

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

SOCIALIST REPUBLIC OF VIETNAM
Independence – Freedom – Happiness

Judgment No: 64/2018/HNGD-ST

Date: 28/11/2018

In terms of divorce with the foreign factors

IN THE NAME

OF THE SOCIALIST REPUBLIC OF VIETNAM

PEOPLE'S COURT OF KIEN GIANG PROVINCE

The composition of the First Instance Trial Panel including:

Judge- Chairman of the trial: Ms. Ngo Thi Minh Trang

People's Jurors:

Mr. Doan Van Tam

Ms. Tran Thi Ngoc Tran

Secretary of the trial: Ms. Phan Thi Nhung - Secretary of the People's Court of Kien Giang.

Representative of the People's Procuracy of Kien Giang province attending the hearing:
Mr. Cao Phuong Binh - Controller

On November 28, 2018, at the headquarter of the People's Court of Kien Giang, publicly heard the case No. 16/2016 /TLST-HNGD dated 24/3/2016 on application for divorce with foreign factors under the Decision to bring the case to trial No. 60/2018 /QDST-HNGD dated October 29, 2018 between the litigants:

- **Plaintiff:** Ms. Vo Thu My (otherwise called as Phuong), born in 1985; Address: 641 Minh Phu Street, Minh Luong Town, Chau Thanh District, Kien Giang Province, Vietnam (present).

- **Defendant:** Mr Nguyen Van Hoa, born in 1960 (absent)

Previous address: 1460 E Bellrd # 1080 Phoenix AZ 85022 USA.

Current address: 201 W Hermosa Dr Tempe AZ 85022 USA.

CONTENTS OF THE CASE:

1. In the petition filed December 24, 2015 and self-declaration dated 29/3/2016 and in the process of trial, the plaintiff Ms. Vo Thu My presented:

She and Mr. Nguyen Van Hoa knew each other through introduction of the relatives, at that time, Mr. Hoa still lived in the USA, they mainly contacted each other through phone, for about 06 months later, Mr. Hoa came back to Vietnam to meet her and registered the marriage with her and the People's Committee of Kien Giang Province issued the marriage certificate on 27/7/2006, they held their wedding party in her house located at No 641 Minh Phu Street, Minh Luong Town, Chau Thanh District, Kien Giang. After getting married, Mr. Hoa gave her 2000 USD, 24K gold necklaces, earrings, rings. After getting married, they lived with each other for about a month in her house, Mr. Hoa came back to the USA. In 2007, Mr. Hoa came back to Vietnam and travelled with her to her husband's hometown in Da Nang for 3 weeks, at this time, their love was good. After that, Mr. Hoa came back to the USA to make the procedures to guarantee her to the USA to unify, however, through 2 interviews in the Consular General, she was not qualified and could not travel to the USA to live with Mr. Hoa. After that, Mr. Hoa has not contacted her at the end of 2007 until now, she has contacted Mr. Hoa many times but couldn't. She determines that their love does not exist, their purpose of marriage is not reached and can not be recovered, she requires to divorce with Mr. Nguyen Van Hoa.

For common children, assets and debts: in the process of living with each other, she and Mr. Hoa have not had common children, assets and debts, not require the court to solve.

For the defendant Mr. Nguyen Van Hoa: After conducting the case, the People's Committee of Kien Giang Province conducted the overseas judicial trust under the Civil Proceedings Law and Joint Circular No. 12/2016/TTLT-BTP-BNG-TANDTC dated October 19, 2016 of the Ministry of Justice, Foreign Affairs and the Supreme People's Court "regulations for judicial assistance in the civil field" to the place where the defendant Mr Nguyen Van Hoa is residing under the address provided by Ms. My: 1460 E Bellrd # 1080 Phoenix AZ 85022 USA to notify the conduct of the case; notify opening the reconciliation case and case of divorce settlement under the regulations. The Consular General of Vietnam in San Francisco notifies on its portal of time of hearing for reconciliation and case of divorce settlement between Ms. My and Mr. Hoa but Mr. Nguyen Van Hoa does not receive the relevant documents and no ideas for the petition of Ms. Vo Thu My.

In the hearing, Ms. My keeps the petition of divorce.



In the hearing, the representative of the People's Procuracy of Kien Giang Province provides the ideas; in the proceedings, because the case has the relevant parties, Mr. Nguyen Van Hoa as foreigner, therefore, the People's Court of Kien Giang Province conducts the case under the authorities. In the process of case settlement as well as in the hearing, the Judge, the Trial Panel, the secretary of the hearing and the plaintiff comply with the regulations of the civil proceeding law. Particularly, the defendant, Mr. Nguyen Van Hoa is conducted with the judicial trust on the proceedings of documents for Mr. Hoa but Mr. Hoa does not provide any feedback and not receive the documents, therefore, the Trial Panel conducts in the absence of Mr. Hoa in conformity with the laws.

For the petition from Ms. Vo Thu My; because Ms. My loses the contact with Mr. Hoa for a long time and they do not live with each other since 2007 until now, Ms. My determines that their love does not exist, their marriage purpose is not reached, require the Trial Panel to accept the petition of divorce from Ms. My. For common children, assets and debts, the parties do not require, therefore, not consider.

DETERMINATION OF THE COURT:

(1) For proceedings: Defendant Mr. Nguyen Van Hoa is conducted the overseas judicial trust under the Civil Proceedings Law and Joint Circular No. 12/2016/TTLT-BTP-BNG-TANDTC dated October 19, 2016 of the Ministry of Justice, Foreign Affairs and the Supreme People's Court "regulations for judicial assistance in the civil field" to notify the conduct of the case; notify opening the reconciliation case and case of divorce settlement under the regulations. The Consular General of Vietnam in San Francisco, USA issued the written confirmation on 17/9/2018 on notifying Mr. Nguyen Van Hoa as required by the Court but not do not, the relevant party does not provide any feedback and posts the trust contents at the head office and on the portal of the Consular General for 30 days but the relevant party does not receive the relevant documents. Therefore, the Trial Panel, solves the case in the absence of Mr. Nguyen Van Hoa, based on Article 477 of the Civil Proceeding Law in 2015.

(2) For authorities: In the case, a party, Mr. Nguyen Van Hoa is Vietnamese with the American nationality, therefore, the Trial Panel determines this is the relationship with the foreign factors and in the authorities of the People's Court of Kien Giang province under Article 123 of the Marriage and Family Law; clause 3, article 35, Article 37 and Article 469 of the Civil Proceeding Law.

THAN
JPH
DMP

(3) As required in the petition of the plaintiff, Ms. Vo Thu My, the Trial Panel determines:

For marriage relationship: Ms. Vo Thu My and Mr. Nguyen Van Hoa are voluntary to find out each other, live with each other with marriage registration under the marriage certificate No. 188, volume No. 01 dated August 11, 2006 issued by the People's Committee of Kien Giang Province in conformity with the regulations in Article 9, Article 10, Article 103 of the Marriage and Family Law in 2000 and Decree No. 68/2002/ND-CP dated 10/7/2003 of the Government detailing some articles of the marriage and family law on the marriage relationship with the foreign factors, which is a legal marriage.

The purpose of marriage is to develop the happy life, the couples shall live with each other, love, support each other. But for the marriage between Ms. My and Mr. Hoa, they do not live with each other and can not meet each other, their relationship does not exist. Currently, they have not contacted each other since 2007 and their love does not exist, they can not develop their happy life. Therefore, Ms. My and Mr. Hoa marriage purpose is not reached, their common life does not last, the Trial Panel accepts the petition from Ms. My and request from the representative of the People's Procuracy for Ms. My's divorce with Mr. Hoa under Article 56, Article 127 of the marriage and family law in 2014.

(4) For common children: In the process of living each other, Ms. My and Mr. Hoa do not have their common children, therefore, not consider.

(5) For common assets and debts: Ms. Vo Thu My does not require and Mr. Hoa does not have any ideas, not consider.

(6) For court fees: Mr. Vo Thu My shall bear 200,000 dong of first instance court fees, deducted from the deposit of first instance case fees submitted.

Because of the said issues:

DOES HEREBY DECIDE:

- Pursuant to: Clause 3, Article 35, Article 37, point d, clause 1 of Article 469, clause 3, Article 474, point b, clause 5, Article 477, clause 2, Article 479, clause 4, Article 147 of civil proceeding Law.

- Apply: Article 9, Article 10, Article 103 of the marriage and family law in 2000; clause 1, Article 56, article 123, article 127 of the marriage and family law in 2014; article 48

of Decree No. 326/2016/UBTVQH14 dated 30/12/2016 of the Standing Committee of the National Assembly on the collection rates, deduction, submission, management and use of court fees and court charges, clause 8, article 27, clause 1, item I of list of court fees issued under Ordinance No. 10/2009/UBTVQH12 dated 27/02/2009 of the court fees, charges.

Resolving:

Accept the petition of the plaintiff Ms. Vo Thu My.

1. For marriage relationship: Ms. Vo Thu My is allowed to divorce with Mr. Nguyen Van Hoa.

2. For common relationship: Ms. My and Mr. Hoa do not have their common children, not consider.

3. For common assets and debts: Ms. Vo Thu My does not require and Mr. Nguyen Van Hoa does not have any ideas, not consider.

4. For court fees: Ms. Vo Thu My shall bear the first instance marriage and family courts equivalent to 200,000 dong, deducting 200,000 dong of advance of first instance case Ms. My submitted under the receipt No. 0004886 dated March 17, 2016 of the Sub-Department of Civil Execution of Kien Giang Province.

5. Right of appeal: Ms. Vo Thu My has right to appeal within 15 (fifteen) days after announcing to require the higher level people's court to re-solve the judgment under the appeal procedures.

Mr. Nguyen Van Hoa has right to appeal the judgment for one month, since the judgment is conducted or posted legally under the laws.

Where the judgments or decisions are executed under Article 2 of the Civil Code Execution Law, the civil judgment executors or civil judgment debtors may reach agreement on judgment execution and the right to request to execute judgments or to be forced to execute judgments according to the provisions of Articles 6, 7a and 9 of the Law on Execution of Civil Judgments; The statute of limitations for execution of judgments shall comply with the provisions in Article 30 of the Law on Execution of Civil Judgments.

***Recipients:**

- People's Procuracy of Kien Giang province;
- Department of Civil Execution of Kien Giang Province
- People's Committee of Kien Giang province;
- Department of Justice of Kien Giang Province;
- Litigants;
- Archive; filing

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

Ngo Thi Minh Trang

