


 Expat Counsel

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 FAMILY LAW IN THAILAND Part XXI:
Voidable marriages — annulment

Last week we talked about void marriages, in other words, marriages that never existed. This week we will discuss marriages that are voidable; that exist but can be cancelled by a Thai court.

Voidability is different from divorce in that the grounds for cancellation for voidability existed from the beginning of the marriage, whereas the grounds for divorce arise during the marriage.

Voidable marriages are different from void marriages procedurally because there is usually a time limit before which a voidable marriage must be dissolved by the court. If it's not dissolved within this time limit the marriage is final and can't be dissolved on the grounds of voidability.

Divorce and voidability are similar in that the marriage is valid and continues as long as the parties are alive unless somebody applies to a court to have it cancelled on one of these grounds. Sometimes only the parties to a voidable marriage can cancel it and sometimes other parties, such as the

parents of underage parties, can apply to have the marriage cancelled. We'll discuss the parties who can apply to do this later.

The first ground for cancellation is age. Both parties must be at least 17 years old. If one of them is not, the marriage can be cancelled on this ground.

Also, for a party between the ages of 17 and 20 to be married there must be parental or guardian consent. A parent or guardian only, not the husband or wife, may apply for the dissolution of the marriage on this ground. This application must take place before the parent or guardian's child reaches 20, before the wife gets pregnant and within one year of the parent or guardian finding out about the marriage. Otherwise, they can't make the application to the court to have the marriage dissolved.

Let's look at an example. Suppose a marriage is celebrated between H and W, both 18. H's father gives consent but W's parents will not.

After the marriage H's father can't apply to the court to have the marriage cancelled

because he gave his consent to it. W's parents can apply to have the marriage cancelled.

Let's examine another, more likely, scenario. Let's say you, a foreigner, have a 20-year-old son, who is visiting you in Thailand from school in Europe. While he's in town he falls desperately in love with an 18-year-old Thai girl he meets at a party. The romance blossoms and in a week, without telling their relatives, including you, they are married.

Who can end this marriage by making an application to a Thai court for cancellation? The parents of your son's wife can, because parental consent wasn't given and she was under 20 when the marriage was entered into. The marriage can only be cancelled in this manner, though, before the young lady turns 20 or gets pregnant. Also, the marriage can't be cancelled unless her parents object within one year of finding out about it. You can't object to the marriage, by the way, because your son was already 20, so your consent wasn't necessary.

How does a parent or guardian give consent to an underage marriage? In one of the following three ways: signing the marriage register at the district office or amphur when the marriage is celebrated; signing a separate written declaration giving consent that mentions the names of the husband and wife; and in cases where it is impossible to sign either the marriage register or a separate document, by verbal declaration before at least two witnesses. Such consent is irrevocable.

Next week we'll cover more ways a marriage can be cancelled as a result of voidability. ■

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