

**CIVIL COURT  
(FAMILY SECTION)**

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

**Hearing of Monday 13th May, 2019**

**App. No. : 532/2018 JPG**

**Case No. : 21**

**AG**

**vs**

**BMH**

**The Court,**

Having seen the sworn application filed by AG, dated 3<sup>rd</sup> December 2018, a fol 1 et seqq., wherein it was held:

*That the parties got married on the eleventh (11) March two thousand and six (2006) which marriage certificate is annexed Doc 'AG1' and from this marriage had no children ;*

*That the parties signed a contract of separation found in the acts of Notary Dr.Maronia Fenech of the twenty fifth (25) of October two thousand and twelve (2012) after autorisation granted by a decree given by the Family Court dated twenty second (22) October, two thousand and twelve (2012), which contract is annexed as Doc 'AG2' ;*

*That the parties have been separated since the date of the above mentioned contract and that there is no intention of reconciliation between them as they live completely separate lives ;*

*That there is no maintenance due to children as they had no children ;*

*That there is no maintenance due to each other ;*

*That the abovementioned facts are confirmed in an affidavit by the applicant attached hereto and marked as Dok 'AG3', and therefore the parties satisfy the necessary requisites set out by law in order to be granted a divorce according to Article 66B of Chapter 16.*

*Therefore, the applicant is hereby asking this Honorable Court to;*

- 1. Order that the marriage contracted between them be dissolved*
- 2. Order the Registrar of Courts that within a time period stipulated by this Honorable court, inform the Director of Public Registry so that the divorce be registered in the Public Registry.*

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 that the defendant was duly notified according to Law and failed to file a sworn reply and therefore is non suited i.e. contumacious according to Law.

Having seen the exhibited documents and all the acts of the case;

Having seen the notes in the records of the proceedings of the 11<sup>th</sup> March 2019, whereby the Court granted the defendant 10 days within which to file written submissions in terms of Art 158 (10) of Chapter 12 of the Laws of Malta;

Having seen that the defendant failed to file any written submissions;

Having seen the note of submissions of AG dated 25<sup>th</sup> March 2019;

Having seen the Articles 66A, 66B u 66C of Chapter 16 of Laws of Malta;

**Considers;**

AG testified by means of an affidavit (Fol 6) that the parties were married on the 11<sup>th</sup> of March 2006, and that no children were born from this marriage. He testified that the marriage broke down and the parties obtained a personal separation on the 25<sup>th</sup> of October 2012, duly authorised by this Court. He explained that the parties have been living separately for more than four years and have completely separate lives. He confirmed that there are no maintenance arrears, since the parties had reciprocally renounced to their right to receive maintenance from each other.

**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, it results that the parties were married on the 11<sup>th</sup> March 2006 (Vide Doc. AG1, fol 7), and that no children from this marriage were born. 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 Maronia Fenech, dated the 22<sup>nd</sup> October 2012 (Vide Doc. AG2, fol 9 et seqq.).

The record shows furthermore that no maintenance is due since the parties had reciprocally renounced their right to claim and/or receive maintenance from each other. Moreover, the parties have lived separately for over four years and that there is no hope of a reconciliation.

**For these reasons, the Court pronounces the dissolution of the marriage between the parties 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**