

**CIVIL COURTS
(FAMILY SECTION)**

MADAM JUSTICE

JACQUELINE PADOVANI GRIMA LL.D., LL.M. (IMLI)

Today Friday, 10th of July 2020

Application no. : 17/2020 JPG

Case no. : 22

NS

Vs

TS

The Court:

Having seen the sworn application filed by NS dated 14th January 2020, at page 1 et seqq., wherein it stated:

- 1) That the parties married on the fourth (4) of January of the year nineteen ninety seven (1997) (vide Dok A) and from this marriage a child was born who is today of adult age;*
- 2) That the parties were duly authorised to proceed with the contract for personal separation (vide Dok B) by means of a decree issued by Civil Court Family section dated fourth of September of the year two thousand and nineteen (2019);*
- 3) That the parties have been more than four years de facto separated;*
- 4) That there is no reasonable prospect of reconciliation between the parties since besides being de facto separated since the year two thousand and thirteen, as today they both lead separate lives;*

5) *That in accordance with clause five (5) of the separation contract, the parties have renounced in a definite manner to their right to demand maintenance from one another and therefore there are no arrears of maintenance;*

6) *That these above indicated facts satisfy all the necessary requisites for attaining divorce according to Article 66 B of the Civil Code, Chapter 16, of the Laws of Malta,*

Therefore the plaintiff humbly requests this Honourable Court to :

1. *Pronounce the dissolution of the marriage between the parties;*
2. *Orders the Registrar of Courts so that within the given period by the Court, informs the Director of the Public Registry with the dissolution of the marriage of the parties and for the same to be registered in the Public Registry.*

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

Having seen that the respondent, duly notified, failed to file a reply and failed to appear, therefore, the respondent is contumacious;

Having heard all the evidence proffered;

Having seen the exhibited documents and all the case acts;

Having seen the faculty given by this Court to the respondent to file submissions in terms of Article 158(10) Chapter 12, of the Laws of Malta;

Having seen that the respondent failed to file any submissions;

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

Considers;

NS testified by means of an affidavit (fol 20) that she married TS on the 4th of January 1997 and from this marriage one child was born who is today of age. She testified that the parties have been de facto separated since 2013 and have also legally separated by deed of personal separation on the 19th September 2019 in the Acts of Notary Dr Ann Marie Agius. She opted to keep her married surname S. She further testified that the parties have reciprocally renounced to their right to claim or receive maintenance. She testified that there is no hope of reconciliation between the parties and there are no pending maintenance issues between them.

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 Court has seen that the parties were married on the 4th of January 1997, (vide Doc A, page 5) and from this marriage they had one child that has reached the age of majority.

It results also that the marriage broke down and the parties obtained a personal separation by means of a public deed in the acts of Notary Doctor Ann Marie Agius dated the 19th September 2019 (vide Dok B page 6). From the testimony by affidavit of the plaintiff, it further results that the parties have been separated *de facto* since 2013 as evidenced by Article 19 of the separation contract, and therefore for longer than the four years required by law.

The record shows that there are no maintenance arrears. Furthermore, the Court finds that there is no hope of a reconciliation.

The Court noted that the respondent failed to file written submissions in terms of Art 158 (10) of Chapter 12 of the Laws of Malta.

It is this Court's considered opinion that there are no compelling reason to withhold the request of the plaintiff.

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.

Senza tassa.

Read.

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

**Lorraine Dalli
Deputy Registrar**