

Kopja Informali ta' Sentenza



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

**ONOR. IMHALLEF  
NOEL CUSCHIERI**

Seduta ta' l-24 ta' Gunju, 2010

Citazzjoni Numru. 60/2009

Number on list: 20

**A B  
vs  
C B**

**The Court,**

Having seen the sworn application by virtue of which plaintiff premised: that the parties got married in the UK on the 26<sup>th</sup> October 1979, and soon afterwards, they established residence in Malta; that the matrimonial consent of the parties was vitiated in terms of paragraphs [c][d][f][g] u [h] of article 19[1] of Chapter 255 of the Laws of Malta; that on the strength of the above, plaintiff is requesting this court to declare the marriage null and void at law;

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Having seen that defendant, though duly notified, did not present a sworn reply;

Having seen all the acts of the proceedings;

Having heard the evidence on oath;

Having considered;

### **The Action**

That by virtue of the present action plaintiff is requesting this court to declare null and void at law his marriage to defendant, which took place in Richmond, England, on the 26<sup>th</sup> October 1979, on the grounds that the matrimonial consent of the parties was vitiated in terms of the aforementioned paragraphs and article of law.

### **The Facts**

The parties got married on the 26<sup>th</sup> October 1979. At that time plaintiff, a Maltese national, was 21 years old, whilst defendant, a Scottish national, was 18 years old. The parties had met in a nightclub where plaintiff, now a singer by profession, used to work.

As plaintiff was very eager to move forward in his career, he decided to try and work in the UK, but at that time he could not work there without a special permit. With this idea in mind, both he and defendant parties decided to get married in order to be able to establish themselves in the UK.

Unfortunately, they were very young and could not have imagined that married life required a very strong commitment. Besides, there was no family planning on their part, and all their plans were focused on plaintiff making a name for himself in the UK in the musical field. As defendant put it, both before and especially during the marriage, "everything revolved around A B. That was my life. This is how I lived."<sup>1</sup>

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<sup>1</sup> Fol.66

During the early years of marriage the parties had two children, on the 18<sup>th</sup> December 1980 and in December 1982; and eight years into the marriage they had another child in 1990.

*Plaintiff's Version*

Plaintiff states that his only reason for marrying defendant was to get a ticket to to live and work as a professional singer in the UK. In fact, even after the marriage, his lifestyle did not change, and though he had children, he used to work till the early hours of morning, and then return home after spending some time drinking with his friends which included female company.

In his evidence before this court, plaintiff states that during the courtship, he used to see other women as well. He states that since he used to work in nightclubs women were always around. "The temptation was always there with women, and, yes, I was seeing other women." He admits that this was both before, and during the marriage.

He also states that he used to take drugs [Marijuana], and later on in the marriage he used to abuse of cocaine as well, apart from drinking. In his evidence he states that "She [defendant] knew before [the marriage] that I took certain drugs before I met her. Some of my dates with her were on the beach, me sleeping on her like that, with downers."<sup>2</sup>

Regarding the third child, plaintiff says that this was a one-off at the time, since his relationship with his wife had deteriorated long ago. He attributes his behaviour on that occasion to drink.

*Defendant's version*

Defendant confirmed plaintiff's version of the facts. She complains that plaintiff's behaviour during the marriage showed that he could not shoulder the responsibilities of

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<sup>2</sup> Fol.39

married life; as a result, the parties were in constant argument with one another.

Regarding the third child, defendant explains that, as regular intimate relations between them had become much less frequent after the birth of their second child, and as she had been on the contraceptive pill for quite some time, she decided to stop taking the pill as at the time she thought that she was taking it for nothing. However, on one of those rare occasions when plaintiff used to have intimate relations with his wife just to satisfy his basic need of having sex<sup>3</sup> she became pregnant.

### **Considerations**

From the above it emerges clearly that the parties got married at a young age, and for the wrong reasons.

Also from plaintiff's behaviour, before and during the marriage, it is manifest that, at the time of the marriage, plaintiff was incapable of assuming the responsibilities of married life, arising from a permanent and exclusive union based on cohabitation directed towards the reciprocal well-being of the parties.

His obsession to work in the UK has been his prime motive behind the marriage; his infidelity towards defendant, both during the courtship and well into the marriage, his inability to find quality time to spend with his wife, and his children, all point towards the existence in his regard of the *caput nullitatis* contemplated in paragraph [d] of the afore-mentioned article.

Regarding the defendant, one can only say that that she married at a very young age, was inexperienced, and seemed to be infatuated by plaintiff. This led her to take a wrong decision. However, after the marriage she proved to be a good mother to her children, and a good wife, putting up with her husband's infidelity and his egoistic manner towards his family.

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<sup>3</sup> Fol.44

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On the strength of the above, 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 Chapter 255.

**Decide**

For the above reasons, the Court accedes to plaintiff's request, and declares as null and void his marriage to defendant contracted on the 26<sup>th</sup> October 1979.

The judicial expenses are to be borne solely by plaintiff.

**< Sentenza Finali >**

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