

**CIVIL COURTS
(FAMILY SECTION)**

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

Hearing of 22nd February 2021

Application no. : 165/2020 JPG

Case no. : 24

CD

And

**CA who resides in Canada, represented
by SD as authorised according to the
special power of attorney**

The Court:

Having seen the sworn and joint application filed by the parties, dated 9th of June 2020, at page 1 (translation at page 14), wherein it was held:

That they were married in N in U and had contracted legal separation on 10th October 2016 in virtue of a public deed in the records of Notary Dr James Grech of which an authenticated copy is being attached and marked document "B".

That more than four years have passed since as indicated in the deed of separation, they had been separated de facto since January 2011.

That they have been separated from each other for nine (9) years.

That therefore, there is no reasonable prospect of reconciliation. In fact, they live in different countries.

That the applicants pay no maintenance to each other and have no children between them.

Therefore, the applicants humbly beseech this Honourable Court to authorise and pronounce divorce between CD and CA according to Articles 66A et seq. of the Civil Code and to order the Registrar of Courts to, within the time allowed by this Honourable Court, inform the Public Registry and the Director of the divorce of the parties in order that this may be registered in the Public Registry, and this subject to any other provision which may be suitable and necessary.

Having seen that the application and documents, the decree and notice of hearing have been duly notified 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:

CD testified (vide affidavit Dok A, at page 17) that she married CA on the 30th of June 2008 in N U and that from this marriage no children were born. She stated that this marriage broke down and they separated de facto in January 2011 whilst they were legally separated on the 10th of October 2016. She declared that they left Malta in January 2014 to try to settle in C. She reiterated that this was very problematic, as she never wanted to live away from her children from her first marriage nor did she want to uproot them. Moreover, she testified that there was no maintenance due and that they decided to obtain divorce.

CA gave evidence on oath (vide affidavit, Dok B page 18) and corroborated and confirmed the testimony given by CD.

Deliberates:

According to Law, it is confirmed in Articles 66A and 66B of Chapter 16 of laws of Malta:

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 at on the 30th of June 2008 in N U (Maltese certificate marriage number 526/2013, vide Doc A, page 6) and no children were born of this marriage;

The record shows that the marriage broke down and the parties obtained a personal separation by means of a public deed in the acts of Notary Doctor James Grech dated the 10th of October 2016 (vide Dok B, page 3 et seqq). Therefore, it is established that the parties have been separated for the period of time required by law.

The record shows that that there are no maintenance arrears.

Furthermore, the Court finds that there is no reasonable prospect of a reconciliation between the parties.

For these reasons, the Court pronounces the dissolution of the marriage (certificate number 526/2013) 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 in the time prescribed by Law.

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**