



## 2006 Matrimonial Law

### CONTENTS

Forward ..... 1

A Brief Summary of  
Matrimonial Law ..... 1



No. 80 Robinson Road  
#11-02  
Singapore 068898  
**Tel** 6324 0040  
**Fax** 6324 0012  
**Web** www.nanyanglaw.com  
**Email** info@nanyanglaw.com

### Foreword

Dear friends, partners and clients

We hope you enjoyed reading our inaugural issue of Law @ Nanyang in August 2006. For the second issue, we have moved away from the Law of Intellectual Property to Matrimonial Law. There are many issues in Matrimonial Law and unfortunately we could not address all of them. Thus, we have decided to focus mainly on the issues raised specifically in divorce proceedings.

We further hope you will find this issue informative. Please do not hesitate to contact us if you have any queries relating to this newsletter.

Happy reading!

Ng Kim Tean  
Managing Director

### A BRIEF SUMMARY OF MATRIMONIAL LAW

A couple married under Civil Law can apply to the Family Court to hear any disputes that arise from that marriage. Disputes arising between couples married under Muslim Law are heard by the Syariah Court.

This article will deal with disputes that arise between couples married under Civil Law. The purpose of this article is to give readers a brief and general outline of Singapore matrimonial law. This is not meant to form part of any legal advice given by us. Each case is unique and the Family Court deals with all the issues on a case by case basis. If you have any queries, we will be happy to meet you to discuss the same.

Before commencing divorce proceeding, the following factors need to be considered:

- (a) the length of the marriage;
- (b) if the Court has jurisdiction to hear the case; and
- (c) whether the ground for divorce has been satisfied.

Divorce proceedings can be commenced after a couple have been married for a minimum period of 3 years. If a person wishes to commence divorce proceedings before the 3 year period is over, the person will need to apply to Court for permission to do so. The Court will grant such permission if the person can show they have suffered "extreme hardship" or that the person's spouse has behaved with "exceptional depravity".

The Family Court has jurisdiction to hear divorce proceedings if either the husband or wife is domiciled in Singapore or if either of them have been "habitually resident in Singapore for a period of 3 years immediately preceding the commencement of the divorce proceedings".

Once the above two requirements have been satisfied, you have to determine if the ground for divorce has been made out. In Singapore, a divorce will be granted on 1 ground and that is when it has been proved that the marriage has irretrievably broken down. This ground can be proved by one or more of the following facts:-

- (a) your spouse has committed adultery and you find it intolerable to live with your spouse;



- (b) your spouse has behaved in such a way that you cannot reasonably be expected to live with him/her. This ground is commonly referred to as “unreasonable behavior”;
- (c) your spouse has deserted you for a continuous period of at least two years preceding the filing of the divorce proceedings;
- (d) both your spouse and you have lived apart for a continuous period of at least three years before you commenced divorce proceedings and your spouse has given his/her consent to the divorce; or
- (e) your spouse and you have lived apart for a continuous period of at least four years preceding the filing of the divorce proceedings. In such a situation, your spouse does not need to give his/her consent to the divorce.

Under the first fact i.e. adultery, it is best if there is a report from a private investigator which substantiates the intimate relationship between your spouse and a third party. You must also bear in mind that if you continue to live with your spouse for more than 6 months, after you have discovered the adultery, you may not be able to rely on this fact to apply for a divorce.

If unreasonable behaviour is cited, it then becomes necessary to state the incidents which are examples of unreasonable behaviour, such as instances of family violence, verbal abuse etc.

In the case of desertion, you will be required to show that your spouse has left you without your consent and without any reasonable cause. Desertion may also apply in a situation where you have been driven out of the matrimonial house and are unable to enter the matrimonial home.

Where the Divorce Writ is based on three years separation, your spouse is required to indicate his/her consent to the divorce in writing. This is usually in a specific document which is one of the documents that is to be filed with the Divorce Writ. Physical separation is not required. A couple can be living apart under one roof if they can show two separate households.

The Family Court also has the power to deal with the issues relating to the children, the division of the matrimonial house and other assets as well as maintenance for the wife and children. Unfortunately (or fortunately depending on whose side you are on) a man is legally not entitled to receive maintenance from the wife, regardless of her earning capacity. These are known as the ancillary issues and are dealt with once it has been proven the marriage has broken down irretrievably.

In relation to the children, if no agreement is reached between the parties, the Court will decide on the issues of custody, care and control and access. The Court will also fix the maintenance sum payable for each child.

As far as the division of the matrimonial house and the other matrimonial assets are concerned, there are a variety of factors the Court will take into consideration, such as each party's contributions (whether financial or non-financial) to the home/asset, the needs of the children (if any), the age of the parties, the length of the marriage etc.

There are certain situations when a party can apply to have their marriage annulled. This is different from divorce as you are asking the Court to declare the marriage as invalid. Alternatively, you may be able to apply for judicial separation. The grounds for judicial separation are the same as the grounds for divorce.

You can apply annul the marriage in the following situations:

- (a) the marriage has not been consummated because either party to the marriage is physically not capable of having sex and this physical incapacity cannot be medically treated.
- (b) the marriage has not been consummated because of your spouse's willful refusal to consummate without a valid reason.
- (c) a party to the marriage did not validly consent to the marriage, for example because of mental illness, mistake or duress.
- (d) one party to the marriage was suffering from mental illness at the time of the marriage such that they were unfit for marriage.

- (e) your spouse had a communicable venereal disease at the time of the marriage and you were not aware of this at that time;
- (f) the wife was pregnant with someone else's child at the time of the marriage and you were not aware of this.

Regardless of the type of proceeding commenced i.e divorce, nullity or judicial separation, the principles in determining the ancillary issues remain the same.

We reiterate that this article is meant to give the reader a general overview of family law in Singapore. Please do not hesitate to contact us if you have a specific scenario in mind. We do not charge for the first consultation and we will be happy to be of any assistance to you.



*The information and opinion contained in this newsletter are not intended to be a comprehensive study, nor to provide legal advice, and should not be relied on or treated as a substitute for specific advice concerning individual situations.*