

IN THE FAMILY DIVISION OF THE HIGH COURT

AT LAUTOKA

CASE NUMBER: 14/LTK/0088

BETWEEN: RAMESH

APPLICANT

JENNIFER

AND: RESPONDENT

Appearances: *Applicant in Person.*

Respondent in Person.

Date/Place of Judgment: *Thursday, 31 July 2014 at Lautoka.*

Judgment of: *The Hon. Justice Anjala Wati.*

Category: *The Hon. Madam Justice Anjala Wati.*

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.

Anonymised Case Citation: *RAMESH V JENNIFER- Fiji Family High Court Case Number: 14/LTK/0088.*

JUDGMENT

MARITAL STATUS PROCEEDINGS – APPLICATION FOR AN ORDER FOR NULLITY – application by husband on the ground that their marriage was not properly solemnised - the ground for nullity not established- application for an order for nullity refused-no order as to costs.

Legislation:

Family Law Act No. 18 of 2003.

Marriage Act Cap. 50.

Dickey, A, "Family Law" 4th Edition (2002) Lawbook Co; Sydney.

Case Background

On 19 February 2014 the husband filed an application for an order that his marriage which was solemnised at Lautoka Registry in 2014 be nullified on the ground the marriage was not properly solemnised.

The Law

2. Under s. 32 of the FLA a party can apply to have the marriage nullified on the grounds that the marriage is void.

3. A marriage is void if and only if: *-Either of the parties is, at the time of the marriage, lawfully married to some other person; The parties are within a prohibited relationship; The marriage is not a valid marriage under the law of the place where the marriage takes place, by reason of failure to comply with the requirements of the law of that place with respect to the form of solemnization of marriages; The consent thereto of either of the parties is not a real consent because- It was obtained by duress or fraud; That party is mistaken as to the identity of the other party or as to the nature of the ceremony performed; or That party is mentally incapable of understanding the nature and effect of the marriage ceremony; or Either of the parties is not of marriageable age.*

4. Each country's law will specify how a marriage must be solemnized. In Fiji, the rules governing solemnization is listed in the MA, ss. 16 to 28. If those rules are not complied with, a marriage is void.

5. I will have to analyse the evidence of the parties to ascertain whether the marriage was not properly solemnised according to the laws of Fiji.

The Evidence

6. The husband gave evidence that there was only a civil union between the parties and no traditional marriage so he wants the marriage nullified. Initially the wife had agreed to get married but now she is refusing to do so. The marriage has not been consummated as well.

7. The wife gave evidence that she also wants that the marriage be nullified because after the civil union they have been having family problems.

The Determination

8. The evidence of the parties does not indicate in any way that the marriage which has legal effect was not solemnised properly. The application is devoid of any merit.

9. In Fiji, traditional marriages are permitted as an additional ceremony but the civil marriage is given legal effect. The marriage referred to in the Family Law Act is the civil marriage.

10. The wife's assertion that she has problems after the civil union does not constitute any ground for void marriage.

The Final Orders.

11. I therefore refuse the application for an order for nullity.

12. There shall be no order as to costs.

ANJALA WATI

JUDGE

31.07.2014

To:

1. Applicant
2. Respondent
3. File number: 13/Ltk/0088