

**CIVIL COURTS
(FAMILY SECTION)**

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

Hearing 1st of August 2022

Application no.: 100/2022 JPG

Case no.: 27

**TM
Vs
EM**

The Court:

Having seen the sworn Application filed by TM dated 18th February 2022, at page 1, wherein it was held:

That the parties were married in Malta on the twenty-sixth (26th) day of April of the year two thousand and five (2005) [a marriage certificate is hereto annexed and marked as Dok A];

That from this marriage their son IM was born on X;

That the parties separated as per contractual deed of separation in the records of Notary Charmaine Bonnici on the ninth (9th) day of January of the year two thousand an eighteen (2018) [a copy is hereto annexed and marked as Dok B].

That from the date of the contract of separation, the parties have lived separately from each other;

That there is no reasonable prospect of reconciliation between them since both

parties continued with their life separately from the other party;

That maintenance payable for the minor IM is being made on a regular basis as stipulated on the contract of separation;

That consequently the parties satisfy all legal requisites to be granted a divorce.

Now therefore the applicant humbly submits to this Honourable Court to:

- 1) Have proceedings carried out in the English language in view of the fact that applicant is a Japanese national and has no knowledge of the Maltese language.*
- 2) Pronounce the dissolution of the marriage between the parties;*
- 3) Order the Registrar of Courts to notify the Director of Public Registry within the time so granted to him by this Honourable Court, of the dissolution of the marriage of the parties and to enable same be registered at the Public Registry and this under any order that this Honourable Court deems opportune.*

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

Having heard the evidence on oath;

Having seen the note filed by Plaintiff dated 26th of May 2022;

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:

Plaintiff testified by means of an affidavit (*vide affidavit at page 26*), and held that she married Defendant on the 26th of April 2005 and that from this marriage a child was born. She added that the parties separated by virtue of a separation contract in the acts on Notary Charmaine Bonnici dated the 9th of January 2018. Furthermore she declared that there is no reasonable prospect of a

reconciliation with the Defendant and that there are no pending maintenance issues.

Defendant testified *viva voce* before this Court on the 22nd of June 2022 and confirmed and collaborated Plaintiff's evidence.

Considers:

Article 66A of Chapter 16 of the Laws of Malta states:

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)

Article 66B of Chapter 16 of the Laws is to the effect that:

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.

Deliberates:

The Court has seen that the parties contracted their marriage on the 26th of April 2005, which marriage bears the certificate number 400/2005 (*vide* marriage certificate at page 5). A child was born from this marriage, who is still a minor.

From the acts of the case it transpires that the parties' marriage broke down and that the parties regulated their personal separation by means of a public deed in the acts of Notary Charmaine Bonnici dated 9th of January 2018 (*vide* contract of separation at page 6 *et seqq*). The Court observes that as indicated by the parties' in their respective testimonies, the parties are now leading separate lives and have renounced to their right to receive maintenance from each another.

Therefore, it is established that the parties have been separated in accordance with the time frame required by law.

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 400/2005 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.

Senza Tassa.

Read.

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

**Lorraine Dalli
Deputy Registrar**