



**QORTI CIVILI
(SEZZJONI TAL-FAMILJA)**

**ONOR. IMHALLEF
NOEL CUSCHIERI**

Seduta tat-28 ta' Frar, 2007

Citazzjoni Numru. 545/2003

**A B
vs
C D**

The Court,

Having seen the writ of summons presented by plaintiff wherein she stated that on the 15th of December 2001 she married defendant. No children were born in this marriage; and the parties never cohabited and the marriage has not been consumated. The plaintiff is alleging that the marriage is null due to the fact that the matrimonial consent of both parties was vitiated as neither of the parties had any intention of fulfilling their marriage obligations; besides, there existed a serious defect of discretion of judgment on the matrimonial life or on its essential rights and duties, as well as a serious psychological anomaly making it impossible for them to

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fulfill the essential obligations of marriage. On the strength of the above plaintiff is requesting that the marriage be declared null; and that the costs of the proceedings be borne by defendant, who is being sued to give evidence with reference to his oath;

Having seen the declaration on oath made by plaintiff and the list of witnesses;

Having seen that the defendant duly notified by the acts of the case, failed to present his note of pleas within the time limit stipulated by law;

Having seen the decree given during the sitting of the 23th November 2006 whereby the Court, at the request of defendant and with the consent of plaintiff, the proceedings were to continue in the English language;

Having seen all the records of the proceedings;

Having heard the parties give evidence on oath;

Having considered;

That in virtue of these proceedings the plaintiff is requesting that her marriage to defendant contracted on the 15th December 2001 be declared null and void on the grounds that the matrimonial consent of the parties was vitiated in terms of paragraph [d] and [f] of section 19[1] of Chapter 255 of the Laws of Malta.

That from the evidence the following picture emerges. The plaintiff, a Maltese national, met defendant, a Turkish national, round about the months of July and August of the year 2001 and soon afterwards the parties entered into a steady relationship. In November of that same year, defendant proposed marriage to plaintiff who accepted thinking that he was in love with her. On the 15th December of that same year, a civil marriage took place between the parties, in spite of the manifest opposition made by plaintiff's parents. It seems however, that immediately after marriage the defendant's attitude

towards plaintiff changed abruptly, also due to the fact that defendant insisted that the plaintiff adopt the muslim way of life. The plaintiff affirms that the marriage was not consummated, although some sort of intimate relations seem to have taken place. A month after the marriage, the defendant took plaintiff to Valletta ta' sign documents allowing his freedom of movement in Malta. Some days after, as the plaintiff could no longer bear married life with defendant, she left the matrimonial home and went to live with her parents where she is still living to this day.

That the Court, after examining the evidence, and the witness heard on oath, has arrived at the conclusion that the marriage in question was purely a marriage of convenience on the part of the defendant who married plaintiff for the sole purpose of acquiring freedom of movement in these Islands. This explains his change of attitude immediately after marriage. It results that, at the time when he gave his matrimonial consent, the defendant had no intention of honouring his matrimonial obligations, particularly those based on a union directed towards the reciprocal well being of the spouses, the procreation of children and their upbringing.

On the strength of the above, the Court agrees with plaintiff that her marriage with defendant is null in terms of paragraph [f] of section 19[1] of Chapter 255, since, notwithstanding that the defendant externally went through a marriage ceremony with plaintiff, internally and by a positive act of his will, he excluded obligations essential to married life.

For these reasons the Court decides that the plaintiff's claim is justified factually and legally, and therefore declares that the marriage in question which took place on the 15th day of December 2001 between the parties is null and void according to law. The costs are to be borne by defendant.

< Sentenza Finali >

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