

**IN THE FAMILY DIVISION OF THE HIGH COURT**

<b>CASE NUMBER:</b>	11/SUV/0590
<b>BETWEEN:</b>	CHUNHUA
<b>AND:</b>	YAN
<b>Appearances:</b>	Applicant in person No appearance of respondent

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<b>Date/Place of judgment:</b>	Thursday, 02nd February, 2012 at Suva
<b>Judgment of:</b>	The Hon. Justice Anjala Wati
<b>Category:</b>	<i>All identifying information in this judgment have been anonymized or removed and pseudonyms have been used for all persons referred to. Any similarities to any persons is purely coincidental.</i>
Anonymised Case Citation:	CHUNHUA V. YAN- Fiji Family High Court Case Number: 11/SUV/0590.

**JUDGMENT OF THE COURT*****Catchwords***

MARITAL STATUS PROCEEDINGS - APPLICATION FOR AN ORDER FOR NULLITY - application by wife on the ground that she did not provide her real consent to the marriage-no basis outlined in evidence as to why the consent was not real- the ground for "no real consent" not established-application dismissed with no order as to costs.

***Legislation***

*Family Law Act No. 18 of 2003*

## **The Application**

1. This is an application by the wife to have her marriage solemnized at, Suva in 2011 nullified on the ground that she did not provide her real consent to the marriage.

## **The Response**

2. The husband was served with the application but he did not file any response nor did he appear in Court to defend the matter.

## **The Law**

3. Section 32 (1) of the Family Law Act No. 18 of 2003 states that a party can apply for an order for nullity of the marriage on the grounds that the marriage is void. There are certain grounds under which a marriage can be held to be void. Section 32 (2) (d) states that a marriage is void if consent of either of the parties is not a real consent. No real consent can arise in 3 ways as per the Act. The first is if consent is obtained by duress or fraud: s. 32 (2) (d) (i). The second is if a party is mistaken as to the identity of the other party or as to the nature of the ceremony performed: s. 32 (2) (d) (ii). The third is if a party is mentally incapable of understanding the nature and effect of the marriage ceremony: s. 32 (2) (d) (iii).

## **The Evidence**

4. The wife stated that when she was married she was happy but when she went back home, she realised that she would not be happy in the marriage because the husband is two years younger than her. She regrets getting married.

## **The Determination**

5. There is no evidence by the wife that she did not provide her real consent.

### **The Final Orders**

6. The application for an order for nullity of marriage is refused.
7. There shall be no order for costs.

ANJALA WATI

Judge

02.02.2012

1. *Applicant.*

2. *Respondent.*

3. *File Number.11/SUV/0590.*