

PEOPLE'S COURT OF HO CHI MINH CITY

SOCIALIST REPUBLIC OF VIETNAM

Case No.: 378/2019/HNGD-ST

Date: Apr 18, 2019

On Divorce

Independence-Freedom-Happiness

THE LAW HAS NOT YET ENTERED INTO FORCE

ON BEHALF OF
SOCIALIST REPUBLIC OF VIETNAM

PEOPLE'S COURT OF HO CHI MINH CITY

- With Judgment Council including:

Judge- Presiding Judge of the court meeting: Ms. Nguyen Le Thien Huong

The People's Juror: 1. Ms. Ho Thi Dieu Ha

2. Ms. Tran Thi Xuan Hai

- Secretary of the court meeting: Ms. Vo Thi Thoa – Secretary of People's Court of Ho Chi Minh City

- Representative of People's Procuracy of Ho Chi Minh City the court meeting: Mr. Cao Hoang Thang - The Procurator

On Apr 18, 2019, at headquarter of People's Court of Ho Chi Minh City judging the civil case No.: 267/2017/TLST-HNGD dated June 6th, 2017 on "Divorce"

Under the decision of case No.: 1368/2019/QDST-HNGD dated March 25, 2019 between litigants:

Plaintiff: Mr. Tran Ba Hien– Born in 1963 (Absence)

Address: 113 Quan Su, Ward 11, District 11, Ho Chi Minh City

Defendant: Mrs. Tu Tam – Born in 1962 (Absence)

Nationality: Canadian

Address: 41 Belford Cres Markham Ont L3S 4K3, Canada

CONTENT

Under the bill of complaint on Apr 27th, 2017 and the deposition on June 20th, 2017, the plaintiff Mr. Tran Ba Hien explained:

Mr. and Mrs. Tu Tam got married voluntarily under marriage certificate No.: 1346, volume No.: 7 issued by People's Committee of Ho Chi Minh City on Mar 30th, 2001. After marriage, on June 2003, he immigrated to Canada to reunite with Mrs. Tu Tam. During common life time, he and his wife did not get along with their personality and lifestyle, so between Mr. Hien and Mrs. Tu Tam usually happened conflicts, unhappy marriage life. Now Mr. Hien and Mrs. Tu Tam, each person live in one place, both parties no longer lived together since September 2003 until now. Because there are no conditions to live together and cultivate family feelings, there is no possibility of reuniting with each other. Therefore, Mr. Hien makes application to sue and send it to Ho Chi Minh City People's Court to ask for divorce with Mrs. Tu Tam to stabilize life.

On common children, asset, and debt: Mr. Tran Ba Hien declared that they didn't have

Mr. Tran Ba Hien asks to be absent when the Court resolves the case

Mrs. Tu Tam is implemented procedures to report to solve case, date, time to open court's meeting but this can't implement because authority of Canada have tried but failed to perform judicial entrustment to Mrs. Tu Tam

Representative of People's Procuracy of Ho Chi Minh City joining in the court meeting explains:

On procedural procedures: The Judge, Trial Council, petitioners abided by regulations of Civil Procedure Code during the time of first instance acceptance and trial. On petitioners, they fully implemented rights under Civil Procedure Code

On content: Mr. Tran Ba Hien declared that he did not have any affection with Mrs. Tu Tam any, their marriage life was not happy so the requirement of divorce of Mr. Tran Ba Hien has basis to accept. On common children, asset, debt, Mr. Tran Ba Hien declared that they didn't have, didn't ask to resolve so didn't not ask the Trial Council to resolve

PEOPLE'S COURT IDENTIFIES

[1] On procedural procedure:

Mr. Tran Ba Hien has application to ask for judging in absence. Based on Clause 1 of Article 228, Civil Procedure Code, Court judges in absence of Mr. Tran Ba Hien

For Mrs. Tu Tam, People's Court of Ho Chi Minh City has implemented judicial entrustment procedures to Mrs. Tu Tam under law regulations but report can't implement. So, Court implements procedures to post report about solving divorce case between Mr. Tran Ba Hien and Mrs. Tu Tam on web portal and list at headquarter of Vietnam Embassy at Ottawa, Canada. Court has implemented proceedings under law regulations but Mrs. Tu Tam didn't have writing to answer and absence didn't have reason. Based on Article 227, 477 of Civil Procedure Code, Court judges in absence of Mrs. Tu Tam

[2] On content:

[2.1] On spousal relationship: Mr. Tran Ba Hien and Mrs. Tu Tam voluntarily got married under marriage certificate No.: 1346, volume No.: 7 issued by People's Committee of Ho Chi Minh City on Mar 30th, 2001 so this marriage is legitimate

On divorce requirement of Mr. Tran Ba Hien, Trial Council considers that:

Mrs. Tu Tam settled in Canada. After getting married, on June, 2003, Mr. Tran Ba Hien immigrated to Canada and reunited to Mrs. Tu Tam together. In the process of living together, Mr. Tran Ba Hien found that the couple did not get along with their personality and lifestyle, so Mr. Tran Ba Hien and Mrs. Tu Tam often had conflicts, the marriage life was not happy, two parties no longer lived together. Because there is no condition to live together and cultivate family feelings, there is no possibility of reuniting with each other. Now Mr. Tran Ba Hien confirms that he doesn't have affection with Mrs. Tu Tam any, realizes that at present, every person lives in a place, affection between wife and husband doesn't have condition to heal, marriage is not happy, marriage purpose doesn't achieve. Therefore, based on Article

51, 56 Law of Marriage and Family, request of Mr. Tran Ba Hien to divorce Mrs. Tu Tam has basis, Trial Council accepted

[2.2] On common child: Mr. Tran Ba Hien declared that they didn't have common child, Trial Council didn't consider

[2.3] On common asset, debt: Mr. Tran Ba Hien declared that they didn't have, Trial Council didn't consider

[3] On court charges:

Mr. Tran Ba Hien is plaintiff in the case so must pay court charge under law regulations

[4] Other fees of proceeding

Because authority of Canada has received actual fee of judicial entrustment directly transferred to account by Mr. Tran Ba Hien so Mr. Tran Ba Hien has paid enough fees

[5] About the right to appeal: Mr. Tran Ba Hien and Mrs. Tu Tam have the right to appeal the first instance judgment in accordance with the law

Because of the above contents,

PEOPLE'S COURT DECIDES

Based on Clause 1 of Article 28, Article 37, Article 147, Article 227, Article 228, Article 273, and Article 477, Article 479 of Procedure Code;

Based on Article 51, Article 56, Article 57, Article 122, Article 123 of Marriage and Family Law;

Based on Resolution No.326/2016/UBTVQH14 dated December 30, 2016 of Standing Committee of National Assembly on level of collection, exemption, decrease, receivables, payment, management and use of court charges and court fees

Based on Civil Judgment Execution Law in 2008

Judges:

1. On spousal relationship: Agrees for Mr. Tran Ba Hien and Mrs. Tu Tam to divorce

Marriage certificate No.: 1346, volume No.: 7 issued by People's Committee of Ho Chi Minh City on Mar 30th, 2001 hasn't legal value from judgment takes effect legally

2. Common child: none

3. Common asset: none

4. Common debt: none

5. On first instance court charge:

Mr. Tran Ba Hien pays 300.000 VND being deducted in the amount of 300.000 VND of advance paid under receipt No.: AA/2016/0034321 dated May 31st, 2017 of Civil Judgment Execution Agent of Ho Chi Minh City. Mr. Tran Ba Hien fully paid first instance court charge

6. Other fee of proceeding: Mr. Tran Ba Hien has paid enough fee

7. Appeal right:



Mr. Tran Ba Hien has the right to appeal to the verdict within 15 days from the date of receiving the verdict or the verdict is listed under law regulations. Mrs. Tu Tam has the right to appeal to the verdict within 01 months from the date the verdict is served legitimately or listed under law regulations.

If the judgment or decision is enforced in accordance with Article 2 of the Law on Civil Judgment Execution, the person entitled to civil judgment execution, the person who has to enforce the civil judgment shall have the right to agree on the execution of the judgment and the right to request the examination execution of sentences, voluntary execution of judgments or enforcement of judgments according to the provisions of Articles 6, 7 and 9 of the Law on civil judgment execution; The time limit for judgment execution shall comply with the provisions of Article 30 of the Law on Civil Judgment Execution.

Place of receipt:

- Supreme People's Court
- High People's Court of Ho Chi Minh City
- High People's Procuracy of Ho Chi Minh City
- People's Procuracy of Ho Chi Minh City
- Civil Judgment Execution Department of Ho Chi Minh City
- People's Court of Ho Chi Minh City
- Litigants
- Filed

**ON BEHALF OF FIRST INSTANCE TRIAL
COUNCIL**

PRESIDING JUDGE OF THE COURT

(Signed and sealed)

Nguyen Le Thien Huong