

IN THE FAMILY DIVISION OF THE HIGH COURT	
CASE NUMBER:	17/SUV/0071
BETWEEN:	ASHIKA
AND:	VINAY
Appearances:	<i>Applicant I in Person. No Appearance of Applicant II.</i>
Date of Oral judgement	<i>Friday 08 September 2017 at Suva.</i>
Date/Place of judgment:	<i>Wednesday 15 November 2017 at Suva.</i>
Judgment of:	<i>Hon. Madam Justice Anjala Wati.</i>
Category:	<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 are purely coincidental.</i>
Anonymised Case Citation:	<i>ASHIKA v. VINAY – Fiji Family High Court Case Number: 17/Suv/0071</i>
JUDGMENT OF THE COURT	
<i>Catchwords</i>	
<i><u>FAMILY LAW</u> – Marriage Void for want of real consent of wife who entered into marriage without being disclosed that the husband was already in a de-facto relationship with another woman making him a party to the marriage from before – wife’s consent induced by fraud.</i>	

1. Ashika (**“Ashika and/or wife”**) was married to Vinay (**“husband”**) in 2015 at, Nasinu. After the civil union, the parties had a traditional wedding.

2. The husband lives in overseas and immediately after the traditional wedding, he left for overseas showing a lot of hostility to the wife and her family. He became very unfriendly, rude and reluctant to contact the wife.
3. After pleading with the husband to take her to overseas as she was married to him, he finally let the wife come to overseas. Seeing that the husband had agreed to take her, the wife happily arranged for her visa and ticket and went to live with the husband.
4. Upon entering overseas, she faced the reality of life. The husband would not allow her to leave the house and would stay away from her and be missing all night. This continued for two days when the wife, out of her natural affection for the husband, questioned him with the help of her cousin.
5. The wife's cousin had by then taken her away to her place. Upon questioning the husband, it was discovered that the husband was already in a de-facto relationship with another woman and was not prepared to leave her.
6. He was adamant that he will not give up that relationship for a legally recognized marriage. He admitted about his relationship to Ashika and her cousin.
7. With his straightforwardness about his de-facto relationship, Ashika says her hopes were shattered and she could not stay in overseas any longer. She attempted that her marriage work out but it failed. She had to return to Fiji to apply for nullity.
8. She says that she was fraudulently led to believe by the husband that he was single and willing to marry her to the exclusion of others but that was not the truth of the matter. On his representations regarding his status, she consented to the marriage. Had she known that he was already in a de-facto relationship, she would never have consented to this marriage. She seeks for an order that her marriage be declared void.

9. I accept the evidence produced before me that the husband was before, during and after the civil union of the parties to the proceedings always in a de-facto relationship. He was already a party to the marriage with a person unknown and undisclosed to Ashika. Despite being in a relationship, he failed to disclose this issue to Archana and further failed to disclose to her that he was not going to honor the marriage with her due to his status of being in a de-facto relationship.
10. I am convinced that if Ashika was told about this de-facto relationship coupled with the husband's intention that he would not honor the marriage with her, she would not have consented to the marriage. She only consented because pivotal matters regarding the husband and his marital status were deliberately concealed from her.
11. This concealment is an act of fraud going to the root of the marriage and thus making consent obtained from Ashika a vitiated consent by reasons of fraud.
12. A marriage is a voluntary union of one man to a woman to the exclusion of others. In this case I find that the marriage was not to the exclusion of others. The husband is already a party to the marriage by virtue of the de-facto relationship with another woman. He has committed fraud on Ashika and she is entitled to have a declaration that the marriage that was solemnized between them is void.
13. I grant an order that the marriage solemnized between the parties is void and I nullify the same. Each party to bear their own costs of the proceedings.
14. Pursuant to my oral judgment, the Registrar has already produced the requisite certificate of nullity. I endorse the same to be true and correct.
15. If it has not already been done, a copy of the Certificate must be sent to the Registrar of Marriage for updating of the records.

Anjala Wati

Judge

15.11.2017

To:

- 1. Applicant I in Person.**
- 2. Applicant II in Person.**
- 3. File: 17/Suv/0071.**