

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A22-0100**

In re the Marriage of:
Ai Vang, petitioner,
Appellant,

vs.

Ka Thao,
Respondent.

**Filed September 6, 2022
Affirmed
Slieter, Judge**

Hennepin County District Court
File No. 27-FA-21-2799

Der Yang, Village Lawyer, LLC, St. Paul, Minnesota (for appellant)

Sia Lo, Lo Law Office, P.A., St. Paul, Minnesota (for respondent)

Considered and decided by Slieter, Presiding Judge; Ross, Judge; and Johnson,
Judge.

NONPRECEDENTIAL OPINION

SLIETER, Judge

Appellant challenges the district court's dismissal of his marriage-dissolution petition based upon a lack of evidence that the parties were legally married. Because appellant failed to demonstrate that the parties' marriage while residing in a refugee camp

was valid in the place it occurred, the district court correctly concluded that appellant did not establish a legally valid marriage. We affirm.

FACTS

In 1993, at the Chiang Khan refugee camp in Thailand, appellant Ai Vang and respondent Ka Thao participated in a “customary and religious wedding ceremony . . . performed by the authorities in charge of the refugee camp in Thailand.” The camp authorities did not issue a marriage certificate and the parties did not register the marriage in Thailand.

The parties immigrated to the United States in 1996. And once in the U.S., the parties identified themselves as married. For example, as a married couple, they filed joint tax returns and bought and sold real estate.

In 2015, Vang “separated from [Thao] and moved to California.” The parties, following mediation, signed an “Agreement for Cultural Divorce” in April 2017.

In April 2021, Vang filed and served upon Thao a petition for dissolution of marriage. Thao, in her answer, requested that the petition be dismissed “because Minnesota does not recognize cultural marriage.” Vang moved for declaratory judgment that the marriage was valid, and in response Thao moved to dismiss the petition. The district court dismissed the dissolution petition, concluding that “the parties’ marriage in this case did not conform to the requirements of Thai law.” Vang appeals.

DECISION

When reviewing a district court's determination of whether a valid marriage existed, "this court must decide whether the [district] court correctly applied the law." *Ma v. Ma*, 483 N.W.2d 732, 735 (Minn. App. 1992).

"When the fact of marriage is required or offered to be proved before any court, evidence of . . . general repute, or of cohabitation as married persons, or any other circumstantial or presumptive evidence from which the fact may be inferred, shall be competent." Minn. Stat. § 602.02 (2020). "When evidence of a marriage is shown, a strong presumption of its legality arises. The burden of proof shifts to the objecting party to overcome this presumption." *Ma*, 483 N.W.2d at 735 (citing *In re Lando's Est.*, 127 N.W. 1125, 1128 (Minn. 1910)).

"The validity of a marriage normally is determined by the law of the place where the marriage is contracted. If valid by that law, the marriage is valid everywhere unless it violates a strong public policy of the domicile of the parties." *Id.* (quoting *Laikola v. Engineered Concrete*, 277 N.W.2d 653, 655-56 (Minn. 1979)). This has long been "a generally accepted principle of interstate and international law." *Lando's Est.*, 127 N.W. at 1126. When applying the law of a foreign country, the "foreign laws must be pleaded and proved like any other fact." *Id.*; see also *Ramsey County v. Yee Lee*, 770 N.W.2d 572, 577-78 (Minn. App. 2009) ("Foreign law is a matter of fact which the courts of this country cannot be presumed to be acquainted with or to take judicial notice of unless it is pleaded and proved." (quotation omitted)).

The district court, citing *Ma*, determined that “there is circumstantial evidence that the parties were married” but, because “there was no evidence that the parties complied with the specific marriage laws of Thailand,” the marriage was invalid.¹ We conclude the district court correctly followed the law set forth in *Ma* and the preceding cases it relied upon.

Vang does not claim that the marriage was valid pursuant to Thai law. He argues that, in this case, *the place* of marriage was the refugee camp, not Thailand. And, because he presented evidence that the marriage was recognized as such in the refugee camp, the burden shifted to Thao to rebut the marriage validity.² We disagree.

We first note that the cases the parties have cited and those we have independently reviewed do not define what is meant by *the place* of marriage. In *Ma*, for example, this court concluded that a Chinese marriage certificate was competent evidence of a valid marriage entered in China. 483 N.W.2d at 735. In *Lando’s Est.*, the supreme court determined the validity of a marriage “by the law of Germany, where it was celebrated.” 127 N.W. at 1126. In *In re Kinkead’s Est.*, 57 N.W.2d 628, 631 (Minn. 1953), the supreme

¹ It is not clear whether the district court reached this conclusion because Vang failed to present competent evidence of a legally presumed marriage, or because Thao rebutted the presumption of marriage. The parties do not address this ambiguity and, because it does not affect our analysis, neither do we.

² Vang also argues that requiring his marriage to meet the requirement of Thai law results in the unequal protection of his fundamental right to marry because it “denies [him] a fair dissolution of marriage where one is warranted.” Vang does not assert that he was prevented from legally marrying once he reached the U.S., and he has cited no authority for the proposition that there exists a fundamental right to dissolution of a marriage which is not legally valid. Moreover, Minnesota’s putative-spouse statute protects the rights of individuals who believe incorrectly, but in good faith, that they are married. Minn. Stat. § 518.055 (2020).

court considered whether a marriage entered in Iowa was valid pursuant to Iowa law despite the fact it would have been invalid in Minnesota. In *Earl v. Godley*, 44 N.W. 254, 254-55 (Minn. 1890), the supreme court considered whether a couple “married about the year 1848, in accordance with the usage and custom of the tribe with which they lived” had formed a valid marriage. The court reasoned that “those persons who were recognized by the Indian custom and law as married persons must be so treated by the courts” because the federal government recognized the authority of tribes to govern domestic relations. *Earl*, 44 N.W. at 255.

None of these cases explained the relationship between a geographic place and the legal authority to create valid marriages (perhaps because they were not asked to do so). In the present case, we also do not need to answer this question because Vang did not present to the district court rules governing marriage in the refugee camp which would allow it to conclude that the marriage was validly formed.

In support of his motion to declare their marriage legally valid, Vang submitted:

- a 2009 “Questions and Answers” document from U.S. Citizenship and Immigration Services which states that marriages in Thai refugee camps which were not registered as required by Thai law “could be valid for immigration purposes,”
- a similar United Nations document which states that documents issued by the Department of Homeland Security could be used “to establish your birthdate and family relationships” in the absence of a Thai birth certificate or “identification from your home country,”
- a United Nations “Bio-Data Sheet” showing the parties as married, and
- U.S. immigration documents showing the parties as married.

None of these documents describe requirements to form a valid marriage within the refugee camp, so the district court could not determine whether the evidence indicated the existence of a valid marriage. And perhaps more critically, no evidence was presented to the district court, such as a marriage certificate, which could confirm the recognition of their marriage in the refugee camp.

During oral argument, Vang requested, as alternative relief, that we remand to the district court for him to present additional evidence that the refugee camp had rules governing marriage validity and that his marriage satisfied those rules. We decline that request because he does not explain how he was improperly deprived of the opportunity to present this evidence to the district court in the proceedings generating this appeal. Generally, the district court considers motions in marriage-dissolution cases on exhibits, affidavits, and other documents submitted to the court unless a party requests that oral testimony be taken. Minn. R. Gen. Prac. 303.03(d)(1), (2). The parties submitted exhibits and affidavits in support of their respective motions, and neither party requested oral testimony or additional discovery. Vang had a full and fair opportunity to present evidence to the district court, and we will not remand simply because he now claims he will be able to present additional evidence of a valid marriage.

Vang failed to present to the district court evidence by which it might conclude that the marriage was legally recognized in *the place* the marriage was celebrated such that it would be valid in Minnesota. Therefore, the district court properly applied the law to these facts by concluding that a valid marriage did not exist.

Affirmed.