

**CIVIL COURT
(FAMILY SECTION)**

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

Hearing of Friday 12 July, 2019

App. No. : 121/2019 JPG

Case No. : 25

CM

vs

TT

The Court,

Having seen the application for a divorce filed by CM, dated 7th March 2019, a fol 1 et seqq., wherein it was stated:

That the parties were married on the 19th October of the year 2005 and no children were born from this marriage;

That the parties are legally separated by means of a deed of personal separation in the records of Notary Doctor Jean Carlo Debono dated the 31st August of the year 2015 (vide Dok. A);

That there is no hope for reconciliation between the parties since they been de facto separated for since October of the year 2014, that is over four years ago, as can be confirmed by witnesses, amongst whom are JM and BM. Moreover, the parties lead separate lives;

That there is no issue regarding maintenance since both parties have reciprocally renounced to their right to receive and/or claim maintenance from each other, as resulting from the clause 4 of the attached deed of personal separation;

That the afore-mentioned facts satisfy all the conditions necessary for the handing down of a divorce judgment as per Article 66B of Chapter 16 of the Laws of Malta;

Thus, the applicant humbly requests that this Honourable Court:

- 1. Declares that the marriage contracted by the Parties is dissolved;*
- 2. Orders the Registrar of Courts, so that within the time-frame so ordered, notifies the Director of Public Registry with the dissolution of the parties' marriage so that this is 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 the exhibited documents and all the case acts;

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

Considers;

CM testified that the parties got married on the 19th of October 2005, and from this marriage no children were born to the parties. He explained that the parties have been separated *de facto* for since 2014, despite the fact that they signed their contract of separation on the 31st of August 2015. She stated that no maintenance is payable to either party according to the contract, and that therefore there are no maintenance arrears. She confirmed that the parties have lived separate lives for over four years, and that there is no prospect of reconciliation.

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

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:

[...]

The evidence proffered by the parties shows that the parties were married on the 19th of October 2005 and that no children were born from this marriage. It was also 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 Carlo Debono dated the 31st of August 2015, having lived apart as from October 2014. Plaintiff has therefore satisfactorily proven that the parties have been living separately for over four years, as required by law.

The record shows furthermore that no maintenance is due since the parties had reciprocally renounced to their right to claim and/or receive maintenance from each other. This Court holds that there is no hope of reconciliation between the parties.

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