

**CIVIL COURTS
(FAMILY SECTION)**

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

Hearing of the 7th of February 2023

Application no.: 652/2022 JPG

Case no.: 14

**Dr. Carina Nagiah (ID 32389M) as
a special mandatory of LB
And
CQ**

The Court:

Having seen the sworn Joint Application filed by the parties dated 19th December 2022, at page 1, translation in English at page 3, wherein it was held:

- 1. That advocate Dr. Carina Nagiah is the special mandatory of the absent LB, and this in virtue of a power of attorney dated the second (2nd) of December of the year two thousand and twenty two (2022), copy hereby attached and marked as **Document CNI**.*
- 2. That LB and CQ got married on the eighteenth (18th) of March of the year two thousand and eighteen (2018), in Valletta and this as results from the attached marriage certificate marked as **Document A**.*
- 3. That no children were born from this marriage.*

4. *That the parties are legally separated through a consensual separation agreement published by the Notary Doctor Jean Paul Farrugia dated the 23rd of September of the year two thousand and twenty (2020); true copy of the said separation deed is hereby attached and marked as **Document B**.*
5. *That there are no issues regarding maintenance between the Parties, due to the fact that in the stated deed, the Parties had renounced to their right to claim maintenance from each other.*
6. *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 twenty (2020), the parties today have a total separate and independent life from one another. In fact, the de facto separation of the parties took place in July of the year two thousand and eighteen (2018) and this as declared in the separation deed above mentioned.*
7. *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.*
8. *That the affidavits of the parties are hereby attached and marked as **Document C** and **Document D** respectively.*

Therefore the applicants humbly request this Hon. Court to:

- a. *Pronounce the dissolution of marriage between the parties LB and CQ, in terms of Article 66A et sequitur of Chapter 16 of the Laws of Malta.*
- b. *Order 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, LB and CQ, 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 the joint note dated 25th of January 2023 wherein the parties declared that they had no other evidence to produce and invited the Court to proceed to judgment;

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:

CQ testified (*vide affidavit Dok C page 11*), that the parties were married on the 18th pf March 2018, and that during their marriage they had no children. He added that the parties separated de facto as from July 2018, but separated legally by virtue of a separation contract in the acts of Notary Dr Jean Paul Farrugia on the 23rd of September 2020. Furthermore he declared that there is no reasonable prospect of a reconciliation between the parties and that there are no pending maintenance issues.

LB testified (*vide affidavit Dok D at page 12*) and confirmed and corroborated **CQ**'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 contracted their marriage on the 18th March 2018 which marriage certificate bears the number 496/2018 (*vide* marriage certificate Dok A at page 6) 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 their personal separation by means of a public deed in the acts of Notary Dr. Jean Paul Farrugia dated 23rd of September 2020 (*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 a year, 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 496/2018 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**