

Annulment (Nullity of Marriage and Psychological Incapacity)

by [lawyerphilippinesadmin](#) | Updated: May 11, 2023 | [Blog](#), [Family Law](#), [Annulment & Other Separations](#)

[Dissolution of Marriage Process](#)



While Filipinos use the term 'Annulment' to refer to all cases where marriages are dissolved, the most common method is actually Nullity of Marriage based on Psychological Incapacity.

I'll discuss the timeline, cost, and process for the most commonly used ground for Nullity of Marriage (Psychological Incapacity) to give you an understanding of court requirements.

The court process for Annulment can be a long, complicated, and costly process. But despite these, it is often necessary and advisable to go through the process due to its importance with regard to your property, children, and future relationships.

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Chapter 1: Before your File

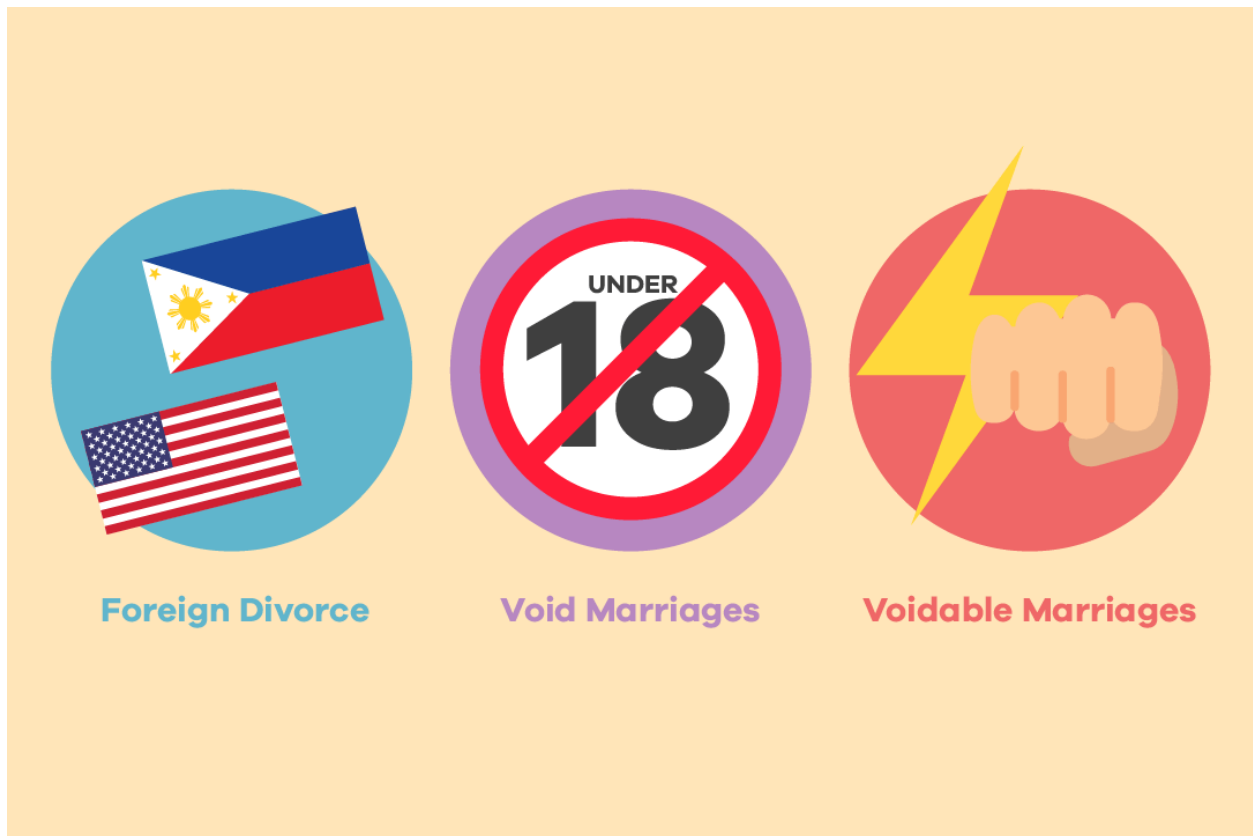
There are 3 ways to end a Philippine marriage, but they might not be applicable to your situation. Read on to figure out what applies to you.



Is Nullity of Marriage the Right Option?

Other than death, there are only [3 ways to legally dissolve a marriage in the Philippines](#):

- [Recognition of Foreign Divorce](#)
- Voidable Marriage
- Nullity of Marriage or Void Marriage



Most cases fall under Annulment or Void Marriages.

[Recognition of Foreign Divorce](#)

While the first option is faster, cheaper, and simpler, it only applies when one of the partners was a foreign citizen at the time of the divorce. If not, it cannot be used.

The last two options are applicable when you qualify based on any of the grounds under the Family Code.

While most Filipinos confuse the two and call them both Annulment in everyday speech, they are actually two distinct types with different effects.



Void marriages include Art 36's Void Marriage due to psychological incapacity.

Void Marriages (Annulment with Psychological Incapacity)

Is when the marriage is void from the start

Grounds are from Art 35, 36, 37, 38 and 53 of the Family Code. These include the well-known psychological incapacity, as well as marriages between those less than 18, marriages performed by someone without solemnizing authority, marriages without a license, incestuous marriages, etc.

Children born of the marriage become illegitimate unless the ground used is Art 36 (Psychological Incapacity) or Art 53.

Voidable Marriages

Is when the marriage starts as valid but can be voided

Grounds are from Art 45 of the Family Code. These include marriages where one was over 18 and under 21 when the marriage was solemnized without the consent of a parent or guardian, where either party was of unsound mind, where the consent of either party was obtained by fraud, force, intimidation or undue influence, marriages where either party was physically incapable of consummating the marriage with the other, marriages where either party was afflicted with a sexually-transmissible disease

Children born of the marriage are still legitimate

The applicable grounds and whether you have children are big factors in determining which type of case you can file and should be taken in consultation with your lawyer.

Explaining Annulment

For most married Filipinos, declaring a marriage void on the ground of psychological incapacity is the only way to end a marriage.

While similar to divorce in that you can remarry afterwards, it is based on different grounds.



Psychological incapacity is when one spouse cannot fulfill the requirements of marriage.

For instance, adultery is not a ground of dissolving a marriage.

Living apart – even for many years – is also not a ground.

In addition, irreconcilable differences does not exist in the law.

Art 36's psychological incapacity is what is most often used.

Psychological incapacity is when one spouse is psychologically incapacitated to comply with his obligations as a spouse. It can manifest as substance abuse and physical abuse, among many others. However, these are not grounds in and of themselves and instead it is the totality of evidence that proves psychological incapacity.

Annulment is a formal court process. It will require witness testimonies and it will require you to go to court at least once. It will require a psychologist to testify on the alleged psychological incapacity.



Annulment is a court case as are all legal changes to civil status.

You should expect annulment to take at least 2 years.

If contested, it can take longer.

Annulment requires you to be financially prepared.

Big firms may charge a Php 500,000 or more over the course of the case. Smaller firms charge Php 300,000.

This is mainly due to the psychologist's fee, the legal pleadings and the numerous court visits.

However, if you and your ex-partner can agree on property and children, it will be much faster and more economical.

Grounds for Nullity of Marriage

Psychological incapacity is the most popular ground for a void marriage.

Other grounds are discussed in Art 35, 37, 38 and 53 of the Family Code.

A summary of the other grounds are below. (The complete text of the Family Code should be at referred to for further clarification.)



One of the grounds to void a marriage is if one of the spouses was under 18.

Grounds:

- If you or your spouse was under 18
- Marriage was performed by solemnizing officer who didn't have the official capacity to perform the service unless you one of you believed he did
- Without a valid marriage license although exceptions exist
- Bigamous marriages
- If there was mistaken identity

- Subsequent marriages under Art 53, which deal with recording the judgment of nullity and partition of property and legitime in the Civil Registry for a previous marriage.
- Psychological incapacity
- Marriages between ascendants and descendants, brothers and sisters even if illegitimate, and other incestuous situations such as if the child is adopted (Art 37 and 38)

These grounds are legal concepts and come with conditions and exceptions.

Take, for example, the requirement of the marriage license. Although in most cases, a marriage license is indispensable for a valid marriage, the law provides for certain exceptions.

One of them is that it is that no marriage license may be required when one of the parties is on the point of death.

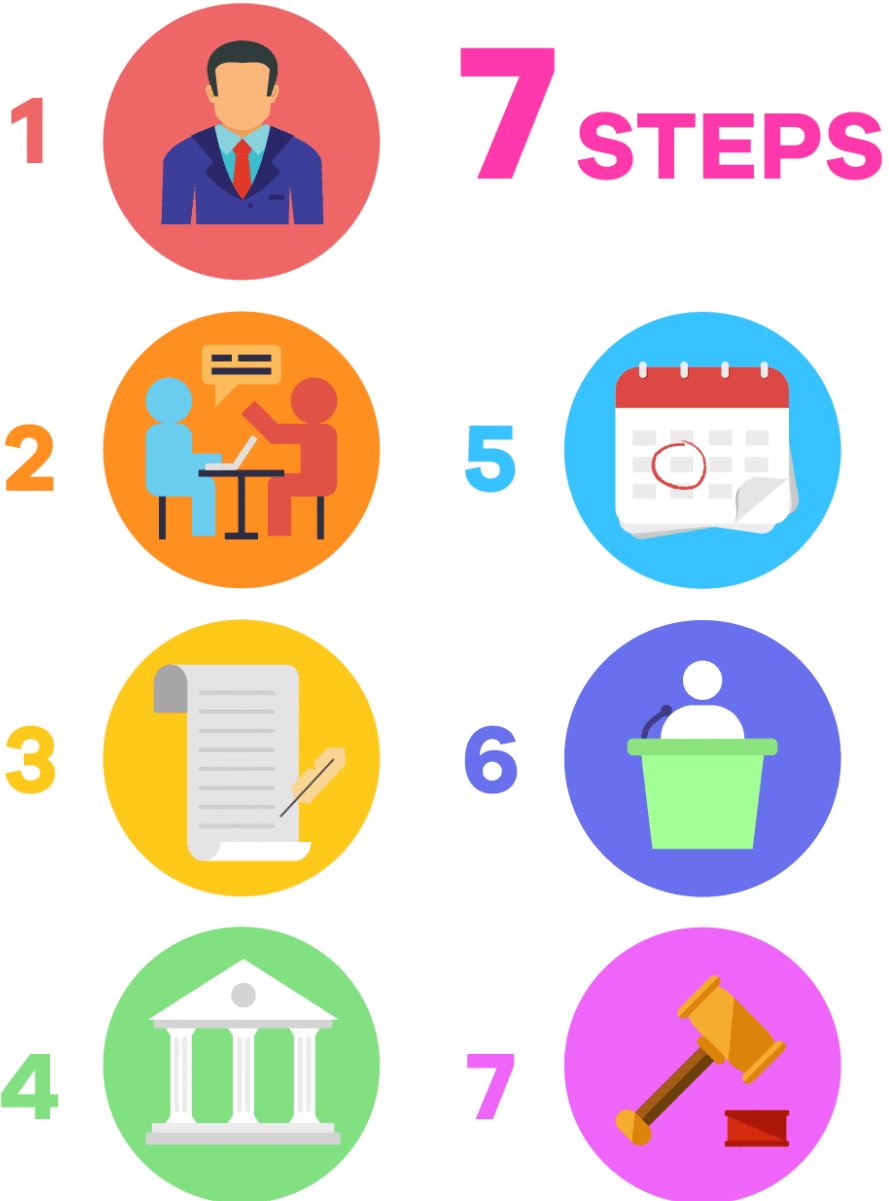
For the exact wording of the law, please see [this](#).

Chapter 2: The Process



It's most likely that psychological incapacity will be the ground used.

I'll discuss the step-by-step process from filing to successfully receiving the decision.



Annulment is a 7 step process.

While the below process is somewhat similar for other void marriages, I focus **only on Nullity of Marriage for Psychological Incapacity** as it is the most frequently used ground. (And often also the only one applicable).

Step 1: Engage a lawyer

You'll need to engage a lawyer for annulment.

In cases where child custody and property division are problems, an advocate is essential.

He or she can approach the other side and negotiate on your behalf without emotion to help you reach an agreement.

This in itself goes a long way towards ensuring the case goes smoothly.



Hire the right lawyer!

In addition, he can ensure that the forms and processes of the court are correctly followed to avoid future problems.

When choosing your lawyer, choose one that you communicate with well.

You will need to tell him everything so that he can prepare and foresee problems.

You will also need to be very clear as to what you want from the case. Set your goals.

What are you prepared to compromise on with regard to property? What can't you compromise on?

Make sure you can meet the costs of the annulment itself and discuss fees to properly set expectations.

Step 2: Interview with your lawyer and psychologist

You'll need to be interviewed by the lawyer and your psychologist thoroughly before the Petition is created.



You'll need a psychological assessment.

The Petition will be created from based on the information gathered at this stage. The grounds for psychological incapacity will be based on your interview with your psychologist.

This is very important. Annulments have been denied when the psychologist hasn't personally met with the petitioner.

As the petition is the basis for the rest of the evidence that you present, it is important to get this done prior to its creation.

Step 3: Preparing your Petition

After your interview with your psychologist and lawyer, you will need to approve the final draft of the Petition.

You must correct any inaccuracies to ensure your case doesn't have an error that could jeopardize its success.

The Petition must state the complete facts constituting the basis for the case.



You'll need to write a petition before filing at court.

It must also state the names and ages of the common children of the spouses and specify the regime governing their property relations, as well as the properties involved.

The Petition may include an application for a provisional order for spousal support, custody, and support of common children, visitation rights, administration of community or [conjugal property](#), and other similar matters if there not already an adequate written agreement for this between the spouses.

The Petition must be signed by both the Petitioner and the lawyer, and it must be sworn to under oath by the Petitioner.

Step 4: Waiting for the Court

Your Petition will then be filed with your city's Regional Trial Court and docketed at the branch designated as the Family Court.

The Court will take steps to formally serve summons. The summons and the Petition will be personally served on your spouse.



You'll need to wait a bit as the court assigns your petition and arranges other legal requirements with your lawyer.

If your spouse cannot be located, the court summons will be published in a newspaper for two consecutive weeks and sent by mail or other means to his last known address. If he lives in another country, then the process adjusts slightly to accommodate this.

The Court will also request the Public Prosecutor to file an Investigative Report to ensure there is no collusion between spouses.

Step 5: Pre-Trial

After the above Court processes have been successfully hurdled, your case will go through pre-trial.

The lawyer will prepare the pre-trial brief to summarize all your claims and your evidence. Affidavits from your witnesses will also be prepared at this point.



Your lawyer will put together the pre-trial brief.

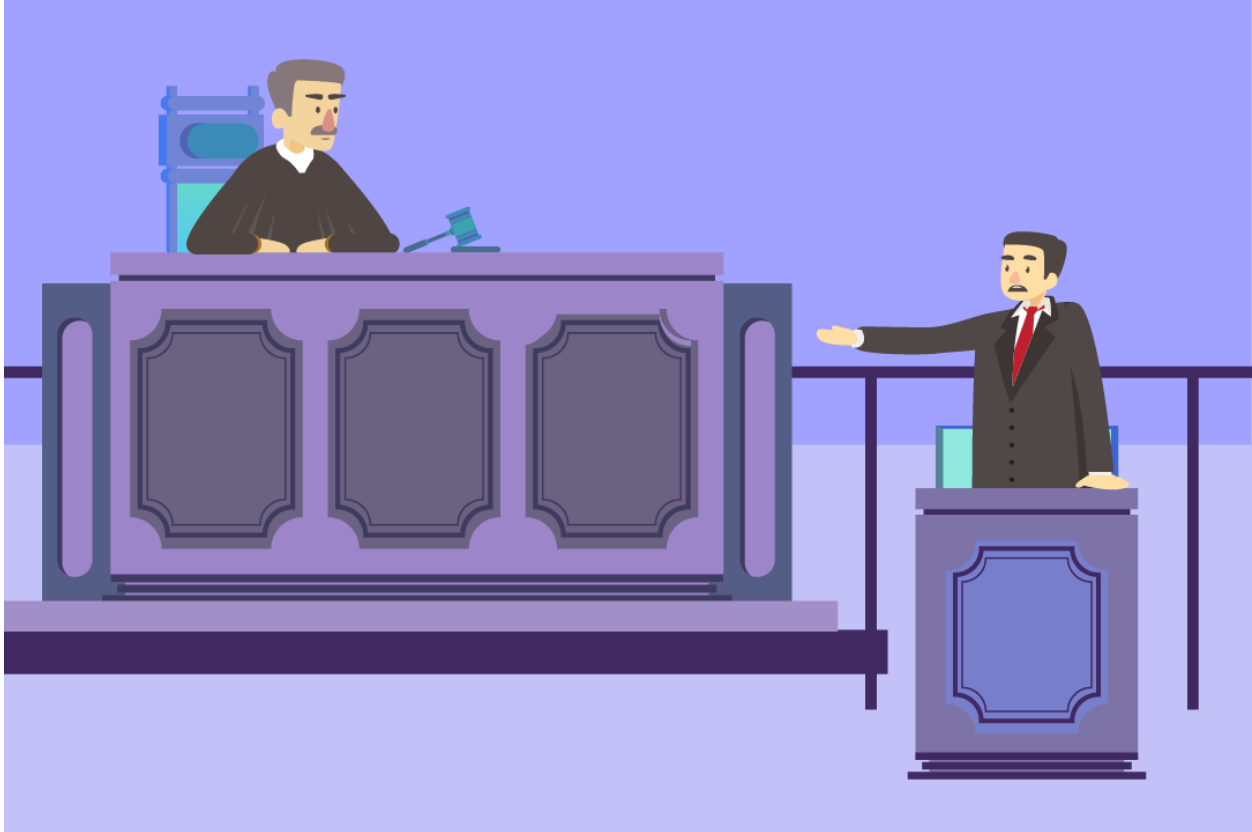
During pre-trial, the calendar of court hearings will be scheduled.

Although mediation and the admission of facts to reduce to the scope of the trial are typically aspects of pre-trial in other kinds of cases, the scope of these is restricted in cases for annulment.

Step 6: Going Through Trial

Trial is the longest stage.

During trial, your lawyer will be called to present your case according to the calendar of court hearings set during pre-trial.



The trial takes some time!

Evidence will be presented and your witnesses will be questioned by the Court. You yourself will ideally be a witness, together with others who can testify to the facts of your marriage, as well as the psychologist who prepared the report.

This part takes multiple hearings and will also involve a number of written submissions to the court.

Step 7: Receiving the Decision

Assuming a favorable decision is received, can thereafter be submitted to the civil registrar so that your marital status can be amended. This dissolves the marital bond for good.



Finally done!

Congratulations!

Your annulment is complete!

You can now remarry, immigrate as a fiancée abroad, and buy property without worrying that your former partner has a claim.