



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

**ONOR. IMHALLEF
NOEL CUSCHIERI**

Seduta tat-23 ta' Gunju, 2011

Citazzjoni Numru. 357/2010

**A B
vs
C D B**

The Court,

Having seen the sworn application by virtue of which plaintiff premised; that the parties contracted a civil marriage on the 4th June 2010, and that no children were born of this marriage; that the parties have been separated de facto for several months; that the matrimonial consent of both parties was vitiated in terms of paragraphs [a][c][d] and [f] of Articles 19[1] of Chapter 255 of the Laws of Malta; and on the strength of the above, plaintiff is requesting this Court to declare the marriage null and void; with costs;

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Having seen that defendant failed to present a sworn reply;

Having seen all the acts of the case;

Having heard the evidence on oath;

Having considered;

The Action

That by virtue of the present procedure plaintiff, a Maltese citizen, is requesting that this Court declares her marriage to defendant, an American national, contracted on the 4th June 2010, null and void, in terms of the above dispositions of law.

The Facts

That from the evidence produced, the following facts emerge.

Plaintiff met defendant, who had been in Malta for three years, through the internet in the beginning of March 2010, and they started courting. In April she learnt that defendant's visa was about to expire, and the parties agreed to continue in their relationship, with plaintiff agreeing to go to the United States with defendant in order to meet his family.

When the parties arrived in the United States on the 2nd of June, plaintiff's family did not turn up; and defendant told plaintiff that the only way they could return to Malta together was by marrying in the US. Plaintiff consented, and on the 4th June 2010, the parties contracted a civil marriage in that country, with the express intention of going through a religious marriage ceremony in Malta.

Subsequently they returned to Malta, and started living together. However, on the 7th August, an incident took place which changed the whole picture plaintiff had of her defendant, now her husband.

On that day, at about 2.00am defendant expressed his intention to have intimate relations with plaintiff, but, given the late hour, and since plaintiff was tired, she refused. Defendant reacted by getting out of bed, bringing a large kitchen knife from the kitchen, and started slitting his chest as an expression of his love towards her. Also, he grabbed plaintiff from the neck and pushed her against the wall. When plaintiff finally managed to free herself, she rang up the police, who turned up in a few moments. Eventually defendant was recovered at Mount Carmel Hospital for some time, during which period she used to visit him.

Later plaintiff learnt that defendant had already been married before, and that this was not the first occasion on which he inflicted damage on his person by slicing himself with a knife.

The Court's Considerations

That from the above picture it emerges abundantly clear that at the time defendant gave his matrimonial consent, he was unable to fulfill his matrimonial obligations arising from a union based on conjugal cohabitation directed to the reciprocal well-being of the parties, the procreation and the upbringing of children; consequently his matrimonial consent was vitiated in terms of the second part of paragraph [d] of the above provision of law.

On the strength of the above, the Court considers plaintiff's request to be justified in fact and at law.

Decide

For the above reasons, the court accedes to plaintiff's request and declares null and void at law her marriage to defendant contracted on the 4th June 2010.

Costs are to be borne by defendant.

< Sentenza Finali >

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