

Declaration of Nullity of Marriage in the Philippines

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When one files a Petition to declare a marriage void, there is the presumption that the marriage never existed. Of course it is up to the court to decide if the grounds of your petition are valid.

[The Family Code of the Philippines](#) states in Articles 35, 36, 37 and 38 the grounds to declare a marriage void from the beginning.

Let's examine the grounds to declare a marriage void:

A – Those contracted by any party below eighteen years of age even with the consent of parents or guardians; (lack of legal capacity to marry).

B – Those solemnized by any person not legally authorized to perform marriages unless such marriages were contracted with either or both parties believing in good faith that the solemnizing officer had the legal authority to do so;

C – Those solemnized without license except if otherwise covered by other laws.

D – Those bigamous or polygamous marriages except those covered by the laws of [presumption of death](#) of the absent spouse.

E -Those contracted through mistake of one contracting party as to the identity of the other;

F – A remarriage shall be null and void if the partition and distribution of the properties of the spouses, the children's' presumptive legitimes and the judgment of absolute nullity of the marriage are not recorded in the necessary civil registry and registries of property.

G – Any psychological incapacity at the time of the marriage celebration, which prevents either the husband or wife from fulfilling the essential marital obligations of marriage, shall also be void even if such incapacity becomes manifest only after the solemnization.

(Psychological incapacity is not automatically lunacy but it does mean that one or both spouses have abnormal interpersonal behavior, or a psychological characteristic which inhibits the spouse to fulfill the essential obligations of marriage.)

H – Marriages between ascendants and descendants of any degree; between brothers and sisters whether full- or half-blood are incestuous and void from the beginning.

I - Though not incestuous the following between relatives are void from the beginning for reasons of public policy:

1. Between collateral blood relatives, whether legitimate or illegitimate, up to the fourth civil degree;
2. Between step-parents and step-children;
3. Between parents-in-law and children-in-law;
4. Between the adopting parent and the adopted child;
5. Between the surviving spouse of the adopting parent and the adopted child;
6. Between the surviving spouse of the adopted child and the adopter;
7. Between an adopted child and a legitimate child of the adopter;
8. Between adopted children of the same adopter;
9. Between parties where one, with the intention to marry the other, killed the other person's spouse, or his or her own spouse.

Once the decision of nullity has been issued by the court it must be registered with Local Civil Registrar where your marriage was registered, the Civil Registry of the place where the Family Court is situated and with the National Statistics Office (NSO). Registration of the approved partition and distribution of the properties of the spouses, in the proper Register of Deeds where the real properties are located; and if there are children: the delivery of the children's presumptive legitimes in cash, property, or sound securities.

Only after complying with the aforementioned will the court issue the **Final Decree of Nullity or Annulment of Marriage**.

Without a Final Decree of Nullity or Annulment of Marriage any remarriage will be void and the spouse who marries may be charged with a criminal case of bigamy.

Ref.: <http://www.bcphilippineslawyers.com/declaration-of-nullity-of-marriage-in-the-philippines/490/>