

**CIVIL COURTS
(FAMILY SECTION)**

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

Hearing of 13th July 2021

Application no. : 102/2020 JPG

Case no. : 12

RS

vs

LO

The Court:

Having seen the application filed RS dated 6th March 2020, at page 1 (translation at page 27), wherein it was held:

*That the parties were married on the twenty-seventh (27) of February of the year two thousand and nine (2009) and this is evidenced by their marriage certificate number one, two, seven - (127/2009) here annexed and marked as **Doc. RS1**;*

*That the parties dissolved and liquidated the communion of acquests between them and effected the personal separation by means of a personal separation contract published in deeds of Notary Dr. Francesca Portelli on the tenth (10) of April of the year two thousand and seventeen (2017) here annexed and marked as **Doc. RS2**;*

That from this marriage the parties have three children, all minors;

That the parties have been de facto separated for more than four (4) years, specifically from the fourteenth (14) of February of the year two thousand and sixteen (2016), as is evidenced and stated in the first (1) clause of the separation contract referred to above;

That the applicants state that no maintenance is due and therefore there are no reciprocal maintenance claims;

That there is no reasonable prospect of reconciliation between them given that today they have a life totally separate from each other;

That these above mentioned facts satisfy all the necessary conditions for obtaining a divorce according to Article 66B of the Civil Code, Cap. 16 of the Laws of Malta;

The applicant therefore humbly requests this Honorable Court to:

- 1. Pronounces the dissolution of marriage between the parties;*
- 2. Order the Registrar of Courts to, within the time allowed by the same Court, notify the Director of the Public Registry of the divorce of the parties for registration 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 on the sitting held on the 17th of May 2021, Defendant appeared unassisted and the Court informed him of his legal rights. However defendant informed the Court that he did not require any legal assistance, accepted service of all acts and formally informed the Court that he has no objection to the divorce (Vide fol 23);

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:

RS testified (vide affidavit Dok b, at page 19) that the parties have been separated de facto from the 14th of February 2016, and that they were legally separated by virtue of a public deed in the acts of Notary Francesca Portelli on the 10th of April 2017. Furthermore, she stated that there is no prospect of reconciliation and that there are no arrears regarding maintenance.

LO testified (vide fol 31) and collaborated with Plaintiff's evidence.

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 27th of February 2009 (Maltese certificate marriage number 127/2009, vide Doc A, page 18) and that from this marriage three

children were born, who are still minors;

The record shows that the marriage broke down and the parties separated de facto on the 14th of January 2016 and obtained a legal separation by means of a public deed in the acts of Notary Doctor Francesca Portelli dated the 10th of April 2017 (vide Dok RS2, page 5 et seqq). Therefore, it is established that the parties have been separated in excess of the timeframe 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 127/2009) 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)

**Christabelle Cassar
Deputy Registrar**