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Why Having Two Weddings Can Have Unintended Consequences

Since early 2020, the world has been experiencing an unprecedented COVID-19 pandemic which is affecting many aspects of people's lives, including travelling plans and plans to get married. Some have postponed or cancelled their wedding plans, whilst others have decided to go through a simple marriage ceremony in their place of residence, to be followed by a wedding celebration in the same location or in a foreign location when the situation later permits.

In this article we consider whether it is possible to have two or more marriage ceremonies and if so, whether the marriage ceremonies will be considered valid.

Can I have two or more marriage ceremonies – one in Hong Kong and another one in a foreign country?

The answer is yes. However, in Hong Kong and in most countries, only the first marriage ceremony will be recognised as legal and valid. The marriage continues until its termination by death or by law such as divorce or annulment. It is therefore very important to ensure that the marriage ceremony is carried out in a proper manner and that all the procedural steps are conscientiously observed.

Examples of pitfalls

X and Y [2020] EWHC 1116 (Fam)

In this UK case, the Husband (Mr X) sought to amend the particulars of a decree of divorce granted in relation to his marriage to the Wife (Miss Y) in 1997. They were first married at a ceremony in Spain on 25 May 1993, without informing their respective families. On 31 May 1994, the couple went through a second ceremony of marriage conducted in a Registry Office in London which was attended by the family members.

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In 1996 Mr X petitioned for divorce in England and Wales. He informed his English solicitor of both the Spanish and the English ceremonies, but only the English marriage was referred to in the Divorce Petition. The Divorce Petition was undefended by Miss Y and the marriage was dissolved on that basis. Orders for in respect of the parties' financial claims were also made. Since only the English marriage was referred to in the Divorce Petition, the Decree Absolute only had the effect of dissolving the English marriage.

Over 20 years later, Miss Y, wishing to remarry in Spain, requested that Mr X take steps to register their divorce in Spain. However, Mr X was informed that he could not register the divorce in Spain, because neither the Divorce Petition nor the Decree Absolute referred to the Spanish marriage. Miss Y also asked for further financial provision on the basis that the parties remained married by virtue of the Spanish marriage. This was not accepted by Mr X as orders for dismissing the financial claims had already been made in the English divorce.

Mr X took advice in England about what he could do to address the situation and made an application to amend the Decree Absolute.

The High Court of Justice (Family Division) ruled that:

1. There can only be one valid ceremony of marriage to create the status of marriage, and that was the Spanish ceremony. The English ceremony had no effect in relation to the parties' marital status because the parties were already legally married.
2. The English divorce had already ended the parties' marital status. The fact that the Decree Absolute referred to the 'wrong' ceremony was irrelevant to the consequence of the Decree Absolute, namely that it brought an end to the parties' marital status and they had been validly divorced since 1997.

This decision was made fairly recently and has not yet been cited by any case in Hong Kong. Nevertheless, the case illustrates that the repercussions of having two marriage ceremonies which can be significant.

Wong Zhong Lan Xiang & ors v Wong Frank [2003] 4 HKC 609

In this Hong Kong case, the Court of Appeal, when determining a probate claim, examined the validity of two marriages entered into by a man with two different wives. The deceased man, who had lived part of his life in the USA and part in China, entered into a Chinese customary marriage in China in 1921. He then married another woman in China in 1939 (after the Civil Code took effect).

The trial judge held that the man had no capacity to enter into the second marriage since he was domiciled in the USA. However, he held that if the man had been domiciled in China, he would have had such capacity. On appeal, the court found that the man was domiciled in China. In discussing the man's capacity to contract the second marriage in China in 1939, Cheung JA (as he then was) referred to particular articles of the Civil Code, and a decision of the Supreme Court of China in 1939. It was held that the second marriage shall only be set aside upon application to the court by an interested party. As long as the second marriage was not set aside, the wife in the second marriage shall not be considered a concubine and her status as wife could not be denied.

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In other words, the court will look at the domicile of the parties at the time of the marriage when determining whether the marriage is valid.

The 'marriage' of Mick Jagger and Jerry Hall

Mick Jagger and Jerry Hall went through a marriage ceremony in Bali, Indonesia in 1990, but it was not until Jerry Hall commenced divorce proceedings in 1999 that Mick Jagger made a public announcement that they were not actually married.

In the announcement, it was claimed that the priest who officiated at the couple's Hindu wedding ceremony in Bali did not receive the necessary legal documents. It turned out that the ceremony performed by the Hindu priest, who slit the throat of a chicken and spilled its blood to purify the wedding venue, was not recognised in Indonesia. Also, there had been only one witness to the ceremony and a letter of authority had not been obtained from the British consul, which also fell short of the Indonesian requirements. The High Court in London reached the same conclusion several months later after an Indonesian report showed the couple had failed to register their marriage as legally required. As such, the Court accepted that the wedding was not valid under either Indonesian or English law and declared it null and void.

Can I get married in a foreign country and what should I bear in mind if I wish to do so?

You will not be able to register with the Registrar of Marriages in Hong Kong a marriage solemnised in a foreign country, but the overseas marriage will still be recognised as a valid marriage in Hong Kong provided that:

1. You had the legal capacity to marry i.e. you are above 16 years old, you are not within the prohibited degrees of relationship, and you are not a party to an existing marriage;
2. You consented to the marriage; and
3. The marriage ceremony followed the legal procedures recognised by the laws in force at that time and at the place where the marriage is performed.

If you are a Hong Kong resident prior to the marriage, and are able to fulfil the legal requirements of your intended wedding destination outside Hong Kong, you will need to apply for a Certificate of Absence of Marriage Record in Hong Kong (Form MR 35), which is a document certifying that you have not registered any marriage in Hong Kong. It is recommended that you apply for a search of marriage records in Hong Kong before applying for the Certificate of Absence of Marriage Record.

After returning to Hong Kong, you and your spouse should notify the Immigration Department of the change in your marital status. This can be done by submitting the required Form ROP 18 to the Immigration Department.

We set out below a few examples of the legal requirements of some of the more popular wedding destinations outside Hong Kong:

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1. England and Wales

- (i) A marriage can take place in a church, or in other premises (such as a hotel) approved by the local authority.
- (ii) If you wish to follow a religious ceremony but the religious ceremony cannot help you or your partner to create a legal marriage due to the difference in religious beliefs, you can have a religious ceremony which is either preceded or followed by a civil ceremony in a Register Office. In that case, the marriage is valid from the date of the civil ceremony not the religious ceremony, even if the religious ceremony came first.
- (iii) There are strict residency requirements which mean that you have to give notice of intention to marry more than 30 days before the marriage ceremony, and to give notice of intention you must be resident in the borough in which the marriage will take place for 8 days.

2. France

- (i) A civil ceremony is the only legal binding ceremony possible in France.
- (ii) Civil ceremonies can only take place in a local mairie (town hall).
- (iii) There is generally a residency requirement of 40 days immediately prior to a civil ceremony taking place. However, it is strongly recommended that you take advice from the local mairie where you intend to get married as the residency requirement is at the mairie's discretion.
- (iv) You may only have a religious ceremony after a civil ceremony has taken place, either in France or in your home country.
- (v) Generally, the marriage application must be made and received by the local mairie at least 10 days before the marriage ceremony, and the ceremony must take place within 10 days after obtaining the authorisation to marry.

3. Las Vegas

- (i) There is no residency requirement.
- (ii) Prior to the marriage ceremony, you will need to obtain a licence to get married issued by the State of Nevada.

4. Thailand

- (i) There is a short residency requirement of four working days in Thailand prior to registering your marriage.
- (ii) Prior to registering your marriage, foreigners are required to make a declaration/affirmation at the Thai Embassy attesting that he/she is single and free to marry in accordance with Thai Law.
- (iii) The couple will need to obtain a Thai translation of such declaration/affirmation and have it legalised in the Ministry of Foreign Affairs.
- (iv) A marriage can then be registered at a local district office by the parties publicly giving consent to take each other as husband and wife before the Registrar and have it recorded by the Registrar in your marriage certificate.
- (v) Two witnesses over 18 years are required to be present at the marriage ceremony. They can be provided by the local district office.

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5. Bali, Indonesia

- (i) All couples intending to have a legally binding ceremony in Bali are required to declare a religion with the Civil Registry Office. The only religions accepted are Islam, Buddhist, Hindu, Christian-Catholic and Christian-Protestant. Partners must also declare the same religion or submit a change of religion via written declaration.
- (ii) Couples who do not follow an Islamic faith must also file a Notice of Intention to Marry with the Civil Registry Office and present a consular representative Letter of No Impediment to Marriage. To obtain the Letter of No Impediment, couples must present the consular representative with their passports which must be valid for longer than 6 months as well as any certified death certificates or divorce decree (absolute) for the dissolution of any preceding marriages. The Notice of Intention to Marry needs to be filed at least 10 days before the marriage ceremony, but tourists may be able to have this “waiting period” waived.
- (iii) Two witnesses over 18 years are required to be present at the marriage ceremony. They can be provided by the Civil Registry Office.
- (iv) All Islamic marriages are legal immediately after the ceremony, however other religious marriages must be recorded with the Civil Registry Office to be considered legal. A recording by a Registry official can be performed directly at the ceremony for an additional fee. Otherwise, Marriage Certificates are usually issued on the same or next day.

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