

NZ FAMILY LAW CASE NOTES



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Sample

***Corbett v Corbett* [1970] 2 All ER 33**

Source: Hard copy via your law library or electronically via a subscription service

Court details: High Court

Procedural history:

- Corbett began as a divorce case at a time when the UK didn't recognise mutual consent as reason enough to dissolve a marriage, so Arthur Corbett sought a method of dissolving his marriage to the model April Ashley without the issue of inheritance rights.
- His case was brought under the premise that, as Ms Ashley was born male (and should therefore be treated as male in perpetuity despite her change of sex) the marriage was illegal. At the time, medical opinion on transsexuality was divided and no consensus on whether Ms Ashley should be legally seen as male or female could be reached.

Facts:

- Corbett v. Corbett (otherwise Ashley) concerned a man (Corbett) who married a person whom he knew had been registered at birth as male but who later underwent a sex change operation (removal of the testicles and construction of an artificial vagina).
- Corbett subsequently sought a declaration that the marriage was void because the other (Ashley) was a male for the purposes of marriage.

Issue:

Reasoning / Decision (Commentary):

- Ormrod J. at the High Court held that whether the parties to a marriage were male or female was to be determined solely by biological criteria, so that, as Ashley at the date of the marriage ceremony was not a woman but a biological male, the marriage was void.

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