

**CIVIL COURTS  
(FAMILY SECTION)**

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

**Hearing of the 24<sup>th</sup> January 2023**

**Application no.: 527/2021**

**Case no.: 26**

**JS**

**Vs**

**Dr Ramon Bonett Sladden and PL Jean Pierre Busuttil were appointed as Deputy Curators to represent the absentee TB; And by virtue of decree dated the 19<sup>th</sup> of April 2022, Dr Martin Fenech was appointed instead of Dr Ramon Bonett.**

**The Court:**

Having seen the application filed by JS, dated the 4<sup>th</sup> of November 2021, at page 1 (translation at page 17), wherein it was held:

- 1. That the parties got married on the twenty eighth of September of the year 1991 in the Register Office of Cambridge, England. Their marriage was registered in the Maltese Public Registry, as results from the attached certificate, marked as **Dok A.***
- 2. That from this marriage, JS, was born on X, and he is therefore of majority age.*

3. *That the parties are legally separated through a consensual separation agreement published by the Notary Doctor Francesca Portelli dated the 17<sup>th</sup> April of the year 2014; true copy of the said separation deed is hereby attached and marked as **Dok B**.*
4. *That there are no issues regarding maintenance neither with respect to the child of the party, who had already achieved majority age when the parties separated, nor with respect to maintenance payable to one another.*
5. *That there is no reasonable prospect for reconciliation between the parties since besides the fact that the parties have been legally separated since the year two thousand and fourteen (2014), the parties today have a total separate and independent life from one another.*
6. *That these facts satisfy all the requirements for the attainment of divorce in terms of Article 66B of the Civil Code, Chapter 16 of the Laws of Malta.*
7. *That the applicant is hereby attaching his affidavit with this present application, marked **Dok C**.*

*Therefore the applicant humbly requests this Hon. Court to:*

- A. *Pronounces the dissolution of marriage between the parties, in terms of Article 66A et sequitur of Chapter 16 of the Laws of Malta.*
- B. *Orders the Court Registrar so that in the period stipulated by this Hon. Court, informs the Director of Public Registry with the dissolution of the marriage of the parties, so that this will 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 Plaintiff informed the Court on the 30<sup>th</sup> of June 2022 that he has no knowledge of the whereabouts of Defendant, vide fol 50;

Having seen the note filed by Plaintiff dated 20<sup>th</sup> of July 2022 (vide fol 52);

Having seen that the Court granted Curator two weeks period to file his submissions in terms of Art 158(10) Chapter 12 of the laws of Malta (vide fol 57);

Having heard 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 Laws of Malta;

**Considers:**

**JS testified by means of an affidavit (vide affidavit at page 16),** that the parties married on the 28<sup>th</sup> of September 1991, and from this marriage a child was born. He testified that their marriage broke up after the parties contracted their consensual separation by means of a public deed dated 17<sup>th</sup> of April 2014 in the acts of Notary Dr Francesca Portelli. He testified that the parties lead independent lives from each other and therefore there is no possibility of reconciliation. He declared that there are no maintenance issues between the parties.

**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 28<sup>th</sup> of September 1991, which marriage bears certificate number 1651/2013 (*vide* marriage certificate at page 3), and that a child was born from this marriage, who has reached the age of majority.

From the acts of the case it transpires that the parties' marriage broke down and they regulated their personal separation by means of a public deed dated 17<sup>th</sup> of April 2014 in the acts of Notary Dr Francesca Portelli (*vide* contract of separation at page 4). The Court observes that as indicated by the Plaintiff, the parties are now leading separate lives and have 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, with Marriage Certificate Number 1651/2013 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)**

**Christabelle Cassar  
Deputy Registrar**