



Expat Counsel

By James Finch and Nilobon Tangprasit

Bigamy, being knowingly married to more than one person at once, is not a crime in Thailand. So you can't be arrested, go to jail or be fined in Thailand for bigamy, though it may be a crime in other countries.

But bigamy can still cause you to run foul of Thailand's criminal laws.

Here's how. When you get married in a civil ceremony the registrar will ask you if you were previously married and, if so, divorced. If you say you are still married, the registrar won't allow the marriage. If you lie and say you aren't married, this is a crime. The reason for this is that under Section 137 of Thailand's Criminal Code, giving false information to a public official is a crime punishable by imprisonment of up to six months and a small fine.

Also, since the registrar enters your responses in his or her records, lying in this way violates section 267 of the Criminal Code. This section exposes anybody who causes a public official to make a false entry in an official document to up to three years' imprisonment and a small fine.

Bigamy also has civil legal implications in Thailand. Section 1452 of the Civil and Commercial Code of Thailand provides that a man or woman cannot be married to another while either one has a spouse. Under Section 1497 of the civil code, a marriage celebrated in violation of Section 1452 is void.

Let's put one thing in perspective. In Thailand, people are married in two ways — civil ceremonies and religious ceremonies, often both. If you were only married previously in a religious ceremony and your marriage wasn't entered in a civil ceremony at a district office in Bangkok or at the amphur's office in the provinces, it isn't considered marriage for the purposes we are discussing. Thus if you're only married in a religious ceremony in Thailand, from the point of view of the law, you can marry again and the new marriage won't be considered void.

But if you've been previously married in a civil ceremony in Thailand or legally married elsewhere in the world, Section 1497 means that if you remarry in Thailand without terminating the previous marriage, your new marriage is void.

Here's an example. Let's say you came to Thailand in 2007 on holiday. You had a whirlwind romance with a lady who worked in reception at the hotel in which you stayed in Hua Hin. Before you left you married her in a civil ceremony at the amphur in Hua Hin. The relationship, largely conducted long-distance, didn't work out and you just stopped communicating. You haven't seen or heard from her in three years.

Now you live in Bangkok and work for a big bank there. You've fallen in love with a lady who is a vice-president and a rising star at the bank. Even though you and she discuss your wedding plans every day, for some reason you haven't been able to bring



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yourself to tell her about the previous marriage. Since your earlier marriage seems to have been in another life, you think it makes sense to ignore the whole thing, just marry the vice-president and get a clean slate.

But if you marry the vice-president without dissolving the old relationship, the new marriage is void under Thai law. What are the implications of this?

First, for a legally-formed marriage, all earnings of the parties during the marriage are, under Thai law, owned equally by the parties. Let's assume, for example, that you have been married to the vice-president for a year. During that time, you saved two million baht of your salary and put it in a bank account. For the same period she saved four million baht of her salary and banked it, too. If you are legally married and divorce after one year the split would be equal, three million each, because all earnings during the marriage are considered equally owned. If you are not legally married and you split up after a year, you would get only the two million you put in, and she would get the four million she put in.

A court can change the outcome of the equal split if justice requires this. For example, what if you and the vice-president have children and decide that you will have principal custody of them when you split up? A court could decide that you should have more of the vice-president's savings, to help with the support of the children.

Also, if two people are married in a civil ceremony in Thailand and one of them dies, the other is what's called a statutory heir. In the case of a spouse, this means the statutory heir takes a major portion of the estate earned during the marriage, even if there's a will that says otherwise. Of course, if you have been married previously and marry again, you could have wills leaving everything to each other. The problem with this is that if your earlier wife emerges from the woodwork after your death, she would be your statutory heir, and could take much of your estate, no matter what you'd left to the vice-president in a will.

One more example. What if your previous marriage was in another country? Could you wipe the whole slate clean by having a marriage in a civil ceremony in Thailand? As mentioned above, no, if the marriage was legal in the country where you married. Your new marriage in Thailand would be considered in contravention of Section 1452 and the marriage in Thailand would be void. ■

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