

Bản án số: 40/2019/HNGĐ-ST.

Ngày: 18/6/2019

V/v: "Xin ly hôn"

**NHÂN DANH  
NƯỚC CỘNG HÒA XÃ HỘI CHỦ NGHĨA VIỆT NAM  
TÒA ÁN NHÂN DÂN TỈNH KIÊN GIANG**

***Với thành phần Hội đồng xét xử sơ thẩm gồm có:***

*Thẩm phán - Chủ tọa phiên tòa:* Bà Nguyễn Thị Kim Hương

*Các Hội thẩm nhân dân:* Ông Dương Thanh Quan.

Ông Nguyễn Văn Quyền.

***Thư ký phiên tòa:*** Bà Nguyễn Thị Nàng - Thư ký Tòa án, Tòa án nhân dân tỉnh Kiên Giang.

***Đại diện Viện Kiểm sát nhân dân tỉnh Kiên Giang tham gia phiên tòa:***  
Ông Trịnh Văn Đương - Kiểm sát viên.

Trong ngày 18 tháng 6 năm 2019, tại phòng xử án của Tòa án nhân dân tỉnh Kiên Giang, xét xử sơ thẩm công khai vụ án thụ lý số: 21/2016/TLST-HNGĐ ngày 23 tháng 5 năm 2016 về việc "Xin ly hôn" theo Quyết định đưa vụ án ra xét xử số 35/2019/QĐXXST-HNGĐ ngày 10 tháng 5 năm 2019 giữa các đương sự:

- *Nguyên đơn:* Bà Nguyễn Diễm Trang, sinh năm: 1985.

Địa chỉ: số 5/05B khu phố Dãy Ốc, phường Vĩnh Hiệp, thành phố Rạch Giá, tỉnh Kiên Giang

- *Bị đơn:* Ông Hua Huy Van, sinh năm 1967.

Địa chỉ: 6571 COMSTOCK RD RICHMOND BC V7C 2X5 CANADA

(Bà Trang có đơn xin xét xử vắng mặt; ông Hua Huy Van vắng mặt tại phiên tòa)

**NỘI DUNG VỤ ÁN:**

- ***Theo đơn xin ly hôn nguyên đơn bà Nguyễn Diễm Trang trình bày:***

Năm 2010 do được di của bà là Bùi Thị Thu làm mai mối cho bà với ông Hua Huy Van, lúc đó ông Hua Van Huy đang ở Việt Nam nên bà và ông Hua Huy Van tìm hiểu, được hai gia đình đồng ý, tiến tới hôn nhân và đã đăng ký kết hôn do Ủy ban nhân dân tỉnh Kiên Giang cấp ngày 11/5/2010. Trong quá trình từ khi cưới nhau ông Hua Van Huy thường xuyên về Ca-na-đa không quan tâm lo lắng cho bà, thậm chí ông còn đòi ly hôn với bà, chính vì lẽ đó bà và ông Hua Huy Van đã bất đồng ý kiến, tình cảm bị phai nhạt không thể nào hàn gắn lại



tổng đạt các văn bản tố tụng hợp lệ nhưng không có ý kiến về yêu cầu xin ly hôn của bà Trang.

Xét thấy quan hệ hôn nhân giữa bà Nguyễn Diễm Trang và ông Hua Huy Van hai bên chưa thực hiện đúng nghĩa vụ về tình nghĩa vợ chồng theo quy định Luật Hôn nhân và gia đình là yêu thương, tôn trọng, quan tâm, chăm sóc, chia sẻ giúp đỡ lẫn nhau để xây dựng gia đình ấm no, tiến bộ, hạnh phúc. Sau khi cưới ông Hua Huy Van và bà Trang thời gian chung sống không nhiều. Hiện tại bà Trang xác định không còn tình cảm vợ chồng với ông Hua Huy Van.

Hội đồng xét xử xét thấy đời sống chung vợ chồng của bà Trang và ông Hua Huy Van không thể kéo dài, mục đích hôn nhân của ông bà không đạt được. Do đó Hội đồng xét xử thống chấp nhận yêu cầu xin ly hôn của bà Nguyễn Diễm Trang đối với ông Hua Huy Van.

Về con chung, tài sản chung, nợ chung: bà Nguyễn Diễm Trang trình bày không có nên không yêu cầu Tòa án giải quyết.

[3]. Về án phí: Áp dụng khoản 4 Điều 147 Bộ luật tố tụng dân sự năm 2015; Pháp lệnh án phí, lệ phí Tòa án của Ủy ban thường vụ Quốc hội số 10/2009/PL-UBTVQH12 ngày 27 tháng 02 năm 2009;

Bà Nguyễn Diễm Trang phải chịu án phí hôn nhân sơ thẩm 200.000 đồng, được khấu trừ vào số tiền tạm ứng án phí đã nộp 200.000 đồng theo biên lai 0004927 ngày 10/5/2016 của Cục thi hành án dân sự tỉnh Kiên Giang.

[4]. Về chi phí thực hiện ủy thác tư pháp: Áp dụng khoản 3 Điều 153 Bộ luật Tố tụng dân sự; khoản 1 Điều 4 Thông tư số 18/2014/TT-BTC ngày 11/2/2014 của Bộ Tài chính; Điều 6, Điều 7 Thông tư liên tịch số 12/2016/TTLT-BTP-BNG-TANDTC.

Bà Trang phải chịu phí ủy thác tư pháp lần 1 với số tiền 150.000đ theo biên lai 0012411 ngày 08/6/2016 và chi phí ủy thác tư pháp lần 2 với số tiền 150.000đ theo biên lai 0036455 ngày 02/02/2018 của Cục thi hành án dân sự tỉnh Kiên Giang, tổng cộng 300.000đ.

Chi phí thực tế ủy thác tư pháp là 100 đô la Ca-na-đa bà Trang đã nộp xong và được khấu trừ.

Vì các lẽ trên;

### **QUYẾT ĐỊNH:**

Căn cứ Điều 28, khoản 1 Điều 37, khoản 4 Điều 147, Điều 153, Điều 228, Điều 238, điểm d khoản 1 Điều 469, điểm c khoản 6 Điều 477, Điều 479 Bộ luật Tố tụng dân sự năm 2015;

Áp dụng Điều 56 Luật Hôn nhân và gia đình năm 2014.

Pháp lệnh án phí, lệ phí Tòa án của Ủy ban thường vụ Quốc hội số 10/2009/PL-UBTVQH12 ngày 27 tháng 02 năm 2009;

**Xử:**

**PEOPLE'S COURT OF  
KIEN GIANG PROVINCE**

**SOCIALIST REPUBLIC OF VIETNAM**  
**Independence – Freedom - Happiness**

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Judgment No: 40/2019/HNGD-ST

Date: June 18, 2019

Ref: "Request for divorce"

**IN THE NAME OF**  
**THE SOCIALIST REPUBLIC OF VIET NAM**  
**PEOPLE'S COURT OF KIEN GIANG PROVINCE**

**With the Composition of the Trial Panel at first instance consists of:**

Judge – Chairman of the trial: Mrs. Nguyen Thi Kim Huong.

People's jurors:

Mr. Duong Thanh Quan.

Mr. Nguyen Van Quyen.

- **Secretary of the court:** Mrs. Nguyen Thi Nang - Secretary of the People's Court of Kien Giang Province.

- **Representatives of the People's Procuracy of Kien Giang province participated in the trial:** Mr. Trinh Van Duong - Controller

On June 18, 2019 at the courtroom of the People's Court of Kien Giang province, the judged public first instance trial of case handling No. 21/2016/TLST-HNGD dated May 23, 2016 on "Request of divorce" under Decision to bring the case to judge No. 35/2019/QDXXST-HNGD dated May 10, 2019 between the litigants:

- Plaintiff: Mrs. Nguyen Diem Trang, born in 1985.

Address: No. 5/05B Day Oc Quarter, Vinh Hiep Ward, Rach Gia City, Kien Giang province.

- Defendant: Mr. Hua Huy Van, born in 1967.

Address: 6571 COMSTOCK RD RICHMOND BC V7C 2X5 CANADA

(Mrs. Trang had an application for absent trial; Mr. Hua Huy Van was absent at the court)

## CASE CONTENTS:

*- According to the application for divorce of the plaintiff, Mrs. Nguyen Diem Trang presented:*

In 2010, her aunt named Bui Thi Thu made a match for her with Mr. Hua Huy Van, at that time Mr. Hua Van Huy was in Viet Nam, so she and Mr. Hua Huy Van found out and agreed by two families, they got married and registered their marriage which was granted by the People's Committee of Kien Giang Province on May 11, 2010. In the process since the marriage, Mr. Hua Van Huy often came back to Canada, he didn't care about her, he even demanded a divorce from her, so she and Mr. Hua Huy Van disagreed their opinions, faded feelings cannot be healed. Through many years of thinking, she decided to apply for a divorce with Mr. Hua Van Huy so that each person could have a private life that no one would bind.

She now asked the Court to settle her divorce with Mr. Hua Van Huy. About common children, common property, common debt: none.

- The defendant, Mr. Hua Huy Van was absent during the proceedings at the Court and there was no written expression of opinion on the request for divorce by Mrs. Nguyen Diem Trang according to the valid legal mandate procedure of the Court.

At the trial, the representative of Kien Giang Province People's Procuratorate expressed his views on the settlement of the case:

On compliance with the law of the judge, the Trial Panel of case, the trial clerk and law observance of procedure participants in the process of settling the case, from the time of accepting the case to the time before points of the Trial Panel on the deliberation have fully and fully complied with the provisions of the Civil Procedure Code. The plaintiff, Mrs. Nguyen Diem Trang has an application for absent trial, for the defendant, Mr. Hua Huy Van has been summoned by the Court for 02 times of absence without any reasons. Pursuant to Article 238 of the Civil Procedure Code, eligible for trial in the absence of Mrs. Trang and Mr. Van.

For the resolution of the case: Considering the marriage relationship between Mrs. Trang and Mr. Van has no close relationship to share and care for each other, Mrs. Trang and Mr. Van have been separated for eight years now. Therefore, Mrs. Trang's request for divorce from Mr. Van is reasonable to accept.

For common children, common property, common debt: none and Mrs. Trang has no requests, so not considering and settling.

## **RECOMMENDATION OF THE COURT:**

After studying the documents in the case file, the Trial Panel judged:

[1] About proceedings: The plaintiff, Mrs. Nguyen Diem Trang has an application for her absence; the defendant, Mr. Hua Huy Van was absent at the trial in accordance with the Court procedure posting a notice on the electronic portal of Viet Nam's diplomatic representative agency in Canada and the electronic portal of the People's Court of Kien Giang province. Pursuant to Article 228, Article 238 and Point c, Clause 6, Article 477 of the Civil Procedure Code, the Trial Panel agreed to judge with the absence of Mrs. Nguyen Diem Trang and Mr. Hua Huy Van.

[2] About the content: The marriage relationship between Mrs. Nguyen Diem Trang and Mr. Hua Huy Van is a legal marriage, fulfilling all conditions of marriage and marriage registration as stipulated in Article 9, Article 11 Law on Marriage and Family 2000.

About the cause of divorce: Mrs. Nguyen Diem Trang said that in the spousal time between Mrs. Nguyen Diem Trang and Mr. Hua Huy Van happened contradictions, since marriage, Mr. Hua Van Huy often went back to Canada, he didn't care about her, between she and Mr. Hua Huy Van disagreed opinions in life. For Mr. Hua Huy Van, the Court made a mandate to serve valid legal proceedings but had no opinions on Mrs. Trang's request for divorce.

Considering the marriage relationship between Mrs. Nguyen Diem Trang and Mr. Hua Huy Van, two parties have not fulfilled their spousal obligations yet in accordance with the Law on Marriage and Family, which is love, respect, concern and care, share and help each other to build a family that is full, progressive and happy. After marriage, Mr. Hua Huy Van and Mrs. Trang had time of living with each other a little. Currently Mrs. Trang determined no spousal affection with Mr. Hua Huy Van.

The trial Panel found that the spousal life of Mrs. Trang and Mr. Hua Huy Van could not last long, the purpose of their marriage was not achieved. Therefore, the Trial Panel accepted the request for divorce from Mrs. Nguyen Diem Trang with Mr. Hua Huy Van.

About common children, common property, common debt: MRs. Nguyen Diem Trang presented no, so she did not ask the Court to resolve.

[3] About legal costs: Applying Clause 4 Article 147 of the 2015 Civil Procedure Code; Ordinance of court fees and charges of the Standing Committee of the National Assembly No. 10/2009/PL-UBTVQH12 dated February 27, 2009;

Mrs. Nguyen Diem Trang has to pay the first-instance marriage fees of VND 200,000, deducted from the advance payment of court fees which was paid VND 200,000 according to the receipt No. 0004927 dated May 10, 2016 of the Civil Judgment Execution Department of Kien Giang province.

[4] About the costs of implementing judicial trust: Applying Clause 3 Article 153 of the Civil Procedure Code; Clause 1, Article 4 of Circular No. 18/2014/TT-BTC dated February 11, 2014 of the Ministry of Finance; Article 6, Article 7 of the Joint Circular No. 12/2016/TTLT-BTP-BNG-TANDTC.

Mrs. Trang is subject to the first judicial trust fees with the amount of VND 150,000 according to the receipt No. 0012411 dated June 8, 2016 and the second judicial trust fees with the amount of VND 150,000 according to the receipt No. 0036455 dated February 2, 2018 of the Civil Judgment Execution Department of Kien Giang province, totaling VND 300,000.

The actual cost of judicial trust is CAD \$100, Mrs. Trang paid and was deducted.

Because of the above reasons;

**DECIDES:**

Pursuant to Article 28, Clause 1 of Article 37, Clause 4 of Article 147, Article 153, Article 228, Article 238, Point d, Clause 1, Article 469, Point c, Clause 6, Article 477, Article 479 of the 2015 Civil Procedure Code;

Applying Article 56 of the Law on Marriage and Family in 2014.

Ordinance on court fees and charges of the Standing Committee of the National Assembly No. 10/2009/PL-UBTVQH12 dated February 27, 2009;

**Judged:**

Accepting the petition of the plaintiff, Mrs. Nguyen Diem Trang for a divorce with the defendant, Mr. Hua Huy Van.

1. About marriage relationship: Mrs. Nguyen Diem Trang is divorced with Mr. Hua Huy Van.

2. About common children, common property, common debt: Mrs. Nguyen Diem Trang determined that there was no common children, common property, common debt, no settlement was required, so the Court did not consider.

3. About the court fee: Mrs. Nguyen Diem Trang must bear the first-instance court fee of VND 200,000 (two hundred thousand dong), deducted from the advance payment of VND 200,000 (Two hundred thousand dong) according to the receipt No. 0004927 on May 10, 2016 of the Civil Judgment Execution Department of Kien Giang Province.

4. About the cost of implementing legal mandate: Mrs. Nguyen Diem Trang has to pay a legal mandate twice with the total of VND 300,000 (Three hundred thousand dong) according to the receipt No. 0012411 dated June 8, 2016 and the receipt No. 0036455 dated February 2, 2018 of the Civil Judgment Execution Department of Kien Giang province.

Actual cost of judicial trust: Mrs. Nguyen Diem Trang is subject to 100 (one hundred) Canadian dollars, Mrs. Trang has already paid and deducted.

5. Rights to appeal: Mrs. Nguyen Diem Trang has the right to appeal the judgment within 15 days since the date of receiving the judgment or since the date that the judgment has been listed by the Court.

For Mr. Hua Huy Van has the right to appeal within 1 month since the date that the judgment is properly served or since the date the judgment is properly listed in accordance with the law.

Where the judgment is executed under the provisions of Article 2 of the Law on Execution of Civil Judgments modified, supplemented, the civil judgment executors, civil judgment debtors shall have the right to agree on judgment execution and the right to request to execute judgments, voluntarily execute the judgments or be coerced to execute judgments under Articles 6, 7, 7a and Article 9 of the Law on Execution of Civil Judgments modified, supplemented. The statute of limitations for enforcement of judgments shall comply with the provisions in Article 30 of the Law on Execution of Civil Judgments.

**Recipients:**

- Supreme People's Court;
- People's Procuracy of Kien Giang province;
- Department of civil judgment execution of Kien Giang province;
- Litigants.

**FOR THE FIRST INSTANCE TRIAL PANEL  
JUDGE – CHAIRMAN OF HEARING  
(Signed and sealed)**

**Nguyen Thi Kim Huong**

**Attestation of the translator's signature**

I, Lu Thi Thuy Oanh, ID card No.370705375

Guarantee to translate exactly the content of this paper/document from Vietnamese to English.

**On this 5<sup>th</sup> day of August, 2019**

***Translator***

***(Full name, signed)***

**Lu Thi Thuy Oanh**

On this 5<sup>th</sup> day of August, 2019

The fifth day of August, two thousand and nineteen

At the Justice Office of Chau Thanh district, Kien Giang province

My name is Tran Van Nam, Chief of Justice Office

of Chau Thanh district, Kien Giang province

**CERTIFIES**

Mrs. Lu Thi Thuy Oanh is the one who signed her name  
on the translation before my appearance

Certified No. *1860*..... Book No. 01-SCT/CK

On this 5<sup>th</sup> day of August, 2019

**CHIEF OF OFFICE**

**(Signed and sealed)**

**Tran Van Nam**