

**CIVIL COURTS  
(FAMILY SECTION)**

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

**Hearing of 11th November 2021**

**Application no. : 419/2020 JPG**

**Case no. : 17**

**GK**

**Vs**

**IK**

**The Court:**

Having seen the sworn Application filed by GK, dated 15<sup>th</sup> December 2020, at page 1 (translation at page 3), wherein it was held:

*That the parties contracted marriage on the 22<sup>nd</sup> March 2006 (vide Doc. A attached);*

*That the parties entered into a deed of personal separation in the acts of Notary Clinton Bellizzi dated 5<sup>th</sup> June 2019 (vide Dok. B attached) after being so authorised by means of a decree of this Honourable Court dated 25<sup>th</sup> May 2019;*

*That RK was born during their marriage and today he is X years old;*

*That with respect to the said minor, by means of the said deed of personal separation dated 5<sup>th</sup> June 2019, the parties agreed inter alia that the care and custody of the child is to be joint between the parties, that his ordinary residence is to be in Malta with the main residence being with the mother, and within the same deed the parties also agreed with respect to access and maintenance;*

*That in accordance with the said deed of personal separation (Doc. B) the parties reciprocally renounced to the right to receive maintenance from each other;*

*That the parties have been de facto separated from each other since February 2014 as results from paragraph 'd' of the said deed of personal separation of the 5<sup>th</sup> June 2019;*

*That there is no reasonable prospect of reconciliation between the parties and more than four years have elapsed since the date of the de facto separation between the parties;*

*That all the abovementioned facts satisfy all the necessary conditions for the attainment of the dissolution of marriage in terms of Article 66B of Chapter 16 of the Laws of Malta.*

*Therefore, in view of the above, the applicant humbly requests this honourable Court to:*

- 1. Order the dissolution of marriage between the parties;*
- 2. Order the Registrar, within the time limit to be imposed by the Court, to notify the Director of the Public Registry with the dissolution of the marriage of the parties 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 according to law;

Having seen that Defendant, as assisted seduta stante, accepted service of the acts and informed the Court that she has no objection to the divorce being granted (Vide verbal dated 1st June 2021 at page 23);

Having seen the note filed by Director of Public Registry dated 6<sup>th</sup> of October 2021 (vide page 29A);

Having seen the exhibited documents and all the case acts;

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

**Considers:**

**IK** testified (vide page 24) that the parties got married on the 22<sup>nd</sup> of March 2006 and from this marriage a son was born. He stated that this marriage broke down and they separated on the 5<sup>th</sup> of June 2019. However, she confirmed that they had been living apart for circa 4 to 5 years before they eventually signed their separation. She declared that there is no prospect for reconciliation with his wife. Moreover, she declared that there are no maintenance arrears due.

**GK** gave evidence on oath (vide affidavit, at page 17) and corroborated and confirmed the testimony given by **IK**.

**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.*

*(omisis)*

*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) upon a demand made jointly by the two spouses, 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 6 months out of the preceding year: Provided that when the demand is made by one of the spouses against the other spouse, 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 one year out of the preceding two years; or*

- (b) on the date of commencement of the divorce proceedings, the spouses are separated by means of a contract or court judgment; and*
- (c) there is no reasonable prospect of reconciliation between the spouses; and*
- (d) 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: Provided further that for purposes of this paragraph, maintenance ordered by the court by a judgement of separation or agreed to between the spouses in a contract of separation, shall be deemed to be adequate maintenance:*

*Provided further that a divorce pronounced between spouses who were separated by a contract or by a judgement shall not bring about any change in what was ordered or agreed to between them, except for the effects of divorce resulting from the law.*

**Considers:**

The Court has seen that the parties were married on the 22<sup>nd</sup> of March 2006 (vide page 28) and a child was born from this marriage who is 12 years of age;

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 Clinton Bellizzi dated the 5<sup>th</sup> of June 2019 (vide Dok B, page 7 et seqq). Furthermore, as the acts show, the parties separated de facto from February 2014 (vide dorso page 7). Therefore, it is established that the parties have been separated in excess of the timeframe required by law.

The record shows 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 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 noted in the Public Registry.**

**Senza Tassa.**

**Read.**

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

**Christabelle Cassar**

**Deputy Registrar**