

**CIVIL COURTS
(FAMILY SECTION)**

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

Hearing of the 10th of October 2023

Application no. : 375/2023 JPG

Case no. : 22

MK

And

DP

The Court:

Having seen the joint sworn Application filed by the parties dated 3rd of July 2023, at page 1 (translation at page 2), wherein it was held:

That the parties got married on the tenth (10th) of July of the year two thousand and eleven (2011) which marriage is registered in the Public Registry of Malta duly numbered one thousand two hundred and four of the year two thousand and eleven (1204/2011) as certified from the marriage certificate attached and marked as Doc 'A'.

From their marriage the Parties had three (3) children, all of minor age, being: (i) MK, daughter, born on X, AYK, son, born on Y and AK, son, born on Z.

That the parties have been legally separated from one another by means of a contract published on the twelfth (12th) of June of the year two thousand and twenty three (2023), in acts of Notary Dr Sylvana Borg, copy herewith attached and marked Dok B;

That the parties have been living separately from one another for more than six

months prior to their separation contract;

That no maintenance is due between the parties, however maintenance is paid from S to D regarding his three children which is paid regularly.

That there is no chance of reconciliation between the parties, since they have been leading a totally separate life;

That these above indicated facts satisfy all the necessary requisites for obtaining a divorce according to Article 66B of the Civil Code, Chapter 16, of the Laws of Malta;

Therefore, this Honourable Court is being requested to:

1. Pronounce the dissolution of the marriage between the parties in terms of article 66B of Chap. 16 of the Laws of Malta;

2. Orders the Registrar of Courts so that within the given period by the Court, informs the Director of the Public Registry with the dissolution of the marriage of the parties and for the same to 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 notes of the parties whereby they declared that they have no further proof or submissions to adduce and requested the Court to proceed to judgement;

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 (vide affidavit at page 36) that the parties were married on the 10th of July

2023 and that from this marriage three child were born who are still minors. He stated that this marriage broke down and the parties separated by virtue of a contract dated 12th of June 2023 in the acts of Notary Sylvana Borg. Plaintiff confirmed on oath that he has been living separately from his wife since July 2022. He declared that there is no prospect for reconciliation with his wife. Moreover, he affirmed that there are no maintenance arrears due.

DP testified (vide page 41 et seq) and corroborated all evidence given by her husband including the fact that she has been living apart from her husband since July 2022.

Deliberates:

According to Law, it is confirmed in Articles 66A and 66B of Chapter 16 of 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.

Considers:

The Court has seen that the parties were married on the 10th of July 2011, (vide page 4) which marriage bears certificate number 1204/2011 and that three children were born from this marriage.

The record shows that the marriage broke down and the parties obtained a personal separation by means of a public deed in the acts of Notary Dr Sylvana Borg (vide page 9 et seqq) dated 12th of June 2023. However, it has been established that the parties have been living separately since July 2022. Therefore, it is established that the parties have been separated in excess of the timeframe required by law.

The record shows that that there are no pending maintenance arrears.

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 1204/2011 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.

Read.

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

Christabelle Cassar

Deputy Registrar