different grounds, were unable to assume the obligations of marriage in respect of one another.

On the strength of the above, the court considers plaintiff request as justified in fact and at law in terms of the first part of paragraph [d] of article 19[1] Chapter 16, and consequently accedes to her request, and declares null and void the marriage contracted between the parties on the 28 January 2005; and also accedes to her request that she reverts to her maiden surname 'Zrakova'.

Each party is to bear her/his costs; but the fees due to the deputy curators are provisionally to be paid by plaintiff.

< Sentenza Finali >

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