

**CIVIL COURTS
(FAMILY SECTION)**

MADAM JUSTICE

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

Hearing of Wednesday 15th July 2020

Application no. : 23/2020 JPG

Case no. : 20

IJ

Vs

MMJ

The Court:

Having seen the sworn application filed by IJ, dated 20th January 2020 at page 20 et seqq., wherein it stated:

That he got married to respondent MMJ on the 6th of May 2006, and their marriage was registered in the Public Registry with number Y (Document A)

That from this marriage the parties had a son, JJ, who is now X years old.

That they got separated de facto in May of the year 2014, that is more than the four years required by the law on divorce, and from back then till today they kept living a life totally separate from each other, and there is no hope that there could be any reconciliation between them.

That subsequently the parties got legally separated and rescinded and liquidated the community of acquests existing between them by means of a contract of legal separation published in the acts of notary Doctor Jean Carl Debono dated 21 st April of the year two thousand and sixteen (2016) an authenticated copy of which is hereby being exhibited as document B.

That applicant declares that as the same legal separation contract states, none of the parties is bound to pay maintenance to the other party and that he has paid all the maintenance due by him in respect of their son J, as per contract of separation between them.

That there is no reasonable prospect that the parties reconcile with each other.

That the facts listed above satisfy all the legal conditions required in order to obtain a divorce, as per Section 66 B of the Civil Code of Malta.

Therefore, applicant humbly requests this honourable Court to :-

- 1. Pronounce the divorce, that is the rescission of the marriage between the parties; and*
- 2. Order the Director of Courts to notify the Director of Public Registry with the divorce between the parties within such time prescribed by this Court for this, so that he registers this divorce with 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 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:

IJ testified (by affidavit on page 18) that he married his wife M on the 6th of May 2006 and from this marriage they have a son who was born on the 14th August 2006. The marriage did not work out and he moved out of the matrimonial home in May 2014 and the parties have lived separately ever since. The parties got legally separated by means of a contract dated 21st April 2016. There

is no prospect or hope of reconciliation between the parties. There is no maintenance due to the wife, and the maintenance due to the minor son has always been duly paid.

Considers:

The respondent, during the sitting of the 17th June 2020 (page 15) informed the Court that she has no objection to the divorce as long as she does not have to pay any costs incurred in this law suit. The plaintiff declared that he has no objection to paying all the costs of these proceedings. Respondent also informed the Court that the facts resulting from the affidavit of the plaintiff reflected the truth and she has no objection to the divorce.

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:[...]

Considers:

The Court has seen that the parties were married on the 6th of May 2006 (page 4) and from this marriage they had a child;

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 Jean Carl Debono dated the 21st of April 2016 (vide page 5). From the testimony of the parties, it further results that the parties have been separated *de facto* since May 2014, 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.

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 by plaintiff.

Read.

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

**Lorraine Dalli
Deputy Registrar**