

**CIVIL COURTS
(FAMILY SECTION)**

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

Hearing of the 19th October 2023

Application no.: 48/2023JPG

Case no.: 19

**SWR
Vs
SR**

The Court:

Having seen the Application filed by SWR dated 30th January 2023, a Fol 3 et seq, wherein it was held:

- 1) Whereby the parties married on the date of sixteen (16th) of April of the year one thousand nine hundred and ninety three (1993) and subsequently acquired their residence and domicile in Malta.*
- 2) Whereby there is not reasonable prospect for reconciliation between them due to the fact that apart from them not having been living together as a married couple for more than ten (10) years, today they have a life totally separate from each other;*

- 3) *Whereby the parties are legally separated by means of a contract dated 28th March of the year two thousand and seventeen (2017) within the Acts of Notary Dr Sean Critien.*
- 4) *Whereby no maintenance is due since their children nowadays are adults and live an independent life.*
- 5) *Whereby the fact above mentioned satisfy all the requisites required for the attainment of a divorce in accordance to Article 66B of the Chapter 16 of the Laws of Malta.*
- 6) *Whereby the applicant personally knows about these facts.*

Therefore the exponent humbly prays to this Honorable Court to:

- 1) *Pronounce the dissolution of marriage between the parties;*
- 2) *Orders that the Registrar of Courts, within the time stipulated for the same by the Court, to inform the Director of the Public Registry of the dissolution of Marriage in order for this to be registered within 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 Defendant did not file a sworn reply but he gave evidence on the 6th July 2023 (Vide Fol 24 et seq).

Having heard the evidence on oath;

Having seen that the parties declared that they have no further evidence to adduce or submissions to make and requested the Court to proceed to judgement (Vide fol 22);

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 affidavit at page 18*), and held that parties were married on the 16th April 1993. She added that the parties separated by virtue of a separation contract in the acts on Notary Dr Sean Critien dated the 28th March 2017. Furthermore, she declared that there is no reasonable prospect of a reconciliation. Regarding maintenance, she declared that there are no pending maintenance issues.

Defendant testified on the 6th July 2023 (*vide fol 24 et seq*) and confirmed and corroborated his wife'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 16th April 1993, bearing marriage certificate number WK 028346 (*vide* marriage certificate at page 5).

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 Sean Critien dated 28th March 2017 (*vide* contract of separation at page 6 *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 WK 028346 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 noted in the Public Registry.

Senza Tassa.

Read.

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

Christabelle Cassar

Deputy Registrar