

**CIVIL COURTS
(FAMILY SECTION)**

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

Hearing of the 11th of November 2022

Application no.: 261/2022 JPG

Case no.: 207

**AR
And
ARR**

The Court:

Having seen the sworn joint Application filed by AR and ARR dated 13th May 2022, at page 1, wherein it was held:

That the parties were married on the 4th August 2016, which marriage was registered in the Public Registry with progressive number 2442/2016 as results for the attached certificate marked Doc 'A'.

That the parties separated legally by means of a contract in the acts of Notary Clinton Bellizzi published on the 3rd March 2022 (A copy of the contract is attached and marked Doc 'B)

That there is not reasonable prospect that the parties may reconcile.

That the parties have not lived together since January 2019, as also results from the declaration made by the parties in the said contract of separation and there is

no reasonable prospect of reconciliation between the parties.

That all the criteria required by law for the dissolution of the marriage and the divorce of the parties are met.

Therefore the parties humbly request that this Honourable Court:

- 1. Declare that the marriage between the parties is dissolved and the parties are divorced for all effects of the law.*
- 2. Order the Registrar of Courts to, within the time period stipulated by the said Honourable Court, notify the Director of the Public Registry with the divorce between the parties in order that it 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 that the parties declared on the 23rd June 2022 that they had no further evidence to proffer or submissions to make and invited the Court to proceed to judgment (vide fol 19);

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:

ARR testified (*vide viva voce evidence page 26*), and held that she married Defendant on the 4th of August 2016 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 Dr Clinton Bellizzi dated the 3rd of March 2022. Furthermore she declared that there is no reasonable prospect of a reconciliation with the

Defendant and that there are no pending maintenance issues.

AR testified *viva voce* before this Court on the 23rd of June 2022 and confirmed and corroborated Plaintiff's evidence.

Considers:

According to Law, it is confirmed in Articles 66A and 66B of Chapter 16 of the 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.

Deliberates:

The Court has seen that the parties contracted their marriage on the 4th of August 2016, bearing marriage certificate number 2442/2016 (*vide* marriage certificate at page 8) and that 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 they obtained their personal separation by means of a public deed in the acts of Notary Clinton Bellizi dated 3rd March 2022 (*vide* contract of separation at page 3 *et seqq*). The Court observes that as indicated by the parties' in their respective testimonies, the parties have been living apart since 2019 and have renounced to their right to receive maintenance from one 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 2442/2016 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 divided equally between the parties.

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

Christabelle Cassar

Deputy Registrar