

Annulment in the Philippines

There is no divorce in the Philippines. However, a marriage may be annulled in the Philippines for any of the following causes, existing at the time of the marriage:

(1) That the party in whose behalf it is sought to have the marriage annulled was eighteen years of age or over but below twenty-one, and the marriage was solemnized without the consent of the parents, guardian or person having substitute parental authority over the party, in that order, unless after attaining the age of twenty-one, such party freely cohabited with the other and both lived together as husband and wife.

(2) That either party was of unsound mind, unless such party after coming to reason, freely cohabited with the other as husband and wife.

(3) That the consent of either party was obtained by fraud, unless such party afterwards, with full knowledge of the facts constituting the fraud, freely cohabited with the other as husband and wife.

(4) That the consent of either party was obtained by force, intimidation or undue influence, unless the same having disappeared or ceased, such party thereafter freely cohabited with the other as husband and wife.

(5) That either party was physically incapable of consummating the marriage with the other, and such incapacity continues and appears to be incurable.

(6) That either party was afflicted with a sexually-transmissible disease found to be serious and appears to be incurable.

With regard to Item 3 above, any of the following circumstances shall constitute fraud:

a. Non-disclosure of a previous conviction by final judgment of the other party of a crime involving moral turpitude.

b. Concealment by the wife of the fact that at the time of the marriage, she was pregnant by a man other than her husband.

c. Concealment of sexually transmissible disease, regardless of its nature, existing at the time of the marriage.

d. Concealment of drug addiction, habitual alcoholism or homosexuality or lesbianism existing at the time of the marriage.

Effects of Annulment of Marriage

The annulment of marriage in the Philippine shall produce the following effects:

- The children conceived or born before the annulment decree shall be considered legitimate;
- The absolute community of property or the conjugal partnership, as the case may be, shall be dissolved and liquidated, but if either spouse contracted said marriage in bad faith, his or her share of the net profits of the community property or conjugal partnership property shall be forfeited in favor of the common children or, if there are none, the children of the guilty spouse by a previous marriage or in default of children, the innocent spouse;
- Donations by reason of marriage shall remain valid, except that if the donee contracted the marriage in bad faith, such donations made to said donee are revoked by operation of law;
- The innocent spouse may revoke the designation of the other spouse who acted in bad faith as beneficiary in any insurance policy, even if such designation be stipulated as irrevocable;
- The spouse who contracted the subsequent marriage in bad faith shall be disqualified to inherit from the innocent spouse by testate and intestate succession.
- If both spouses of the subsequent marriage acted in bad faith, said marriage shall be void ab initio and all donations by reason of marriage and testamentary dispositions made by one in favor of the other are revoked by operation of law.
- The final judgment in such cases shall provide for the liquidation, partition and distribution of the properties of the spouses, the custody and support of the common children, and the delivery of third presumptive legitimes, unless such matters had been adjudicated in previous judicial proceedings.
- All creditors of the spouses as well as of the absolute community or the conjugal partnership shall be notified of the proceedings for liquidation.
- In the partition, the conjugal dwelling and the lot on which it is situated shall be adjudicated to the spouse with whom the majority of the common children choose to remain.
- In said partition, the value of the presumptive legitimes of all common children, computed as of the date of the final judgment of the trial court, shall be delivered in cash, property or sound securities, unless the parties, by mutual agreement judicially approved, had already provided for such matters.
- The children or their guardian or the trustee of their property may ask for the enforcement of the judgment.
- The delivery of the presumptive legitimes herein prescribed shall in no way prejudice the ultimate successional rights of the children accruing upon the death of either of both of the parents; but the value of the properties already received under the decree of annulment or absolute nullity shall be considered as advances on their legitime.

It must be emphasized that the judgment of annulment of the marriage, the partition and distribution of the properties of the spouses and the delivery of the children's presumptive legitimes shall be recorded in the appropriate civil registry and registries of property; otherwise, the same shall not affect third persons.

For more information on annulment of marriage in the Philippines, visit our website www.ndvlaw.com or call us at +632 4706126 or +632 4706130.

Nicolas & De Vega Law Offices is a Philippine law firm with family lawyers and attorneys who assist clients in filing annulment cases in the Philippines.