

**CIVIL COURTS
(FAMILY SECTION)**

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

Hearing of the 1st of February 2023

Application no.: 618/2022 JPG

Case no.: 19

**VR
And
SP**

The Court:

Having seen the sworn Joint Application filed by the parties dated 24th November 2022, as translated in English at page 3, wherein it was held:

That the parties were joined in matrimony on the 13th March 2011 as results from the relative marriage certificate herewith attached, marked Dok A;

That parties have been living separately for several years, and in any case for more than the past three (3) years;

That from this union no offspring was born;

That in view of this, there is no reasonable prospect of reconciliation between them, and either party is living a separate and independent life from the other party;

That the parties have formalised their separation by means of a deed of personal separation dated

10th October 2019, in the acts of Notary Dr James Grech, a copy of which is herewith attached, marked as Dok B;

That as results from the said contract, notably clause four (4) of the deed, neither party is required to effect payment of maintenance to the other party

That the facts hereabove mentioned are sufficient to satisfy all the conditions required for the purpose of obtaining a declaration of Divorce in terms of Section 66B of Chapter 16 of the Laws of Malta.

Therefore, due by means of the present application and for the reasons hereabove mentioned parties humbly request this Honourable Court to:

- 1. Declare the termination of their marriage;*
- 2. Order the Registrar of the Courts to serve upon the Director of the Public Registry within the term stipulated by this Honourable Court, the decree of divorce between parties, so the relative annotation is made by the Director of the Public Registry in the applicable civil act;*
- 3. Provide for any such orders as it may deem expedient and 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 exhibited documents and all the case acts;

Having seen the Articles 66A, 66B u 66C of Chapter 16 of Laws of Malta;

Considers:

VR testified (*vide affidavit Dok VR page 16*), that the parties were joined in matrimony on the 13th of March 2011, and that no children were born from this marriage. He added that the parties separated by virtue of a deed of consensual separation in the acts of Notary Dr James Grech on

the 10th of October 2019. Furthermore he declared that there is no reasonable prospect of a reconciliation between the parties and that there are no pending maintenance issues.

SP testified (vide affidavit Dok SP1 at page 18) and confirmed and corroborated her husband'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.

(omissis)

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 were joined in matrimony on the 13th of March 2011, the marriage certificate bearing the number 499/2011 (*vide* marriage certificate Dok A at page 5) and that no children were born from this marriage..

From the acts of the case it transpires that the parties' marriage broke down and they obtained a personal separation by means of a public deed in the acts of Notary Dr. James Grech dated 10th of October 2019 (*vide* contract of separation Dok B at page 6 *et seqq*). The Court observes that as indicated by the parties' in their respective testimonies, the parties have been living apart for more than three years, 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 499/2011 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)

**Lorraine Dalli
Deputy Registrar**