

LAW REVIEW

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ANNULMENT A POSSIBILITY?

Today's case illustrates why some people should stay single. (And we are not talking about that certain golfer).

Family Code 720 reads: "Husband and wife contract toward each other obligations of mutual respect, fidelity, and support." Here is what happens when fidelity is missing. That should get your interest.

Mexican Marriage

In 1999, Jorge and Lilia were married in a Mexican marriage ceremony in Moreno Valley, California. (I told you this was not about Tiger). No marriage license was issued by the State of California. At the time, Lilia's prior divorce had not been finalized. When Jorge and Lilia realized their marriage was void—for three or four legal reasons—they remarried in 2001. Their second mistake.

Jorge, ever the scoundrel, filed a petition for dissolution of that marriage in 2005 after Lilia discovered that he had begun an affair with her sister prior to their 2001 marriage, which lasted into 2005. Jorge married Lilia to get his U.S. citizenship. Now he wanted half of her property, which interestingly, was substantial.

Marriages Void

The trial court concluded the 1999 marriage was void under the laws of Mexico and California, and also found the 2001 marriage was void because Jorge perpetrated a fraud on Lilia by carrying on an extramarital affair with her sister—starting *before the* marriage. Scumbag. Jorge appealed. Annuling a marriage for fraud, given the things that fiancés routinely promise each other, is a difficult thing to do in California.

Annulments

The Court of Appeal agreed the 1999 marriage was void, and considered whether the 2001 marriage could be annulled by Lilia because Jorge had a thing going with her sister when they got married. A marriage in California may be annulled for fraud but only in an extreme case where the fraud goes to the very essence of the marriage relationship.

For example, a promise to be a kind, dutiful and affectionate spouse cannot be the basis of an annulment. Good thing or all of our marriages would be annulled.

The longstanding rule is that neither spouse may get an annulment on the ground of fraud and misrepresentation to the other concerning character, habits, chastity, business, social standing or financial worth. For sure many have tried.

Concealment of incontinence, temper, idleness, extravagance, coldness or lack of represented fortune will not justify an annulment. That is right out of the case. I couldn't have made up those words. (Although they fairly well describe me).

Infidelity

Historically annulments based on fraud have only been granted in cases where the fraud relates in some way to the sexual, procreative, or child-rearing aspects of marriage. Concealing sterility can be the basis of an annulment, or concealment of pregnancy.

The Court of Appeal upheld the trial court, finding “fidelity” missing from the 2001 marriage. Jorge purposely deceived Lilia into thinking he would perform the contractual obligation of fidelity when in fact he was also sleeping with her sister. Which I believe we call infidelity. Infidelity can get famous people into trouble.

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