

**CIVIL COURT
(FAMILY SECTION)**

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

Hearing of Friday 1st February, 2019

App. No. : 441/2018 JPG

Case No. : 23

DSR

Vs

PR

The Court,

Having seen the application of divorce filed by DSR, dated 1st October 2018, wherein it was held:

That DSR married PR on the 17th December 2004 in Hildesheim, Germany and consequently the parties established their permanent residence in Malta from the 29th December 2005, from which marriage no children were born;

That DSR and PR separated legally from one another and this by virtue of a contract of consensual separation in the acts of Notary Dr. James Grech dated the twelfth (12th) of the year two thousand and eighteen (2018), a copy of which is being hereunder annexed and marked as Dok. A;

That in terms of the same separation contract, paragraph number one (1), the parties declared that they had been separated de facto from one another as

from the sixteenth (16th) March of the year two thousand and twelve (2012), and thus they had been more than four (4) years de facto separated from one another before the conclusion and signing of the contract of separation herein annexed;

That in terms of the same separation contract, the parties declared in paragraph number four (4) that they reciprocally renounced to the right of claim and/or receive maintenance from one another and hence there are no issues of maintenance between the parties;

That there exists no prospect of reconciliation between the parties, since the parties both have a private life that is separate from the other;

That therefore all the elements for the granting of divorce in terms of Article 66B of Chapter 16 of the Laws of Malta subsist;

Hence the applicant respectfully requests this Honourable Court to:

- 1. Pronounce the dissolution of the marriage between the parties DSR and PR by divorce and this in terms of Article 66A et seq of Chapter 16 of the Laws of Malta;*
- 2. Order the Court Registrar to advise the Director Public Registry with the dissolution of the marriage between the parties in that this may be registered in the Public Registry and this within such period of time that this Court shall determine.*

Having seen that the application and documents, the decree and notice of hearing have been duly notified in accordance with law;

Having heard all the evidence 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;

DSR testified at Fol 13 *et seqq* that she and defendant got married on the 17th of December 2004 in Germany, and that they subsequently moved to Malta in 2005. She explained that the parties have been separated since March 2012 and have lived apart ever since. She testified that no children were born from this marriage and that no maintenance is payable to either party. She added that there is no hope for reconciliation between the parties.

PR testified at Fol 23 *et seqq* and confirmed and corroborated the testimony of **DSR**.

Deliberates;

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.

[...]

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) 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 four years out of the immediately preceding five years, or at least four years have lapsed from the date of legal separation; and

(b) there is no reasonable prospect of reconciliation between the spouses; and

(c) 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:

[...]

From the evidence adduced, the Court understands that the parties were married in Germany on the 17th of December 2004 (Vide Doc. B at page 17), and established their permanent and habitual residence in Malta from the 29th of December 2005. It also results that the marriage broke down and the parties obtained a personal separation by means of a public deed in the acts of Notary Doctor James Grech, dated the 12th of July 2018 (Vide Doc. A at page 3), having lived apart since the 16th of March 2012.

It further results that no maintenance is due since the parties had reciprocally renounced their right to claim and/or receive maintenance from each other, and that there is no hope of reconciliation between the parties.

For these reasons, the Court pronounces the dissolution of the marriage between the parties DSR and PR by divorce 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.

The expenses of these proceedings are to be borne equally by the parties.

Read.

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

**Lorraine Dalli
Deputy Registrar**