

IN THE FAMILY DIVISION OF THE HIGH COURT AT LAUTOKA

ORIGINAL JURISDICTION

ACTION NUMBER:	18/LTK/0032
BETWEEN:	NAASIMA APPLICANT
AND:	MAAZIN RESPONDENT
APPEARANCES:	<i>Ms. S. Ravai for the Applicant.</i> <i>No Appearance for the Respondent.</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 APPLCIATION FOR AN ORDER FOR NULLITY OF MARRIAGE** – *the wife was not informed at the time of the civil union that the husband was already living in a de-facto relationship with another woman abroad – when she discovered this, she sought to nullify her marriage on the grounds of “no real consent” for want of fraud on the part of the husband – application granted.*

1. The applicant had applied for an order to nullify her marriage with the respondent which I had granted and indicated that I will publish my reasons later. I do so now.

2. The ground professed in the application was that the wife did not provide her real consent to the marriage as her consent was induced by fraud on the part of the husband.
3. The evidence before me clearly established that when the respondent came from Australia to marry the applicant in Fiji, he was already living with another woman in a de-facto relationship and having a family with her.
4. The applicant did not know of this or was informed by anyone about the respondent's de-facto relationship.
5. After the civil union in Fiji, the respondent left for Australia and started avoiding the applicant by ignoring her calls and text messages. It is his mother who learnt of this civil union with the applicant who called her and informed her that the respondent was already in a de-facto relationship with another woman and living with her as his husband.
6. The applicant was very disturbed. She called the respondent. Fortunately he answered and admitted that he was already in a de-facto relationship with another woman and living with her. He later sent her a text message apologizing and admitting his relationship with another woman. That evidence was produced in court as well.
7. The applicant told the Court that if she had known that the respondent was already living in a de-facto relationship with another woman, she would not have agreed to get married to him. She says that he ought to have informed her of his relationship with another woman.
8. I agree with the applicant that if she was told that the respondent was already in a de-facto relationship with another woman and living with her, the applicant would not have provided her consent to get married to the respondent. Her consent, which she provided, is vitiated by fraud on the part of the respondent. He ought to have

provided the applicant with the relevant information that he was already married to someone else.

9. In Fiji, a de-facto relationship is equivalent to marriage. The respondent was thus already a party to another marriage when he got married to the applicant. This marriage with the applicant is void for there was already an existing marriage and for fraud on the part of the respondent. These were my reasons for the order for nullity.

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Hon. Madam Justice Anjala Wati

29.09.2023

To:

1. ***Ms. S. Ravai for the Applicant.***
2. ***Respondent.***
3. ***File: Family Case Number: 18/LTK/0032.***