

October 24, 2016; What to Know About Annulment

From time to time, I'll get a phone call from a potential client who tells me that he or she wants an annulment. When I ask why, the person will simply reply, "Because I don't want to be married to my spouse anymore!" Gently, I have to break it to the person that an annulment isn't for every married couple. In fact, very few meet the requirements for an annulment.

First, let's be clear that we are discussing a civil annulment, not a religious annulment. People often confuse them. A court grants a civil annulment while a Church grants a religious annulment. The two are not interchangeable. For example, a couple that obtains a civil annulment cannot simply transfer the annulment to the Catholic Church. The same is true for a religious annulment - it is not recognized by a civil court.

Although the outcome for both a civil annulment and divorce is the dissolution of the marriage, after which both parties are free to remarry, there is a significant difference. With a divorce the judge dissolves a marriage that was valid at the time the couple exchanged their wedding vows. In contrast, in an annulment the judge determines that the marriage was never valid. It's like the marriage never happened. Each state is free to determine appropriate grounds for an annulment.

Here are the grounds for annulment on Guam.

1. A spouse was a minor at the time of the marriage and the parents or the legal guardian of the minor did not consent to the marriage. The minor, parents, or guardian may file for the annulment while the spouse is still a minor. However, there can be no annulment if the couple freely lives together after the minor reaches 18, or the spouse fails to file within four years of reaching adulthood.
2. In the case of bigamy. In other words, the former spouse of either party to a marriage was living, and that prior marriage was still valid when the couple married. Either the husband or wife, or former spouse can file for annulment at any time, without any time limitation.
3. Either party suffered from a serious mental disability at the time of marriage. The mentally disabled spouse, or a relative or guardian for the mentally disabled spouse, can file the annulment action at any time. However, if the mental disability is cured and the couple continues to live together, an annulment cannot be pursued.
4. If the consent of either party was obtained by fraud. However, an annulment can't be granted if the innocent party continues to reside with his/her spouse despite knowing of the fraud, or fails to file for an annulment within four years of learning of the fraud.

5. The consent of either party was obtained by force, unless the innocent party subsequently freely lives with his or her spouse, or fails to file for an annulment within four years.

6. Either party was impotent at the time of marriage and such impotency continues and appears to be incurable. However, if despite the impotency the parties continue to live together for four or more years after the marriage, there can be no annulment.

On Guam, these are the only recognized grounds for an annulment. If none of these situations is applicable and the parties wish to dissolve their marriage, divorce is the only alternative.