

# Legal issues and family matters



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## Voidable marriages

**Under Articles 35 up to 54 of the Family Code, some marriages are considered either void or voidable. A voidable marriage is valid until annulled.** This simply means that a party to a voidable marriage must (1) file a petition to have the marriage annulled; and (2) file the petition within the period prescribed by Article 47. Beyond the prescribed periods, the marriage can no longer be annulled.

### **Court decision declaring the marriage void needed before remarriage**

Please take note that Article 40 of the Family Code states that *“the absolute nullity of a previous marriage may be invoked for purposes of remarriage on the basis solely of a final judgment declaring such previous marriage void.”* This means that parties to a void marriage cannot simply take the law into their own hands and declare by themselves that their marriage is void. A husband or wife in a void marriage who gets married again without complying with Article 40 can be charged with bigamy. Bigamy is a public offense where anyone who knows the facts can file the complaint.

### **What is the difference between annulment and declaration of nullity of marriage?**

Technically speaking, a petition for annulment refers to the legal action concerning those mar-

riages considered as voidable (that is valid until annulled). On the other hand, a petition for declaration of nullity refers to those marriages considered as void from the very beginning.

In laymen’s language, however, annulment is often used as a generic term for the legal action concerning both kinds of marriages.

### **What marriages are considered as voidable**

**Art. 45. A marriage may be annulled for any of the following causes, existing at the time of the marriage:**

**(1) Lack of parental consent:** 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) Insanity:** That either party was of unsound mind, unless such party after coming to reason, freely cohabited with the other as husband and wife;

**(3) Fraud:** 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) Impaired consent:** 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) Impotence:** That either party was physically incapable of consummating the marriage with the other, and such incapacity continues and appears to be incurable (note: impotence is not the same as infertility)

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

**What constitutes fraud under Art. 46, par. 3?**

(1) Non-disclosure of a previous conviction by final judgment of the other party of a crime involving moral turpitude;

(2) Concealment by the wife of the fact that at the time of the marriage, she was pregnant by a man other than her husband;

(3) Concealment of sexually transmissible disease, regardless of its nature, existing at the time of the marriage; or

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

No other misrepresentation or deceit as to character, health, rank, fortune or chastity shall constitute such fraud as will give grounds for action for the annulment of marriage.

**Who may file for annulment of marriage and within what period of time? (Art. 47 FC)**

**1. For lack of parental consent:** by the party whose parent or guardian did not give his or her consent, within five years after attaining the age of twenty-one, or by the parent or guardian or person having legal charge of the minor, at any time before such party has reached the age of twenty-one;

(2) For insanity: by the same spouse, who had no knowledge of the other’s insanity; or by any relative or guard-ian or person having legal charge of the insane, at any time before the death of either party, or by the insane spouse during a lucid interval or after regaining sanity;

(3) For fraud: by the injured party, within five years after the discovery of the fraud;

(4) For impaired consent: by the injured party, within five years from the time the force, intimidation or undue influence disappeared or ceased;

(5) For impotence or sexually-transmitted disease: by the injured: party, within five years after the marriage.

**Notes:** (1) Children conceived or born before the judgment of annulment has become final and executory shall be considered legitimate. (Art. 54 FC)

(2) Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages A. M. No. 02-11-10-SC, March 4, 2003

**How to be saved and go to heaven**

**Accept that you are a sinner and that your good works, ethical conduct or religion cannot save you.** Romans 3:10, Romans 3:23

**Believe on the Lord Jesus Christ that He alone can save you.** Romans 6:23, Romans 10:13, Acts 16:31

**Confess and repent of your sins.** Luke 13:3, Isaiah 1:18

**Delay not in receiving Jesus Christ into your heart.** 2 Corinthians 6:2, Proverbs 27:1

**Pray and ask the Lord to save you now:** “Dear Lord, I believe that Christ died and shed His precious blood to save my soul. Be merciful to me a sinner, forgive my sins and save me in Jesus’ name. Lord Jesus, I now accept you as my Savior. Amen.”

For more info, please contact Pastor Gerry Nable, Bethany Baptist Church; 1718 Dian corner Emilia Sts. Palanan, 1235 Makati City, Philippines; 831-7734, 833-4576 to 77; bethanymakati@yahoo.com