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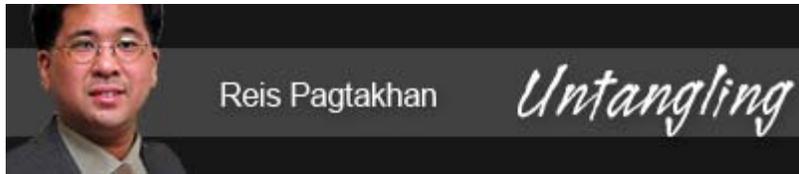


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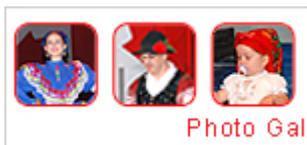
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What Is a Marriage of Convenience?





If you marry someone who is not a Canadian citizen or permanent resident, your spouse does not automatically become a Canadian resident. Before your spouse will be allowed to live and work in Canada, your spouse must submit an Application for Permanent Residence and be "landed" in Canada. In many cases, you will also submit a Sponsorship Application for your spouse.

What happens after my sponsorship application?

After your sponsorship is approved, your spouse's Application for Permanent Residence will be considered. Assuming that your spouse did not lie on the application, provide false documents, has a criminal record, is a security threat, or has certain medical conditions, the only thing that Citizenship and Immigration will look at is whether your relationship is legal and genuine.

What is a "legal" marriage?

One of the first things Citizenship and Immigration Canada will do is consider whether your relationship conforms to the law. For instance, if you are married, Citizenship and Immigration Canada will look to make sure both you and your spouse were legally entitled to marry each other and whether you did everything properly. For instance, did you get a marriage license?

If you are in a common-law or conjugal relationship, they will look for evidence of your relationship and whether it has lasted long enough to be considered.

If my marriage is legal, can my spouse still be refused?

Even if your marriage is legal, your spouse's application can be refused if the purpose of the marriage is not mutual love but a scheme to get a visa for a person who would not normally to get one. In other words, the question will be: Is your marriage what is commonly known as a "marriage of convenience".

How do I prove that my marriage is not a "marriage of convenience"?

One thing you should keep in mind that the Immigration Officer who will be looking at your relationship is, in all likelihood, a total stranger to you. As a result, the only way that he or she can really know about your relationship will be found in the package of documents you submit.

The best way to prove that your marriage is genuine is to submit ALL of the relevant material that proves your relationship. While there is a long list of considerations that are looked at, at a minimum, any document that shows the following should be submitted:

1. That you have a good knowledge of each other's personal circumstances, background and family situation.
2. The circumstances and duration of your courtship.
3. That you have lived together (if you have lived together).

4. A mutual commitment to a shared life.
5. An exclusive and intimate relationship with a commitment to sexual exclusivity.
6. A permanent, long-term and inter-dependant relationship physically, emotionally, financially and socially.
7. The presentation of both of you as a couple.
8. The fact that you are regarded by others as partners.

In terms of how many documents you should provide, I always advise that you provide as many documents as the two of you have. When people have come to us with refused cases, the problem is not that they put in too many documents; the problem is usually that they have put in too little.

What if I am still refused?

If after submitting all of your documents you are still refused, you may have a right of appeal to the Immigration Appeal Division. In some cases, you may not have a right of Appeal. As a result, before you file any application, you should consider whether you have the option.

If you can appeal, the proceedings at the Immigration Appeal Division are like a court case. You should prepare like you are going to trial. Usually, it is a good idea to hire a qualified individual to represent you.

This article is prepared for general information purposes only and is intended to provide comments for readers and friends of Filipino Journal. The contents should not be viewed as legal advice or opinion. If you have specific questions concerning immigration law, you should discuss them with a legal advisor of your choice. Reis Pagtakhan is a lawyer with the law firm of Aikins, MacAulay & Thorvaldson LLP. He practices in the areas of immigration law and corporate and commercial law. His direct line is 957-4640. If you like to know more about Pagtakhan or Aikins, you may visit the firm's Web site: www.aikins.com.

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