

**IN THE FAMILY DIVISION OF THE HIGH COURT AT LAUTOKA**

**ORIGINAL JURISDICTION**

<b>ACTION NUMBER:</b>	<b>17/LTK/0397</b>
<b>BETWEEN:</b>	<b>KASVI</b> <b>APPLICANT</b>
<b>AND:</b>	<b>EDWIN</b> <b>RESPONDENT</b>
<b>APPEARANCES:</b>	<i>Applicant in Person.</i> <i>No Appearance for the Respondent.</i>
<b>DATE/PLACE OF JUDGMENT:</b>	<i>Friday 29 September 2023 at Suva.</i>
<b>CORAM:</b>	Hon. Madam Justice Anjala Wati
<b>CATEGORY:</b>	<i>All identifying information in this judgment have been anonymized or removed and pseudonyms have been used for all persons referred to. Any similarity to any persons is purely coincidental.</i>

**JUDGMENT**

**Catchwords:**

**FAMILY LAW** – *APPLCIATION FOR AN ORDER FOR NULLITY OF MARRIAGE – wife raises that she did not provide her real consent to the marriage as it was induced by fraud on the part of the husband – the husband was already in a de-facto relationship with another woman in New Zealand from where he came and married the applicant – he did not disclose his relationship to the applicant in Fiji – that concealing of the information amounted to fraud on his part which vitiated the consent provided by the wife.*

1. The wife applied for an order for nullity of her marriage on the grounds that she did not provide her real consent to the marriage as it was induced by fraud on the part of the husband.

2. After hearing the evidence I was satisfied that the wife's consent was procured by fraud and as such I had granted an order for nullity.
3. There was uncontested and satisfactory evidence that the husband came from New Zealand to get married to the applicant. At the time of this marriage he was already living in a relationship with another woman for 2 years in New Zealand. He was not married to that other woman.
4. The text messages between the respondent and the other woman clearly established a relationship which the respondent's mother did not endorse. That explains why the respondent could not solemnize the marriage with the woman he loved. Whatever situation he was in, I find that he did not disclose his relationship to the applicant. Had she known of this, she would not have agreed to marry the respondent.
5. In Fiji, a party to a de-facto relationship is considered a party to the marriage. The respondent's de-facto relationship with another woman is equivalent to marriage with her. The respondent could not have entered into this marriage as he was already in a martial equivalent relationship with another woman. He could not have had an exclusive relationship in this Fiji marriage as required by law and legitimately expected by the applicant.
6. Based on the evidence I found the respondent's act of concealing his relationship with the other woman amounting to fraud on his part thus vitiating the consent provided by the applicant.

.....

***Hon. Madam Justice Anjala Wati***

**29.09.2023**

**To:**

1. ***Applicant.***
2. ***Respondent.***
3. ***File: Family Case Number: 17/LTK/0397.***