



**REGULAR PROCEDURE FOR ANNULMENT OF MARRIAGE ON THE GROUND
OF PSYCHOLOGICAL INCAPACITY**

**1st Petitioner files a Petition for Annulment of Marriage before the
Office of the Executive Clerk of Court of the Regional Court**

This is the office where the Petitioner files the Petition and pays the corresponding docket fees. The New Rule on Annulment of Marriage says that the Petition shall be filed in the Regional Trial Court of the province or city where the petitioner or the respondent has been residing for at least six months prior to the date of filing, or in the case of a non-resident respondent, where he may be found in the Philippines, at the election of the petitioner.

Under the new Rule, the opinion of an expert/doctor need not be alleged in the Petition.

**2nd The Office of Executive Clerk of Court schedules the raffling of the
Petition for assignment of the case to the Family Court of the
Regional Trial Court**

The raffling of cases is usually done every Monday, Tuesday or Friday.

**3rd The Clerk of Court of the Regional Trial Court assigned in the case
issues Summons to the respondent spouse**

Assuming that the Petition is sufficient in form and substance, the Clerk of Court will issue Summons to be served to the respondent spouse. Basically, Summons shall be directed to the respondent spouse containing 1) the name of the Court and the names of parties to the action, and 2) directing respondent spouse to file his answer within fifteen (15) days from service of summons, or within thirty days from the last issue of publication in case of service of summons by publication.

If the respondent spouse is residing outside of the court's territorial jurisdiction, summons shall be coursed through the Office of the Executive Sheriff of the Regional Trial Court where respondent is said to be residing as stated in the Petition.

For instance, if the Petition is filed in Makati City and the respondent is residing in Davao City, the Court shall serve the summons through to the Office of the Executive Sheriff of the Regional Trial Court of Davao, City. The Executive Sheriff of Davao City shall be the one who will serve the summons to the respondent spouse.

If the respondent spouse cannot be located at his given address or his whereabouts are unknown and cannot be ascertained by diligent inquiry, service of summons may, by leave of court, be effected upon him by publication once a week for two consecutive weeks in a newspaper of general circulation in the Philippines and in such places as the court may order. In addition, a copy of the summons shall be served on the respondent at his last known address by registered mail or any other means the court may deem sufficient.

The summons to be published shall be contained in an order of the court with the following data: (a) title of the case; (b) docket number; (c) nature of the petition; (d) principal grounds of the petition and the reliefs prayed for; and (e) a directive for the respondent to answer within thirty days from the last issue of publication.

4th Respondent spouse files his/her Answer to the Petition

The answer must be verified by the respondent himself and not by counsel or attorney-in-fact. If no Answer is filed, the Court will not declare him/her in default. However, the Court shall Order the private prosecutor to investigate whether collusion or agreement exists between the parties.

The Court may also Order the public prosecutor to investigate when respondent admitted his/her psychological incapacity in the Answer.

The Petition shall be dismissed by the Court if collusion exists.

5th Referral of the case for case study to a social worker (optional)

Before Pre-trial, the Court may, at its option, refer the case to the social worker for case study. And whenever necessary, the Court may also Order the referral of the case to a social worker at any stage of the proceedings.

6th The Court sets the case for Pre-Trial conference

This is mandatory. On motion of parties or at its own initiative, the court shall set the case for pre-trial after the last pleading has been served and filed, or upon receipt of the report of the public prosecutor that no collusion exists between the parties.

The Notice of Pre-trial shall also direct the parties to submit their respective pre-trial briefs at least three days before the date of pre-trial conference. The Notice shall also be served to the respondent spouse even if he/she does file an Answer.

The Pre-Trial Brief shall contain the following (a) A statement of the willingness of the parties to enter into agreements as may be allowed by law, indicating the desired terms thereof; (b) A concise statement of their respective claims together with the applicable laws and authorities; (c) Admitted facts and proposed stipulations of facts, as well as the disputed factual and legal issues; (d) All the evidence to be presented, including expert opinion, if any, briefly stating or describing the nature and purpose thereof; (e) The number and names of the witnesses and their respective affidavits; and (f) Such other matters as the court may require.

The case shall be dismissed if the Petitioner fails to file a pre-trial brief, unless he/she or his counsel gives a valid excuse for non-submission of pre-trial brief.

7th Pre-Trial Conference

The appearance of the parties in the pre-trial conference is mandatory. The case shall be dismissed if the Petitioner fails to appear in the pre-trial conference., unless his/her counsel or a duly authorized representative appears in court and proves a valid excuse for the non-appearance of the petitioner. If respondent fails to appear, the court shall proceed with the pre-trial and require the public prosecutor to investigate the non-appearance of the respondent and submit within fifteen days thereafter a report to the court stating whether his/her non-appearance is due to any collusion or agreement between the parties. If there is no collusion or agreement, the court shall require the public prosecutor to intervene for the State during the trial on the merits to prevent suppression or fabrication of evidence.

In the pre-trial conference, the Court shall consider the advisability of receiving the doctor's testimony and such other matters as may aid in the prompt disposition of the petition.

8th Referral to the Mediator (optional)

At the pre-trial conference, the Court may refer the issues to a mediator who shall assist the parties in reaching an agreement on matters not prohibited by law. The mediator shall render a report within one month from referral which, for good reasons, the court may extend for a period not exceeding one month. In case mediation is not availed of by the parties or if it fails, the court shall proceed with the pre-trial conference.

9th Termination of Pre-Trial Conference and Pre-Trial Order

Upon termination of the pre-trial conference, the Court shall issue an Order of pre-trial which shall recite in detail the matters taken up in the conference, the action taken thereon, the amendments allowed on the pleadings, the agreements or admissions made by the parties on any of the matters considered, including any provisional order that may be necessary or agreed upon by the parties.

10th Trial Proper

The presiding judge shall personally conduct the trial of the case. No delegation of the reception of evidence to a commissioner shall be allowed except as to matters involving property relations of the spouses. The grounds for declaration of absolute nullity or annulment of marriage must be proved. No judgment on the pleadings, summary judgment, or confession of judgment shall be allowed. The court may order the exclusion from the courtroom of all persons, including members of the press, who do not have a direct interest in the case. Such an order may be made if the court determines on the record that requiring a party to testify in open court would not enhance the ascertainment of truth; would cause to the party psychological harm or inability to effectively communicate due to embarrassment, fear, or timidity; would violate the right of a party to privacy; or would be offensive to decency or public morals. No copy shall be taken nor any examination or perusal of the records of the case or parts thereof be made by any person other than a party or counsel of a party, except by order of the court.

In the trial, it is appropriate to present the testimony of the doctor to prove the existence of psychological incapacity.

The trial shall proceed even if the respondent does appear, provided that the findings of public prosecutor says that there is NO collusion or conspiracy that exist between the parties. In which case, the Court shall Order the public prosecutor to intervene for the State to prevent suppression or fabrication of evidence and case shall be tried solely on the evidence presented by the Petitioner.

11th Submission of Memoranda

After the presentation of evidence, the court may require the parties and the public prosecutor, in consultation with the Office of the Solicitor General, to file their respective memoranda in support of their claims within fifteen days from the date the trial is terminated. It may require the Office of the Solicitor General to file its own memorandum if the case is of significant interest to the State. No other pleadings or papers may be submitted without leave of court. After the lapse of the period herein provided, the case will be considered submitted for decision, with or without the memoranda.

12th Decision

The Court may either grant or deny the Petition. If the Court grants the Petition, a decree of annulment shall be issued after finality of the decision. However, when there are properties of the spouses involved, the decree of annulment shall be issued by the court only after the properties shall have been Liquidated, Partitioned and Distributed.

The parties, including the Solicitor General and the public prosecutor, shall be served with copies of the decision personally or by registered mail. If the respondent summoned by publication failed to appear in the action, the dispositive part of the decision shall be published once in a newspaper of general circulation.

13th Motion for Reconsideration

A party aggrieved by the granting or denial of the Petition may file a Motion for Reconsideration within fifteen days from Notice of the Decision. The public prosecutor may also file a Motion for Reconsideration from the Decision granting the Petition.

14th Appeal

No appeal from the decision shall be allowed unless the appellant has filed a motion for reconsideration or new trial within fifteen days from notice of judgment.

An aggrieved party or the Solicitor General may appeal from the decision by filing a Notice of Appeal within fifteen days from notice of denial of the motion for reconsideration or new trial. The appellant shall serve a copy of the notice of appeal on the adverse parties.

15th Finality of the Decision

The decision becomes final upon the expiration of fifteen days from notice to the parties. Entry of judgment shall be made if no motion for reconsideration or new trial, or appeal is filed by any of the parties, the public prosecutor, or the Solicitor General. Upon the finality of the decision, the court shall forthwith issue the corresponding decree if the parties have no properties.

The entry of judgment shall be registered in the Civil Registry where the marriage was recorded and in the Civil Registry where the Family Court granting the petition for declaration of absolute nullity or annulment of marriage is located.

16th Issuance of the Decree of Annulment

The Decree of Annulment shall be issued after the proof of registration of the entry of judgment in the Civil Registry where the marriage was recorded and in the Civil Registry where the Family Court granting the petition for declaration of absolute nullity or annulment of marriage is located.