

**CIVIL COURTS  
(FAMILY SECTION)**

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

**Hearing of the 23<sup>rd</sup> of March 2022**

**Application no. : 42/2022**

**Case no. : 26**

**PZ**

**And**

**KZ**

**The Court:**

Having seen the joint sworn application filed by PZ and KZ, dated 21<sup>st</sup> January 2022, at page 1 (translation at page 3), wherein it was held:

*THAT they contracted their marriage on the seventh (7<sup>th</sup>) of September of the year two thousand and twelve (2012) and their marriage was registered in the Public Registry of Malta (certificate herewith attached as Doc.A)*

*THAT from this marriage they have no children. PZ, by Decree number 1956/A/2013, adopted the daughter of KZ, named VZ, who was born on X and today she reached the age of majority.*

*THAT they are separated ex lege by a deed of separation dated the twenty-ninth (29<sup>th</sup>) day of December of the year two thousand and twenty-one (2021) in the Acts of Notary Dr. Ann Fenech Adami (herewith attached as Dok. B);*

*THAT there is no reasonable prospect of reconciliation between the spouses;*

*THAT the parties have no pending claims against each other.*

*THAT the requisites envisaged in the abovementioned Article 66B of the Civil Code are therefore all fulfilled;*

*THEREFORE the applicants are respectfully requesting this Honourable Court to order and authorize a request for the pronouncement of divorce between PZ and KZ and to declare the dissolution of their marriage as envisaged in terms of Article 66A et seq of the Civil Code and to order the Registrar of Courts to notify the divorce of the parties to the Director of Public Registry within the period allowed for this purpose by the same court, so that the same shall be registered in the Public Registry.*

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

Having seen the joint note dated 8<sup>th</sup> of February 2022;

Having examined 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 the Laws of Malta;

**Considers:**

**PZ** testified (vide affidavit at page 27) that the parties were married on the 7<sup>th</sup> of September 2012 and that from this marriage no children were born. However, he adopted his wife's daughter. He stated that this marriage broke down and the parties separated by virtue of a deed of consensual separation dated 29<sup>th</sup> of December 2021. He declared that there is no prospect for reconciliation with his wife and that there are no pending maintenance arrears.

**KZ** testified (vide affidavit at page 28) confirming and corroborating her husband's testimony.

**Deliberates:**

Articles 66A and 66B of Chapter 16 of the Laws of Malta provide the following:

*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 notes that the parties were married on the 7<sup>th</sup> of September 2012 (vide marriage certificate, bearing the progressive registration number 2415/2012, vide page 5). No children were born from this marriage, however the husband adopted his wife's daughter who is now an adult.

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 Dr. Ann Fenech Adami dated the 29<sup>th</sup> of December 2021 (vide Dok B, page 6 et seqq.). Clause 20 of the deed of separation abovementioned shows that the parties have been living apart as from December 2016. 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 still pending maintenance arrears on the part of the Defendant.

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, with Marriage Certificate Number 2415/2012 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 Court orders that costs shall be equally divided between the parties.**

**Read.**

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

**Christabelle Cassar**

**Deputy Registrar**