

**CIVIL COURTS  
(FAMILY SECTION)**

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

**Hearing of the 25<sup>th</sup> of April 2022**

**Application no. : 122/2022**

**Case no. : 24**

**BG  
And  
AMS**

**The Court:**

Having seen the joint application filed by BG and AMS dated 1<sup>st</sup> of March 2022, at page 1 wherein it was held:

- 1. That the parties were married on the twenty-fourth (24<sup>th</sup>) of February of the year two thousand and seventeen (2017) at the Public Registry in Malta and this according to the marriage certificate hereto attached and marked as Dok A.*
- 2. That from this marriage no children were born.*
- 3. That the parties are legally separated from each other in terms of contract of separation drawn up by Notary Doctor Sylvana Borg Caruana on the twenty-eight (28<sup>th</sup>) of November of the year two thousand and eighteen (2018), a copy of which act is hereto attached and marked as Dok B.*
- 4. That there is no issue between the parties in connection with any payment of maintenance or such other expenses since the parties renounced to the right to claim maintenance from each other.*
- 5. That there is no prospect or hope for reconciliation between the parties owing to*

*the fact that besides being legally separated from each other, they have been living totally separate lives for the past years.*

6. *That the facts above-mentioned satisfy all the required conditions for the obtaining of divorce in accordance with Article 66B of the Civil Code, Chapter 16 of the Laws of Malta.*
7. *That, together with this application, the affidavits of the parties are being attached hereto, marked as Dok C1 and Dok C2. The parties declare that save for the evidence produced and annexed to this application, they have no further evidence to present.*

*Therefore and in light of the above, the applicants humbly request this Honorable Court to:*

1. *Pronounce the divorce between the parties;*
2. *Order the Court Registrar to, within the time permitted therefore by the same Court, notify the Director of the Public Registry of the divorce between the parties for the same to be registered in the Public Registry.*

*And this in terms of any declarations and provisions which this Honourable Court deems adequate and opportune.*

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

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:**

**BG** testified (vide affidavit Dok C1, at page 11) that the parties were married in Malta on the 24<sup>th</sup> of February 2017 and that from this marriage no children were born. He stated that this marriage broke down and they separated by virtue of a contract dated 28<sup>th</sup> of November 2018, in the acts

of Notary Dr Sylvana Borg Caruana. He declared that there is no prospect of a reconciliation with his wife and that there are no pending maintenance arrears due.

AMS testified (vide affidavit Dok C2 at page 13) and confirmed and corroborated with her husband's testimony.

**Deliberates:**

Articles 66A and 66B of Chapter 16 of the Laws of Malta provides 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 has seen that the parties were married on the 24<sup>th</sup> of February 2017 (vide marriage certificate Dok A at page 5, bearing progressive registration number 361/2017) and no children were born from 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 Dr. Sylvana Borg Caruana dated the 28<sup>th</sup> of November 2018 (vide Dok B, page 6 et seqq). Therefore, it is established that the parties have been separated in excess of the timeframe required by law.

Moreover, the Court notes that there are no maintenance arrears due.

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 361/2017 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.**

**Costs shall be borne equally by the parties.**

**Read.**

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

**Lorraine Dalli  
Deputy Registrar**