

**CIVIL COURTS
(FAMILY SECTION)**

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

Hearing of the 12th of January 2023

Application no.: 8/2021 JPG

Case no.: 19

SB

Vs

**And by virtue of decree dated 20th of
May 2022, Dr Graziella Tanti and LP
Katrina Zammit Cuomo, were
appointed as Deputy Curator to
represent RB**

The Court:

Having seen the application filed by SB dated 8th January 2021, at page 1, wherein it was held:

*That the parties celebrated their marriage on the 11th of February of the year 2006,
at the Maria Bambina Parish Church, Senglea, vide marriage certificate marked
Doc A, from which marriage a son by the name of DB was born.*

*That they separated from each other legally by means of a public deed of the 25th
May of the year 2011 in the records of Notary Doctor Patricia Vella Haber, vide
separation contract marked Doc B.*

That there is no prospect for reconciliation.

That the parties are not obliged to maintain each other.

That these requirements satisfy all the conditions necessary for the obtainment of the divorce according to article 66B of the Civil Code, Chapter 16 of the Laws of Malta;

Therefore, in view of this, the applicant pleads the Court:

- 1. To pronounce the divorce between the parties;*
- 2. To order the Registrar of Courts to notify the Director of Public Registry with the said divorce within the prescribed time-frame, and to take all necessary steps so that this divorce decree will be duly registered in the Public Registry;*
- 3. To authorise the applicant to revert to her maiden surname Azzopardi.*

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 notes dated 12th and 20th of July 2021, 13th August 2021, 12th November 2021 filed by the State Advocate wherein it was established that it was impossible to notify or serve the Defendant according to Law, vide fol 22 and 28;

Having seen the application for the appointment of Deputy Curators and the decree of this Court of the 20th May 2022;

Having seen the reply filed the Deputy Curator dated 15th of July 2022, wherein it held:

- 1. That the exponent Deputy Curators have seen the acts of the proceedings from where it transpires that there were a number of attempts even through the State Advocate to notify the defendant RB in G which however all resulted in the negative. That there doesn't seem to be any other means of communication with the defendant, and therefore the applicant has to present any information she has with regards to electronic means of communication such as an email where*

the exponents can inform the defendant with the current application;

2. *That the exponent Deputy Curators are not informed of the facts of the present case and therefore are reserving the right to file a further motivated reply together with a list of witnesses and documents when and if it is the case that they are informed of the facts of the case.*

Save further reply.

Having seen the note filed Deputy Curators dated the 18th of October 2022, exhibiting documents illustrating their efforts at contacting Defendant (vide fol 89);

Having seen the faculty given by this Court to Defendant to file written submissions in terms of Article 158 (10) of Chapter 12 of the Laws of Malta (vide fol 94);

Having seen that no written submissions were filed;

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 by means of an affidavit (*vide affidavit, page 18*), that the parties were married on 11th of February 2006, and that a child was born from this marriage. She added that the parties separated by means of a public deed dated 25th of May 2011, in the acts of Notary Dr Patricia Vella Haber. She testified that they have been living apart for the last ten (10) years and therefore there is no reasonable prospect of a reconciliation. Moreover she confirmed that there are no maintenance issues. Finally she declared that she desires to revert to her maiden surname, 'A'.

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 11th of February 2006, bearing marriage certificate number 99/2006 (*vide* Dok A fol 3) and that a child was born from this marriage.

From the acts of the case it transpires that the parties' marriage broke down and they separated by means of public deed dated the 25th of May 2011, in the acts of Notary Dr Patricia Vella Haber (*vide* contract of separation fol 4).

The record shows that there are no maintenance issues;

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, which marriage bears the certificate number 99/2006 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. Moreover, the Court authorises Plaintiff to revert to her maiden surname 'A' and orders the Director of the Public Registry take all the appropriate measures.

Senza tassa.

Read.

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

**Lorraine Dalli
Deputy Registrar**