



## My husband is not the man I thought he was

Shortly after you get married, you discover that your new partner is not the person you thought he or she was. Can you have the marriage annulled?

### THE FACTS

A woman meets a man of Polish origin in Montreal; she is divorced, he is a widower. Following a short courtship, they get married in November 2002. She agrees to sponsor the gentleman in his application to become a Canadian citizen. Some time later, the woman begins to notice that her husband's behavior has changed, become disturbing. He threatens to commit suicide and has become irrational. In June 2004, the woman learns that her partner had been convicted in Poland for the murder of his first wife and that he had been sentenced to 8 years in prison. She also finds out that he has a child in Poland for whom he must pay child support. The woman now believes that the gentleman married her in order to acquire her sponsorship, and his eventual Canadian citizenship. He has become aggressive and has made death threats. The day before the hearing into the charges for uttering threats, the man leaves Canada for Poland. In September, 2004, the woman requests that her marriage be annulled on the grounds that she was deceived by the defendant with regards to his personality and his past activities such that had she known the truth beforehand, she would not have consented to marry him.

### THE ISSUE IN DISPUTE

Can the marriage be annulled?

### THE JUDGMENT

The court declares the marriage annulled.

### THE REASONS

Consent given by persons who are free and

is an essential condition of a marriage's validity. In the present case, the defendant hid his true identity, the murder of his first wife, the existence of a child in Poland and his obligation to provide child support, as well as other facts that he should have revealed to his future wife before the solemnization of their marriage. As a result, the plaintiff found that she was married to a man who was completely different from the person he claimed to be. The Court maintains that the marriage was merely a ploy by the man, aimed at securing his Canadian citizenship. The woman would never have consented to marry the man had she known the full details of his past and his true intentions before the marriage. In light of the exceptional facts, and given the woman's good faith, the Court concludes that the woman did not give valid consent, and declares the marriage null.

#### References

*W.A.W. v. An.Z.*, Cour supérieure (C.S.) 500-04-036965-045, 2005/05/10, juge : Danielle Richer (B.E. 2005BE-573 ; [www.jugements.qc.ca](http://www.jugements.qc.ca)).

*Civil Code of Québec*, S.Q. 1991, c. 64, art. 380.

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The judgement discussed in this article was rendered based on the evidence submitted to the court. Each situation is unique. If in doubt, we suggest you consult a legal aid lawyer.

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