

IN THE FAMILY DIVISION OF THE HIGH COURT AT LAUTOKA

ORIGINAL JURISDICTION

ACTION NUMBER:	20/LTK/0319
BETWEEN:	ULITA APPLICANT
AND:	MAHBOOB RESPONDENT
APPEARANCES:	<i>Applicant in Person.</i> <i>Respondent in Person.</i>
DATE/PLACE OF JUDGMENT:	<i>Friday 29 September 2023 at Suva.</i>
CORAM:	Hon. Madam Justice Anjala Wati
CATEGORY:	<i>All identifying information in this judgment have been anonymized or removed and pseudonyms have been used for all persons referred to. Any similarity to any persons is purely coincidental.</i>

JUDGMENT

Catchwords:

FAMILY LAW – AN APPLICATION FOR AN ORDER FOR NULLITY OF MARRIAGE – *the applicant wife asserted that she did not provide her consent to marry the respondent – evidence revealed that the respondent’s wife had used the applicant’s personal details to marry the respondent – neither the applicant nor the respondent had provided their consent to marry each other- application granted.*

1. I had earlier granted an order that the marriage of the parties be annulled on the grounds that none of the parties to the marriage had given their real consent to the marriage.

2. I now publish the reasons for my findings notwithstanding that a certificate nullifying the marriage had been issued earlier.
3. The parties gave evidence in Court. Together with them, the respondent's "real" wife also gave evidence. It may sound strange that I am calling another person the "real wife" when the parties to this marriage are the parties to this proceedings. My reflection of the evidence below will clarify the situation.
4. The respondent in fact got married to one another person A.M (pseudonym) in 2016. A.M. had to present her birth certificate and identity card to the Births, Deaths and Marriages Registry ("**BDM**") for the civil union with the respondent. A. M. did not do that. She presented to the BDM Registry the applicant's birth certificate and her FNPF identity card to the BDM Registry.
5. A. M. removed the applicant's photo from the FNPF identity card and replaced it with her own photo. She then got married to the respondent using the applicant's details and identity. She impersonated to be the applicant.
6. A. M. told the court that she had to take this step as she was already in a very bad and violent marital relationship with another man. Since her marriage was not dissolved with that other man, she needed to show her violent husband that she has moved on in her life. She then used the marriage certificate with the respondent to rescue herself from the marriage.
7. The respondent and A.M. have been married for 7 years now and they are happy with each other. They now want to be married to each other with their proper details. The respondent said that he only realized that he is married to a different woman and not A.M. with her proper identity when he was served with the application for an order for nullity.

8. When the applicant decided to get married, she was informed by the BDM Registry that she was already married. She discovered that her cousin A.M had used her birth certificate and her FNPF identity to get the marriage solemnized.
9. A.M's reasons for impersonating the applicant is despicable. There were surely many other and proper ways to get out of her violent marriage. She committed a fraud and her dishonesty has affected both the applicant and the respondent.
10. None of the parties to this case, the applicant or the respondent wanted to get married to each other. They did not even provide their consent to marry each other. There was no consent at all to marry each other let alone real consent.
11. The applicant's identity was used by A.M. to marry two people who did not want to get married to each other and did not know that they are married to each other.
12. A.M. had used the applicant's details fraudulently and I find that the marriage between the parties is void.
13. I find it surprising that neither A.M's first husband questioned the second marriage which could not have been solemnized without a dissolution of their marriage nor the respondent paying any attention to details recorded in the marriage certificate.
14. Be that as it may, my concern is the fraud committed on both the applicant and the respondent which needed to be rectified by an order for nullity of the marriage for which the order was issued. The above forms the reasons for an order for nullity to be granted earlier.

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Hon. Madam Justice Anjala Wati

29.09.2023

To:

1. ***Applicant in Person***
2. ***Respondent in Person.***
3. ***File: Family Case Number: 20/LTK/0319.***