

**CIVIL COURT  
(FAMILY SECTION)**

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

**Hearing of Thursday 16th May 2019**

**App. No. : 27/2019 JPG**

**Case No. : 15**

**AS**

**vs**

**SS**

**The Court,**

Having seen the sworn application of divorce filed by AS, dated 18<sup>th</sup> January 2019, a fol 1 et seqq., where in it was held:

- 1. That the parties married in Public Registry, Valletta on the twenty eight of March of the year two thousand and five (28/03/2005). The marriage was duly registered in the Public Registry as established in the marriage certificate having progressive number 213/2005 which is here attached and marked as Doc 'A';*
- 2. That the plaintiff and the defendant have been de facto separated about seven (7) years ago, the contract of separation was signed in the acts of the notary Dr Jean Carl Debono dated 11<sup>th</sup> August 2017 which contract is here attached and marked as Doc 'B';*

3. *That from this marriage a child was born, D who was born on tenth of June of the year two thousand and six (10/06/2006);*
4. *That there is no reasonable prospect of reconciliation between the parties, so much so that they have been separated and living apart for more than four (4) year out of the immediately preceding five (5) years before this sworn application, and thus satisfy the criteria in Article 66B of Chapter 16 of the laws of Malta;*
5. *That with regards maintenance, plaintiff has in terms of Article 9 of the Separation Contract been paying two hundred Euro (€200) per month for the maintenance of his minor son, which maintenance has always been paid;*
6. *That these facts hereinabove mentioned satisfy the conditions required for the granting of divorce as found in article 66B of the Civil Code, Chapter 16 of the laws of Malta.*

*Thus, in light of the above mentioned, the plaintiff solemnly asks this Honourable Court to:*

- 1) *Pronounce the dissolution of the marriage between the parties, and this in terms of article 66A of Chapter 16 of the laws of Malta.*
- 2) *Order the Registrar of Courts to notify the divorce of the parties to the Director Court, so that the same shall 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 seen the sworn reply of SS, dated 28<sup>th</sup> February, 2019, a fol 22 et seqq., wherein it stated:

1. *That while the defendant understands the English language, be it declared that she does not understand the Maltese language and therefore it be appropriate that this Honourable Court orders, in terms of Chapter 189 of the Laws of*

*Malta that the present proceedings be conducted in the English language;*

2. *That the defendant confirms that she read the translation of the sworn application promoter of these proceedings and confirms that so far, that which was declared therein by AS is true;*
3. *That the defendant also confirms that insofar as she continues to receive the maintenance agreed to in the separation contract in the acts of Notary Dr Jean Carl Debono dated the eleventh (11) August, two thousand and seventeen (2017) regularly and insofar as she is not ordered to pay costs in these present proceedings then she has no objection to AS's request for divorce;*
4. *That furthermore defendant confirms that she will keep S as her surname;*
5. *That is what defendant has to declare at this stage;*
6. *Saving further defence pleas.*

*With costs and with plaintiff being summoned for purposes of reference to his oath.*

Having heard all the evidence on oath;

Having seen the exhibited documents and all the case acts;

Having seen the Articles 66A, 66B and 66C of Chapter 16 of laws of Malta;

**Considers;**

AS testified that the parties got married on the 28<sup>th</sup> of March 2005, and from this marriage one child was born to the parties, who is still a minor. He explained that the parties have been separated *de facto* for seven years, despite the fact that they signed their contract separation on the 11<sup>th</sup> of August 2017. He stated that he pays maintenance for the parties' minor child on a regular basis, and that there are no maintenance arrears. He confirmed that the parties have lived separate lives for over four years, and that there is no prospect of reconciliation.

SS testified and confirmed and corroborated the testimony given by plaintiff.

**Deliberates;**

Having seen the Articles 66A and 66C of Chapter 16 of Laws of Malta, wherein it stipulates:

*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:[...]*

The Court notes that the record of the proceedings shows that the parties were married at the Public Registry, Valletta, Malta, on the 28<sup>th</sup> of March 2005 (vide Dok 'A', a fol 8), and from this marriage they had one child. It has been similarly established that the marriage broke down

and the parties obtained a personal separation by means of a public deed in the acts of Notary Doctor Jean Carl Debono, dated the 11<sup>th</sup> of August 2017 (Vide Dok 'B', a fol 9 et seqq.).

The evidence proffered also shows that there are no maintenance arrears. It has been proven that the parties have lived separately for more than four years, and that there is no hope of reconciliation between the parties.

The Court considers therefore that plaintiff has satisfied all the requirements imposed by law for the granting of a divorce.

The Court finds furthermore that the plaintiff did not object to cover all legal and judicial expenses of this procedure ( vide note in the record of proceedings of the 8<sup>th</sup> March 2019 – pg 25).

**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 registered in the Public Registry.**

**The expenses of these proceedings are to be borne by the plaintiff.**

**Read.**

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

**Lorraine Dalli  
Deputy Registrar**