

## **GROUNDS FOR DECREE OF NULLITY**

*Consent is what makes marriage. However, certain people are not capable of truly giving consent because of some psychological obstacle, error, or lack of freedom. Others are capable of giving consent, but they purposefully withhold something essential from their consent or attach their consent to some external factor. Below is a list of potential grounds that are used in formal decree of nullity trials.*

### **Lack of Sufficient Use of Reason (c. 1095, 1<sup>o</sup>)**

Permanent or temporary lack of the use of reason due to a severe disability, mental illness, psychological disturbance, or intoxication at the time of the celebration of marriage prevents a person from making an act of consent.

Example: The groom is so intoxicated during the wedding that he is only partially aware of what is happening around him. Afterwards, he barely remembers the ceremony.

### **Grave Lack of Discretion of Judgment Regarding Essential Duties of Marriage (c. 1095, 2<sup>o</sup>)**

In order to be able to consent to marriage, a person must possess at least a minimal ability to make a concrete judgment about the essential rights and duties of the marital covenant (i.e. permanence, fidelity, and openness to children). Substance abuse, psychological disorders, severe emotional imbalance, trauma, extreme immaturity, and other similar factors present at the time of consent can deprive a person of the ability to reason about the decision to marry.

Example 1: On account of childhood sexual trauma, the bride ended up suffering with a co-dependency that marred her psychic state at time of consent

### **Incapacity to Assume the Essential Obligations of Marriage (c. 1095, 3<sup>o</sup>)**

At the time of the celebration of marriage, one of the parties is altogether incapable of taking on the essential obligations of marriage (i.e. permanence, fidelity, and openness to children) for reasons of a psychological nature. The psychological problem must be so severe that it makes it humanly impossible, not merely difficult, to take on the essential obligations of marriage. This impossibility can be caused by a mental illness, a psychological disorder, a severe addiction, or a strong homosexual inclination.

Example 1: From years of chronic alcohol abuse, the bride has so substantially impaired her psyche as to render her incapable of assuming the essential obligations of marriage at the time of consent.

**Error of Person (c. 1097 §1)**

At the time of marriage, one of the parties believes he/she is marrying one person, when in fact, it is someone else.

Example: The bride believes she is marrying the man she loves, when in fact, the person to whom she states her vows is that man's identical twin brother.

**Error Concerning a Quality of Person (c. 1097 §2)**

Error about a certain quality of a person, such as a personality trait or some fact in the person's history, does not make a marriage invalid unless that quality is directly and principally intended. In other words, the quality is desired more than the actual person.

Example 1: The bride always pledged that she would never marry someone who was in prison, like her father was when she was a child. The bride discovers after marriage her new husband had been imprisoned for three years some time before they married.

**Fraud (c. 1098)**

A person's consent is invalid if it is given as a result of being deceived by fraud that (1) is intentionally inflicted in order to get that person to give consent and (2) concerns some quality of the other party which of its very nature can seriously disturb the partnership of marriage. The deceit can be perpetrated by the other party or even by some third party, such as a parent.

Example 1: The bride has extensive debts. She fears the groom would not marry her if he knew about the debts, so she purposefully conceals them from him in order to get him to marry her. The groom does not find out about the debts until after the marriage. When the debts are discovered, they cause a serious disturbance in their married life.

**Error Concerning Marriage (c. 1099)**

Normally, error about unity (i.e. marriage to one person), indissolubility (i.e. marriage is for life), or sacramental dignity (i.e. marriage between the baptized is a sacrament) of marriage does not make a marriage invalid. Error of this kind only invalidates when it determines the will so deeply that, in the person's mind, the only kind of marriage that exists is unfaithful marriage, or dissoluble marriage, or non-sacramental marriage. The alternative is never considered.

Example: The groom's parents were divorced when he was very young. Both his parents have since been married several times, with each marriage ending in divorce. All of his aunts, uncles, siblings, and close friends have been married several times to several different people. In his mind, marriage can end whenever the spouses are ready to move on, and he has never really considered the possibility of an indissoluble marriage. When he promises to stay with his wife "until death do us part," he thinks it is just a nice figure of speech.

**Total Simulation (c. 1101 §2)**

One or both parties have no intention to establish any kind of marital partnership, but have some totally unrelated goal that can be achieved through the appearance of marriage. The ceremony itself is a sham.

Example: The groom wants a green card in order to be able to remain in the United States. He convinces the bride to marry him solely for that purpose. They have no intention to cohabitate or establish any kind of married life, except as necessary to convince immigration officials. The day the green card arrives in the mail, the parties separate, just as they had intended to do all along.

**Partial Simulation Against the Good of Children (c. 1101 §2)**

In spite of what the parties say in their marriage vows, one or both of the parties actually wills they will never have children.

Example: The bride and groom agree before the wedding that they will never have any children under any circumstance. They consistently use contraception throughout their marriage.

**Partial Simulation Against the Good of Fidelity (c. 1101 §2)**

In spite of what the parties say in their marriage vows, one or both of the parties actually believes that bigamy or adultery to be an okay option.

Example: The groom has a girlfriend on the side throughout the courtship and during the engagement. He intends to keep his mistress even after the marriage. Even though he does not want to be found out, he has no remorse whatsoever about this arrangement.

**Partial Simulation Against the Good of Permanence (c. 1101 §2)**

In spite of what the parties say in their marriage vows, one or both of the parties actually believes that divorce and potentially remarrying is acceptable in certain circumstances.

Example: The groom cheats on the bride during their engagement. The groom seems sincerely contrite, so the bride agrees to marry him, but also decides then and there that if he ever cheats on her that it is over with. Five years into marriage, the groom cheats, they divorce.

**Partial Simulation Against the Good of the Spouse (c. 1101 §2)**

In spite of what the parties say in their marriage vows, one or both of the parties actually intends to enter a marriage that is ordered toward the harm or corruption of the other party, the party marries invalidly.

Example: The groom is an intensely selfish person. He asked the bride to marry him, but what he was really after was a live-in maid. The bride is also very wealthy, and the groom intends to spend her money on himself and leave her penniless. In his mind, the marriage is solely for his own benefit, and he has no concern for the well-being of the bride.

**Conditioned Consent (c. 1102)**

One or both parties consent to marriage if and only if a certain condition is fulfilled. If the condition is not fulfilled at the time of the marriage, or if the condition relates to the future, the marriage is invalid.

Example: The bride is pregnant at the time of the wedding, and the groom is uncertain if the baby is his. When he consents to marriage, he consents strictly under the condition that he is the father. That is the only circumstance under which he is willing to enter marriage. In his mind, the marriage only exists if he is the father. When the baby is born, a paternity test determines that the groom is not the father, and he leaves immediately.

**Force or Fear (c. 1103)**

When a person experiences force or grave fear inflicted even unintentionally by some other person(s), and this force is so great that the person feels compelled to choose an otherwise undesired marriage to be rid of the force or fear, then the marriage is invalid.

Example: The bride is pregnant. She does not want to marry the child's father, but her parents have threatened that unless she "does the right thing," they will cut her off financially and never speak to her again. She has no income other than her parents' financial support, and her parents' love and approval mean everything to her. She is afraid to lose them and afraid of ending up on the streets with a baby, so she chooses to marry because it is the only possible alternative to avoid her parent's rejection and poverty.