

Annulment of Underage Marriage in the Philippines

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[lack of parental consent](#)[parental consent for marriage philippines](#)

Did you or someone you know get married as a minor?

Under Philippine law, marriages involving minors can be annulled under specific circumstances as these marriages may not be valid as the parties may be too young or may not have had proper parental consent.

These marriages can be:

- void ab initio, meaning they have no legal effect from the start
- while others are valid at start but can be annulled later on

What age should you be when you marry?

The family code says 18 or 16 if you married before 1988.

The family code also allows you to marry if you are between 18 to 21 but requires that you have written parental consent for a marriage license to be given.

For either case, you must file an annulment to formally end your marriage so that this is reflected in your official documents.

In this article, we will explain how to annul an underage marriage, the legal basis, the process, and its consequences.



Lack of parental consent in some marriages is a ground for declaration of nullity of marriage.

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What is the difference between an annulment case for lack of parental consent vs for being underage?



Annulment for being underage and Declaration of Nullity of Marriage due to lack of parental consent are two different cases, although they are often confused.

In Philippine law, there's a clear difference between an annulment due to **lack of parental consent** and a case for nullity of marriage due to **underage** parties.

A marriage where one or both parties are under 18 is void from the beginning and is part of the Philippine Family Code, Article 35 nullity of marriage grounds.

The law considers such a marriage as never legally valid even if there was parental consent.

The correct case to file is Nullity of Marriage.

A case for Nullity of Marriage means your marriage is void from the start as being a minor means there is no legal capacity to marry under Philippine law.

People under the age of 18 are seen as children and do not have the ability to enter such a serious and heavy contract at that age.

Thus, a case if filed for Nullity of marriage due to underage parties.

On the other hand –

If you married between 18 to 21 without securing parental consent, the marriage is voidable under Article 45 but it is not automatically void.

The correct case to file is called Annulment.

It must be filed five years after turning 21, and it can only be filed by the party who lacked required consent or their parent/guardian.

A case for Annulment means that your marriage is valid but is voidable.

These are legal differences that lawyers understand and deal with the technicalities of voidable vs. void marriages in the Philippines; for the most part, most people call both cases Annulment since they are both court cases that end a marriage.

Where do I file an Annulment case for lack of parental consent or for being underage?



Usually, the petition for declaration of nullity of marriage due to lack of parental consent should be filed in the regional trial court where the spouses reside.

An annulment case due to lack of parental consent or a case for nullity of marriage due to underage parties follows the same rules in terms of where they should be filed.

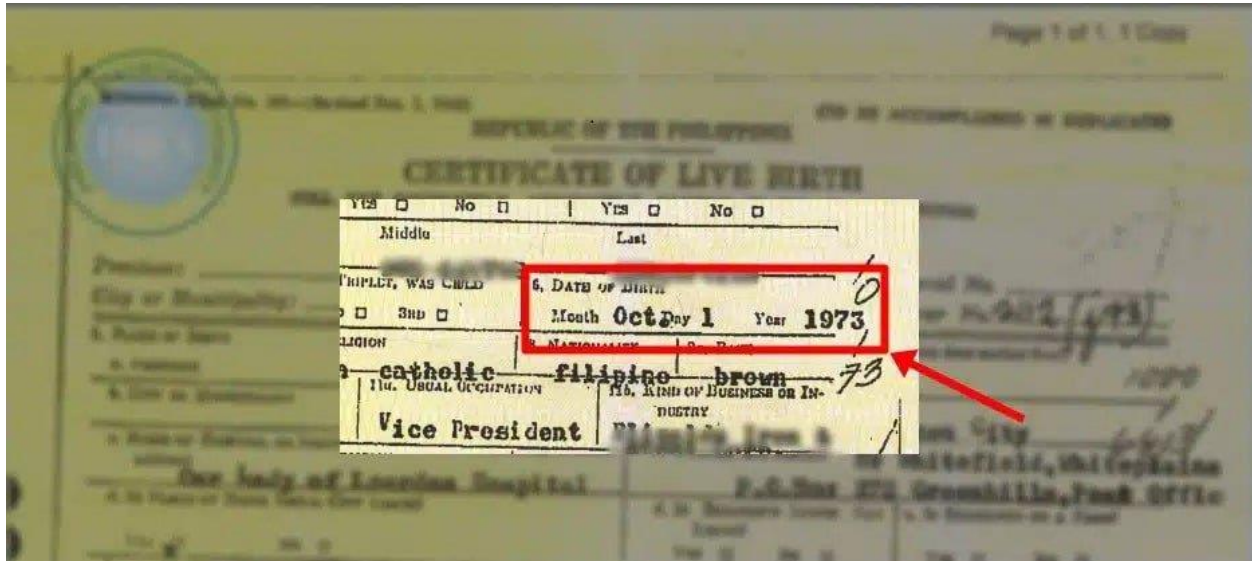
If both spouses live in the Philippines, the case can be filed where either spouse resides.

If at least one spouse lives in the Philippines, the case can be filed where this spouse resides.

If both live abroad, the case can be filed where they last lived together as husband and wife or at their habitual place of residence.

Residence must be proved through documentary evidence such as utility bills, certificates of residence, or the like.

What are the documentary requirements to file an annulment case for lack of parental consent or for being underage?



A birth certificate is important proof of a person's age when it comes to annulment of marriage when the contracting parties are between the ages of 18 to 21 and are using lack of parental consent as a ground.

An annulment due to lack of parental consent or a case for nullity of marriage due to underage parties both require proof of the age of the parties at the time of marriage.

So, anything that proves your age is important.

These would be:

- Your PSA birth certificate as proof of age
- Baptismal records
- School records
- Medical records
- Additional proof that you were underage when you married could be the testimony of witnesses and photos with dates.

These can support your case.

The court will consider documentary proof from government institutions or private institutions over witness testimony and photos.

Documentary proof is harder to get but it ensures a stronger case.

It is very hard to add evidence later so it is better to prepare the strongest evidence you can.

Lack of evidence may mean that a case is denied on its grounds and then the annulment can never be filed again.

So, it is better to take a lot of time to get the evidence right when a case for Annulment begins.

Now, if you are filing an Annulment case due to lack of parental consent, you will need additional documents aside from documents that prove your age. In this type of case, documents showing the lack of parental consent must also be presented.

Parental consent is needed when you marry when you are 18 to 21 years old so that the LCR will not issue a marriage license.

Parental consent is provided to the LCR by your parents, surviving parent or guardian in one of 2 ways:

- They can put in a personal appearance before the civil registrar.
- They can also submit an Affidavit of Parental Consent with two witnesses. It must be signed by your father, mother, surviving parent or guardian, or persons having legal charge over you, in that order. It must also be notarized by a notary public authorized by law to administer oaths and should be attached to the marriage license application.

So, to prove that there was a lack of parental consent, you must retrieve the LCR copy of your marriage license application which will lack this document.

Additionally, you can ask the LCR to testify in court.



Even if you married when there was a lack of parental consent and when you were between the ages of 18 to 21, your marriage is still valid.

Note that if you are married and there was a lack of parental consent, the marriage is valid.

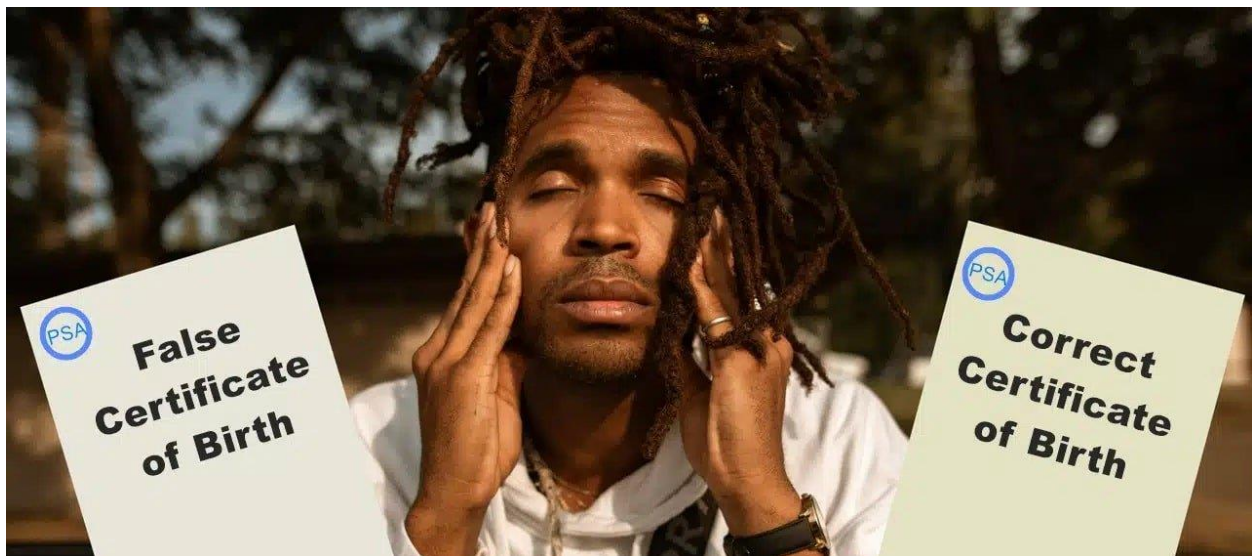
It is just that the marriage can be ended if one of the parties files for annulment due to lack of parental consent, so long as they file within 5 years from turning 21.

If they filed 5 years from turning 21, lack of parental consent cannot be used as a ground.

Consult with a family lawyer in this case to determine the correct legal strategy to use.

(Incidentally, this is why there are acceptance fees. A lawyer needs time to assess the case and its evidence and recommend what other documents you need to gather, and that takes time.)

What if I have 2 birth certificates? I used the late registered one with the earlier birth date.



A person may have 2 birth certificates and used one where he was older so that the LCR issuing the marriage license would grant it. In this case, it is important to prove the actual age when married.

You have to prove that your actual age at the time of marriage.

You can do this by asking for the hospital records of where you were born, the local civil registrar, baptismal records, and school records.

You can also show other documents that would help the case.

These would be your parent's marriage certificates, your siblings' birth certificates (for example, your sibling's birth certificate shows that she was born one month after you, which is clearly impossible) and other such documents.

Note that a PSA document is a public document.



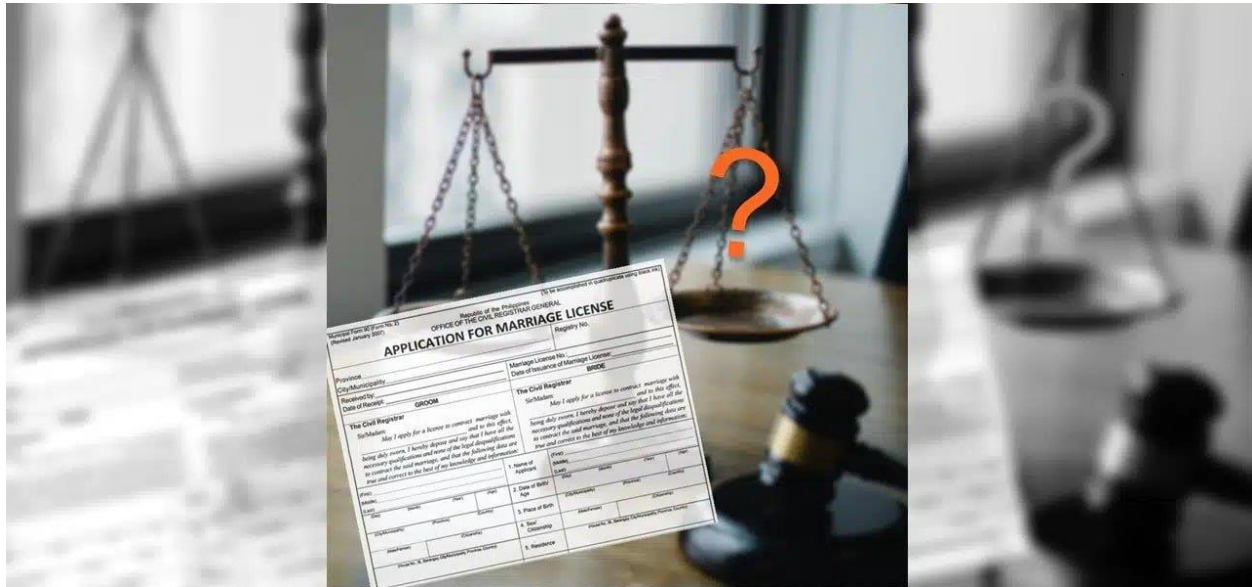
Fake documents can lead to criminal charges so consult with a lawyer if you are filing an annulment of marriage due to underage/lack of parental consent due to falsified documents.

Falsification of a public document can lead to criminal charges for the person responsible for submitting the wrong information.

You may also be criminally liable if proven that you knowingly submitted the incorrect birth certificate when you filed an application for a marriage license.

Consult with a family lawyer to determine what to do in your case, since it is important to get good advice from the beginning to avoid issues.

What if my application for a marriage license contained false information?



Many people do not know that the 5,000 pesos they give to “fixers” is nothing compared to the criminal consequences they may face later on.

If your marriage license contained false information, then you are going to have to find other proof that supports your annulment or nullity case for being underage.

You can start with your PSA birth certificate as proof of age.

You can also add other documents that contain your age such as hospital records, baptismal records, school records or any other record that will prove your actual year of birth.

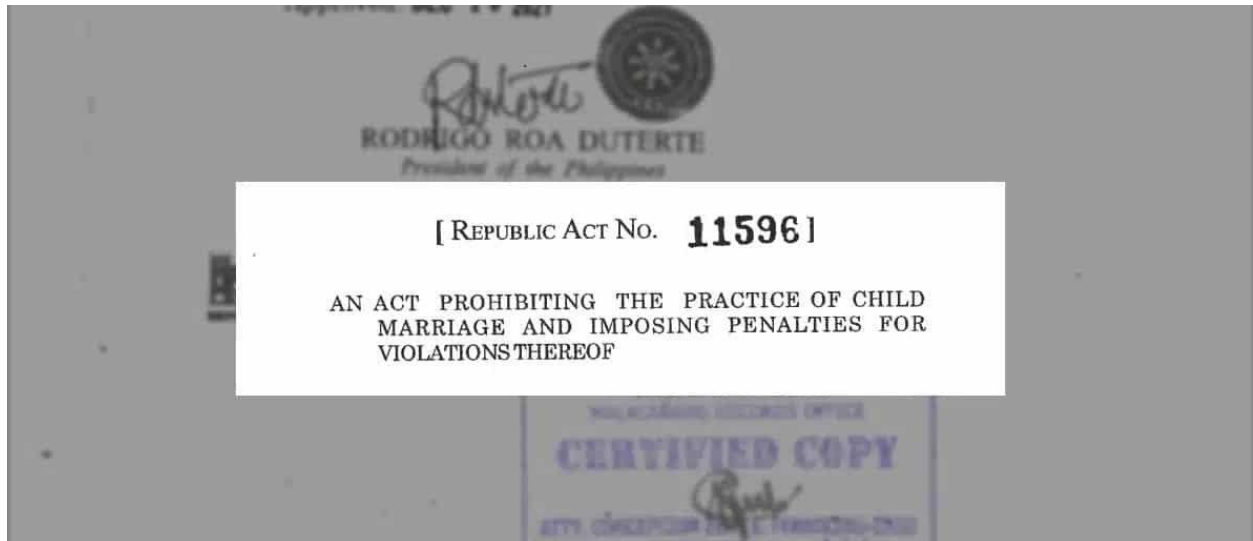
These will support your case for ending the marriage being underage.

If proven that the information given was false, your marriage license would be invalid as you would be underage.

However, be aware that the people who supplied the wrong information may be liable for criminal charges for falsifying details on a marriage license application.

Consult with a Family lawyer if this is the situation, so as to avoid prosecution.

What is the effect of RA 11596 Child Marriage (criminal penalty) and ending the marriage?



Now, filing an annulment for lack of parental consent or for underage marriages may carry a criminal penalty due to Republic Act No. 115961.

With the passage of the RA 11596 Child Marriage, criminal penalty/ies were levied on person who married someone underage.

This law criminalized anyone who married someone underage.

This is supposed to protect children ages of 18 and below against child predators.

However, it also had the side effect of criminalizing an underage marriage where one was slightly older than the other – for example, a twenty-two-year-old who married a seventeen-year-old.

Thus, it is possible that the government would try to file a criminal case against someone who did this, even if the parties are just trying to file a case for nullity of marriage due to underage parties.

If this is your situation, please consult with a Family lawyer first before filing a case as this can be complicated, and it may be wiser to file based on other grounds found in the Family Code Article 35 nullity marriage grounds or other sections in the civil code.

How do I start an Annulment case due to lack of parental consent or being underage?



Consult a legitimate lawyer only and visit their law office as much as possible to check.

To start an annulment case due to lack of parental consent or a case for nullity of marriage due to underage parties, you'll first need to have a case assessment to understand the situation and evidence.

This should be done with a lawyer to avoid the possible criminal charges of the Act Prohibiting the Practice of Child Marriage and Imposing Penalties.

Find a lawyer you can trust.

Your lawyer will be the one filing your petition and attending to the legal requirements, so it is important to find someone who is reliable.

Also, make sure that all the details of your marriage are complete.

Your family lawyer will not be able to do the job properly if some of your details are incorrect or made up.

Below are the initial documents required for an underage marriage nullity or annulment case:

- Your marriage certificate
- Proof of residence for the last 6 months such as a lease contract or land title, government issued IDs, utility bills.
- A barangay certificate with a sketch showing where you live
- If you have children, their birth certificates

- 2 witnesses who can attest your underage status at the time of your marriage
- Proof of your age such as birth certificate, baptismal certificate, school records, etc.
- Other proof depending on the situations we talked about above
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What is the step by step process for filing an Annulment due to lack of parental consent or being underage?



The process may take more than 3 years to complete, as annulment of marriage cases tend to need several hearings and require a lot of evidence.

Step 1: Hire a Family Law Attorney

- Your lawyer will first need to assess the documents I mentioned above for qualification for annulment.
- Your lawyer will then determine the legal strategy and whether to file due to being underage as determined in the Family Code Article 35 nullity marriage grounds or for annulment due to lack of parental consent or some other ground

Step 2: File a Petition for Annulment/Nullity of Marriage

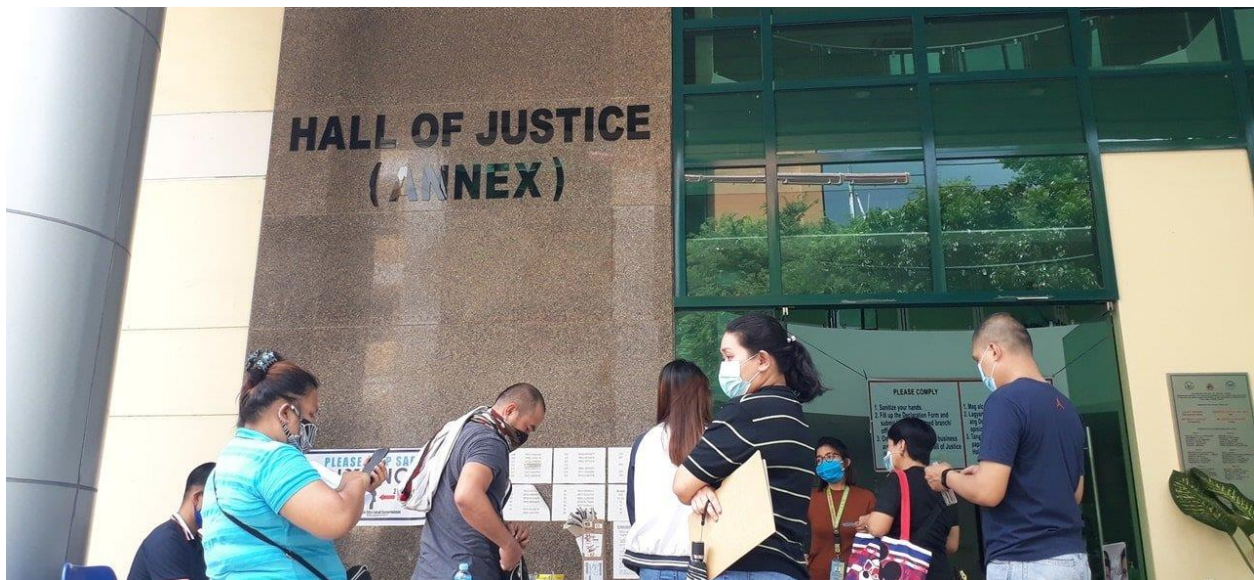
- Your lawyer will then draft your petition once all the important details and documents are ready.
- This includes speaking with your witnesses such as your parents, guardian or persons with parental authority over you who will be testifying for you.

- Make it a point to check the petition before it is submitted to make sure all the details are correct.
- Your case will be submitted at the family court where one of the spouses resides.
- A judge will be assigned to your case who will first wait for the Collusion investigation to be completed.

Step 3: Collusion Investigation and Pre-trial

- A prosecutor will conduct a collusion investigation.
- This means both parties named in the petition will be investigated to make sure that there was no agreement to make the case easier by submitting false facts for a more favorable and speedier outcome.
- The judge will also be scheduling a pretrial for your petition. This is when the details of your marriage are discussed before the actual trial.

A representative from the Local Civil Registrar can be summoned to appear in the court to show that their record does show that one of the parties was underage.



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Step 4: Trial and Court Hearings

- The petitioner and witnesses must provide testimony.
- This is when all the evidence and proof for lack of parental consent or being underage or otherwise are presented in court and when all the witnesses are heard.

- You may appear more than once if the court order mentioned it as some judges as some want additional testimony.
- After the hearings, you must wait for the decision of the court. This may take between 90 days or more.
- If your petition is granted, wait for 15 days from the receipt of the service of the judge's decision. This period is given in case other parties raise an objection.
- If there is no appeal or motion to reconsider submitted by the other party you will then be able to get a Certificate of Finality from the court.

Step 5: Court Decision and Annulment Decree

- If granted, the court issues a Decree of Annulment.
- You also need to endorse the decision with the PSA and the LCR to update your records.

What are the consequences of Annulment of Underage Marriage or of Nullity due to lack of Parental Consent?

Knowing the steps in getting an annulment is important, but it is just as crucial to understand what happens after.

The consequences vary depending on the type of case filed.

A Nullity of Marriage case based on being below under 18 will have the following effects:

- Children are illegitimate unless nullified under Article 36
- Property gathered during the partnership is deemed a result of joint effort
- The marriage was void from the beginning.
- Spouses are no longer compulsory heirs

An Annulment case due to lack of parental consent will have the following effects:

- Children are legitimate
- [Conjugal property](#) regime is ended
- The marriage was valid at the start but later was voidable
- Spouses are no longer compulsory heirs

These are essentially the differences between voidable vs. void marriages in the Philippines.

Both end a marriage.

However, the difference in their impact to you is very significant.

To understand the differences between voidable vs. void marriages in the Philippines in your particular situation, it's best to discuss this with us through a consultation.

What is the difference between Annulment of Underage Marriage or of Nullity due to lack of Parental Consent?



Both an annulment for Lack of Parental Consent or for being underage follow the same process – they differ mostly in evidence needed.

A case for annulment for lack of parental consent and a case for annulment for being underage are very similar.

The process is the same.

The court that you file at is the same.

The major difference – aside from the consequences outlined in the section above – is the evidence that you need to gather.

For both cases, you will need to prove age at the time of marriage through birth certificates, baptismal certificates, school and medical records, and the like.

However, if you use lack of parental consent as grounds for annulment, you must also prove that your parents, guardian, or persons with parental authority over you did not give their consent.

For this case, either you or your parent, guardian, or persons with parental authority can file the case.

In all cases, please consult with a family lawyer first.

As you can see, a case can become very complicated and unintended consequences may happen.

Get the right advice to determine the correct legal strategy or ground – whether that is filing for lack of parental consent, being underage, psychological incapacity or others – so that you can avoid these problems later.

What are the common challenges in filing an Annulment or Nullity Case?

Below are the common challenges in when filing an Annulment or Nullity case?

Challenge	Solution
Expensive	Find a lawyer that you can trust, who might be willing to do staggered payments. It's important you pick a good lawyer because he is responsible for so much. It would be more expensive to refile the case, so pick a good lawyer.
Long court process (3 years +)	The court's schedule cannot be controlled but on your side, you can prepare many of the documents required for an underage marriage nullity case or annulment case, which will help reduce time spent at the document gathering stage.
Spouse refusing to cooperate	Prepare for extra expense, especially if the spouse hires a lawyer.

Many people are put off by the expense and the time.

Many people compare the Philippine court processes to end a marriage with divorce in other countries, which is cheaper and faster.

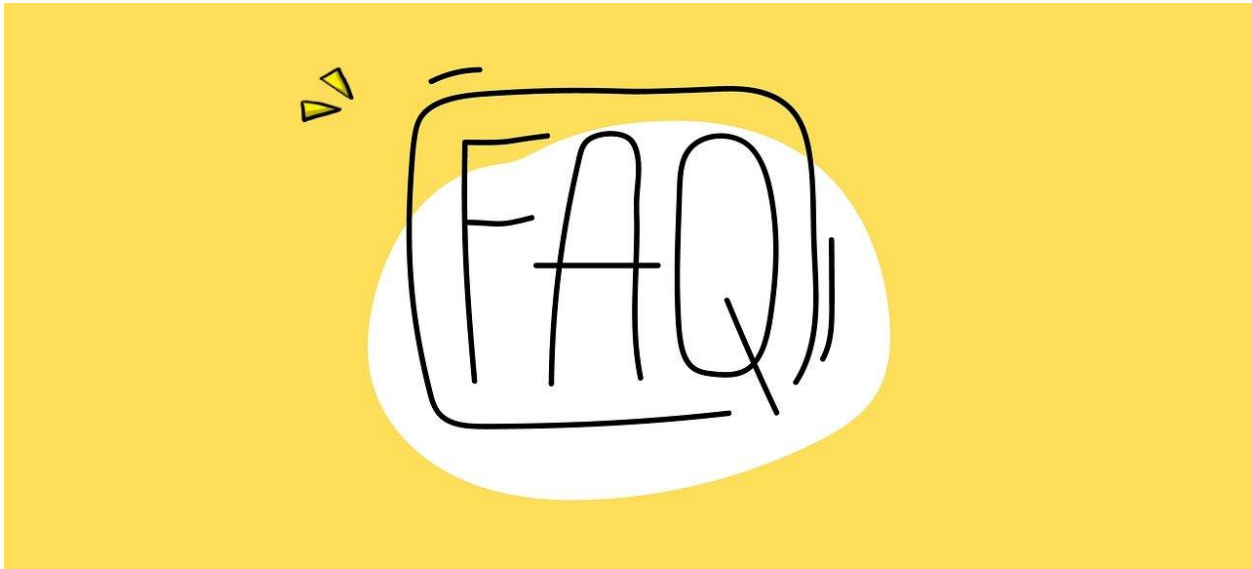
However, the reason that it is so expensive and so long is the that the Philippines requires a full trial with evidence, witness testimony and hearings. In other countries, there is no trial at all.

Due to the Philippine requirement for a trial, the cost and time therefore increases.

Additionally –

If the spouse decides to actively oppose the case, be prepared to incur additional expenses since your lawyer will have to combat whatever is alleged.

Annulment FAQ for Underage/Lack of Parental Consent



Remember that the requirements of annulment for underage marriage and lack of parental consent is different from other grounds.

Q: Can I annul my marriage if I was 17 when I got married?

Yes, your marriage is automatically void as you are deemed a child without the legal capacity to marry under Philippine law but you must still file a court case to end the marriage

Q: How long does the annulment process take?

Typically at least 3 years, from filing the case to decision so long as all the evidence is gathered and there is no opposition.

Q: What if my spouse refuses to sign the annulment papers?

Annulment can proceed without their consent if legal grounds exist.

Q: Can I remarry after the annulment?

Yes, but you must register the annulment decree with the PSA.

Q: Does annulment affect child custody?

It is advisable to handle child custody separately from the annulment case.