I assent.

(L.S.)

AGATHA BARBARA
President

24th July, 1985

ACT No. XIII of 1985

AN ACT further to amend the Code of Organization and Civil Procedure, Cap. 15.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the Code of Organization and Civil Procedure (Amendment) (No. 2) Act, 1985, and shall be read and construed as one with the Code of Organization and Civil Procedure, hereinafter referred to as "the principal law".

Substitution of section 153 of the principal law.

2. For section 153 of the principal law there shall be substituted the following:

"153. (1) The procedure is said to be by writ of summons, when the Court issues or gives an order to a party to appear before it on the day and at the hour appointed, in order to show cause why the claim contained in the writ of summons should not be allowed.

(2) In the appointment of such day allowance shall be made for the time required for the preliminary written procedures of the case to be closed, provided that in urgent cases the Court may appoint a day for the trial of the case before the close of the preliminary written procedures.".

Amendment of section 155 of the principal law

3. Section 155 of the principal law shall be amended as follows:

(a) subsections (4) and (5) thereof shall be renumbered respectively as subsections (5) and (6); and

(b) immediately after subsection (3) thereof there shall be added the following new subsection:

"(4) Where several actions are brought together as provided in section 155A, each plaintiff shall confirm on oath the paragraph or paragraphs of such declaration as contain the facts respecting his action."

Addition of new section 155A to the principal law.

4. Immediately after section 155 of the principal law there shall be added the following new section:

"Cumulative writ of summons.

155A. (1) Two or more plaintiffs may bring their actions by one writ of summons if the actions are connected in respect of the subject-matter thereof, or if the decision of one of the actions might affect the decision of the other action or actions and the evidence in support of one action is, generally, the same to be produced in the other action or actions. The cause and subject-matter of the actions shall be clearly and specifically stated in respect of each plaintiff.

(2) Nevertheless, any of the actions so brought together shall be tried separately at the request of a plaintiff with regard to his action; and the Court may also order that any action be tried separately when it is not expedient that the actions of all the plaintiffs be tried together. Any such order may be made at any stage of the proceedings before final judgement.

(3) Where the several actions are brought forward together as provided in subsection (1) of this section, they shall be taken cumulatively for determining the competence of the Court, which competence shall prevail in respect of any action separated in accordance with subsection (2) of this section.".

Addition of new section 169A to the principal law.

5. Immediately after section 169 of the principal law there shall be added the following new section:

"Mode of service.

169A. The provisions of subsection (4) of section 186 shall not apply to the service of any writ of summons, the affidavit and note produced therewith, and to any order referred to in sections 168 and 169.".

Addition of new section 470A to the principal law.

6. Immediately after section 470 of the principal law there shall be added the following new section:

"Application for personal separation prohibits transfer of property.

470A. (1) At every stage of the proceedings for personal separation it shall be competent for the Court of contentious jurisdiction on the demand of any of the spouses by application to make an order prohibiting —

(a) the other spouse from selling, alienating, transferring or otherwise disposing of, by an act *inter vivos*, whether by onerous or gratuitous title, any immovable property, or rights annexed to immovable property, or any shareholding in any commercial partnership, if such property, rights or shareholding are comprised in the community of acquests, or

(b) the sale, alienation, transfer or other disposal, whether by onerous or gratuitous title, of any immovable property or rights annexed thereto, owned by any commercial partnership in which the other spouse has a majority shareholding which pertains to that community,

or

(c) the other spouse from contracting any debt which is a charge on that community, even if such debt arises from any suretyship,

and where such order is made, any sale, alienation, transfer or other disposal, or any debt contracted after that order is made and in contravention of that order during the pendency of the separation proceedings, shall be void and of no effect.

(2) Every such application shall contain the name and surname of applicant and of the other spouse, their profession, trade or other status, father's name, mother's name and maiden surname, place of birth and place of residence, and the Identity Card number of each spouse.

(3) Such order shall upon notice in writing to be given by the Registrar to the Director of the Public Registry, to the Land Registrar and to the Registrar of Commercial Partnerships, within twenty-four hours of the making of that order, be registered in the respective book kept for the purpose.

(4) The said books shall be accessible to the public.".

Substitution of section 479B of the principal law.

7. For section 479B of the principal law there shall be substituted the following sections:

"Mode of service.

479B. The provisions of subsection (4) of section 186 shall not apply to the service of any application referred to in this Part.

Review of maintenance decree.

479C. The decree and the order mentioned in section 479A may be only reviewed, altered or revoked upon an application to the Court of voluntary jurisdiction or to the Court of contentious jurisdiction before which the action for separation is pending, as the case may be.

Review of decree prohibiting transfers and debts.

479D. (1) An order made under section 470A may only be reviewed, altered or revoked upon an application to the Court of contentious jurisdiction:

Provided that an appeal may be entered from any decree or order referred to in this subsection, given or made by the Court of contentious jurisdiction in the same manner and within the same time as an interlocutory decree of that Court:

Provided further than an appeal from such decree or order shall not suspend the prohibitory effects of that decree or order during the pendency of the appeal.

(2) The provisions of subsection (3) of section 470A shall apply to any decree or judgment reviewing, altering or revoking an order made under subsection (1) of that section.".

Transitory provision.

8. The amendment made by section 4 of this Act shall also apply to any proceedings pending before any court of law on the date of the coming into force of this Act and notwithstanding any judgment thereon which has not become *res judicata*.

Passed by the House of Representatives at Sitting No. 267 of the 10th July, 1985.

DANIEL MICALLEF
Speaker

C. MIFSUD
Clerk to the House of Representatives

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