

**HAIZ AU YUB DURGA v NAJMUNNISA ISMAEL DURGA (1990 - 1992) Z.R. 189  
(H.C.)**

HIGH COURT  
W.M. MUZYAMBA, J.  
14TH JULY, 1992  
(1992/HP/D 28)

**Flynote**

Family law - Nullity - Marriage void for consanguinity - Evidence of non-consummation - Relevance of.

**Headnote**

The parties went through a marriage ceremony at Lusaka on 12<sup>th</sup> October, 1990. They never cohabited or consummated their marriage because they discovered immediately after the ceremony that they were consanguineous. The petitioner sought a declaration of nullity.

**Held:**

A marriage contracted within the prohibited degree of consanguinity is void *ab initio* whether or not it is consummated.

**Legislation referred:**

1. Matrimonial Causes Act, 1973 (UK) ss.11(1)(a)(i) and 12(a) and (b).

For the petitioner: M. Sikatana, of Veritas Chambers.

For the respondent: No appearance.

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**Judgment**