

IN THE FAMILY DIVISION OF THE HIGH COURT AT LAUTOKA

APPELLATE JURISDICTION

ACTION NUMBER:	22/LTK/0013
BETWEEN:	AADHRITI APPLICANT
AND:	SWAKSH RESPONDENT
APPEARANCES:	Mr. K. Tudravu and Ms. M. Tavakuru for the Applicant. Ms. K. Boseiwaqa for the Respondent.
DATE/PLACE OF JUDGMENT:	Monday 29 April 2024 at Suva.
CORAM:	Hon. Madam Justice Anjala Wati
CATEGORY:	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.

JUDGMENT

Catchwords:

FAMILY LAW – MARITAL STATUS PROCEEDINGS – application by wife for an order for nullity of the marriage on the grounds that her consent was induced by fraud- evidence indicates that wife not happy with the financial status and habits of the husband- these matters do not go to the root of the marriage and does not amount to fraud- the wife’s consent to marry the man she did was her own act and her unhappiness regarding the husband’s habit, status and rank should not otherwise vitiate a good marriage.

Cause

1. The wife has applied for an order for nullity of marriage on the grounds that she did not provide her real consent to marry. She says that her consent was induced by fraud on the husband's part.

Evidence

2. The applicant is a citizen of New Zealand. She lives there. The respondent is a citizen of Fiji and lives here in Fiji. The parties had met online through facebook. Their friendship developed. The respondent then travelled from Fiji to New Zealand to meet the applicant and her family. Almost after a year of knowing each they got married.
3. The wife's complaint about the husband is basically regarding his financial status, his habits and attitude towards her and the marriage. She says that after the legal marriage, the husband had been asking for money from her brother and mother. She is not happy about this.
4. She also complains that he bought a cheap "*mangalsutra*" (*customary necklace gifted by the groom to the bride at the time of traditional marriage to signify the marital bond, togetherness and unity*) for her. Her view is that he cannot afford anything expensive and that is what she heard him saying.
5. It was also raised that after the legal marriage, the husband has been asking her for money to buy gifts for his family members. He was alleged to be asking the wife for new clothes, shoes and tools after the legal marriage.
6. The wife says his representation that he was financially stable is not true as he does not even own a car when he told her initially that he owned 3 cars. His father owns one car and not three. The husband does not even have a driving license.
7. According to the wife, the husband also committed fraud by delaying in applying for his visa to New Zealand.
8. The wife's evidence also accused the husband of committing fraud by having multiple facebook and viber accounts with different names. The wife says that when she questioned him, he had denied creating multiple facebook accounts and said that someone else did it.

9. The evidence extended to allege that the husband is at times nice and pleasant and then suddenly changes. The wife related an incident. She said that he would be nice when with his family and change his behaviour when with her. He would make negative comments about her appearance.
10. She also alleged that he has been very abusive to others on facebook public posts.
11. She says that he lied to her that he is scared of dogs but after the legal marriage, he would take pictures with a puppy.
12. She accuses the husband of not having lodged his application with the New Zealand Immigration for migration purposes.
13. The wife's another allegation is that the husband still maintains contact with his ex-girlfriend.
14. The wife's mother also filed an affidavit. She said that after the legal marriage, when the parties were having dinner, the respondent started telling her son that he will not be able to come to New Zealand because he owed money to someone. She says that her son suggested that they could help him out.
15. The mother also expressed concern that after the engagement ceremony, they went to clean the hall. No one from his family came to help with the cleaning.
16. At one time the respondent had wanted to get a loan in the sum of \$10,000 and she offered to give the loan as long as he paid back. Her daughter was not happy with him asking for the money and she argued with him.
17. The mother also expressed disappointment because the respondent's mother wanted to talk to them about the engagement ceremony expenses.
18. She also deposed that the respondent also requested for money for his airfare to New Zealand. She said that he always portrayed himself as being financially stable and she was surprised that after the engagement he started saying he owes money to people and that he will be unable to cater for his expenses for the wedding. He would always ask for money or things from her daughter. He has also not submitted his application to the Immigration.

Law and Analysis

19. It is very clear from the evidence that the wife is not happy with the respondent's financial status, his rank and his habits which she discovered upon entering into the civil union.
20. The financial status and habits of a person cannot vitiate a valid marriage. The wife's consent to marry the man she did, was her own act. She is unhappy now with the marriage as she slowly discovered that the respondent is not the person of the rank, habit and fortune she desired. That unhappiness does not amount to fraud on the respondent's part.
21. The evidence does not indicate that the respondent induced the wife's consent. She knew the respondent. She knew the person she married. Later she discovers his habits and financial status and is upset. That does not amount to fraud on the respondent's part.
22. The respondent's financial status, rank and habits have not affected the root of the marriage. The wife may not like his status and habits but these are matters that should not affect a good marriage. These are not things that makes a person consent to marry. It is the person she saw and gave consent to marry. He is not a different person that she thought that she was marrying. He has not impersonated himself. That is all that the law is concerned with.

Final Orders

23. I dismiss the application for nullity. Each party is to bear their own costs of the proceedings.

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Hon. Madam Justice Anjala Wati

29.04.2024

To:

- 1. Messrs Krishna & Co for the Applicant.***
- 2. Ms. K. Boseiwaqa for the Respondent.***
- 3. File: Family Case Number: 22/LTK/0013***