



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

**ONOR. IMHALLEF  
NOEL CUSCHIERI**

Seduta tat-28 ta' Jannar, 2010

Citazzjoni Numru. 350/2005

Number on list: 29

**A B C  
vs  
D E F, *sive* E F G**

**The Court,**

Having seen the writ of summons by virtue of which plaintiff premised: that she married defendant on the 1<sup>st</sup> June 2001; that the consent of the parties was vitiated in terms of paragraph [d], and that of plaintiff was vitiated in terms of paragraph [c] of article 19[1] of Chapter 255 of the Laws of Malta; and that therefore their marriage is null and void at law; on the strength of the above, plaintiff is requesting that their marriage be declared null by this court, and that all expenses be borne by defendant;

Kopja Informali ta' Sentenza

Having seen the note of pleas by virtue of which defendant, whilst agreeing with plaintiff's request for nullity, maintains that both parties are to blame for the nullity of the marriage; and that consequently the costs of the proceedings are to be borne by both parties;

Having seen all the acts of the proceedings, including the sworn declarations, the list of witnesses, and the affidavits presented by the parties;

Having heard evidence on oath;

Having considered;

### **The Action**

By virtue of the present action plaintiff is requesting this court to declare null and void her marriage to defendant contracted on the 1<sup>st</sup> June 2001, on the grounds that the matrimonial consent of the parties, and that of plaintiff, was vitiated in terms of paragraphs [d] and [c] respectively, of the afore-mentioned article of law.

### **The Facts**

On the 1<sup>st</sup> June 2001 the parties got married, after a courtship of about a year and a half, during which period plaintiff was already aware that defendant owed money because of drug abuse and gambling. However, she says that she was madly in love with defendant and she believed that she could make their marriage work.

Unfortunately, it was after the marriage that plaintiff began to realize the depth of defendant's gambling addiction, and its consequences on their married life, and that her marriage was to become a constant struggle with this addiction, and with the many debts defendant used to incur.

From the evidence produced, it appears abundantly clear that the failure of this marriage was due solely to this addiction, which rendered defendant incapable of assuming his matrimonial obligations, mainly that of living with his spouse in a union directed towards the reciprocal

well-being of the spouses, the procreation of children and their upbringing. Instead, during their brief married life, defendant kept indulging recklessly in his gambling addiction, to the detriment of plaintiff who continued hoping against hope that some day they may be in a position to enjoy a normal married life.

However, after about three years from the marriage, plaintiff understandably could not bear the situation any longer, and the parties separated.

### **Considerations**

In his evidence, defendant basically agreed with plaintiff's version of the facts.

From the above circumstances of fact, it emerges clearly that at the time when defendant gave his matrimonial consent he was clearly unable to fulfill his matrimonial obligations, as he was suffering from an addiction which made it impossible for him to do so.

Consequently this court is of the opinion that plaintiff's request is justified in fact and at law, in terms of article 19[1][d] of the above Chapter, which caput nullitatis, exists solely vis-à-vis defendant.

### **Decide**

On the strength of the above, the court accedes to plaintiff's request, and declares null and void at law the marriage contracted by the parties on the 1<sup>st</sup> June 2001.

All expenses are to be borne by defendant.

**< Sentenza Finali >**

-----TMIEM-----