

**CIVIL COURTS
(FAMILY SECTION)**

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

Hearing of the 24th May 2023

Application no.: 65/2023JPG

Case no.: 23

**GK
Vs
CK**

The Court:

Having seen the sworn Application filed by GK dated 7th February 2023, at page 2 et seq, wherein it was held:

- 1) That the contenders contracted their marriage in Malta on 21 April 1990 (**DOK A**) and from this marriage they had two children namely V and J who were born on X and Y and who are therefore X and Y years old respectively.*
- 2) That they separated through a separation contract published on 3 August 2016 in the acts of the Notary John Spiteri (**DOK B**);*
- 3) That the parties have not been living together since their separation and therefore for over a year;*

- 4) *That there is no maintenance due for the children of the parties and there are no arrears of maintenance in relation to the respondent;*
- 5) *That there is no reasonable prospect for reconciliation between the parties;*
- 6) *That therefore the conditions envisaged in Article 66B of Chapter 16 of the Laws of Malta are met and in view of the fact that the spouses are separated through a separation contract, it is unnecessary for mediation to take place;*
- 7) *That the exponent is attaching his affidavit, in Maltese and in English, to this deed (**DOK C1-C2**), together with a translation of this deed in English since she does not speak the Maltese language (**DOK D**).*

Therefore the applicant respectfully requests that, in accordance with the provisions of article 66B of Chapter 16 of the Laws of Malta, the Honorable Court deems it fit to, prior to the hearing of the parties as envisaged in Article 66C of Chapter 16 also in order to establish the existence of those conditions contemplated in said Article 66B, pronounce the divorce between the parties as contemplated in said Article 66C.

Having seen that the application and documents, the decree and notice of hearing have been duly notified according to law;

Having seen that Defendant had not filed a sworn reply; Defendant however appeared in Court and gave evidence on the 27th April 2023 (Vide Fol 17 et seq).

Having seen that the parties declared that they had no further evidence to adduce or submissions to make and invited the Court to proceed to judgement (Vide fol 16);

Having examined 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:

Plaintiff testified by means of an affidavit (*vide English affidavit at page 12*), and held that parties got married on the 21st April 1990 and that from this marriage two children were born who have reached the age of majority. He added that the parties separated by virtue of a separation contract in the acts on Notary Dr John Spiteri dated the 3rd August 2016. Furthermore, he declared that there is no reasonable prospect of a reconciliation. Regarding maintenance, he declared that there are no pending maintenance issues.

Defendant testified on the 27th April 2023 (*vide fol 17 et seq*) 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.

(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 21st April 1990, bearing marriage certificate number 421/1990 (*vide* marriage certificate at page 3) and two children were born from this marriage who today have 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 in the acts of Notary Dr John Spiteri dated 3rd August 2016 (*vide* contract of separation at page 4 *et seqq*). The Court observes that as indicated by the parties' in their respective testimonies, the parties are now leading separate lives and there are no maintenance issues between them.

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 421/1990 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)

**Lorraine Dalli
Deputy Registrar**