

Louisiana Practice - Annulment Decree - Devolutive Appeal After Dismissal of Suspensive Appeal

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property damage. The decision indicates that it is inadvisable to use the terms "each occurrence" and "each accident" in the same policy without some thorough explanation of the meaning intended.

Harry R. Sachse

LOUISIANA PRACTICE—ANNULMENT DECREE—DEVOLUTIVE APPEAL
AFTER DISMISSAL OF SUSPENSIVE APPEAL

Defendant was granted a suspensive appeal from a judgment by the district court annulling her marriage with plaintiff. The plaintiff later filed a motion in the district court to have the appeal dismissed on the ground that the order did not fix a bond for the appeal and that the defendant had not filed a bond within ten days after the judgment was signed. The district judge amended the suspensive appeal order and fixed the amount of the appeal bond, which was filed by the defendant. Plaintiff filed a motion before the Supreme Court to dismiss the suspensive appeal on the ground that the bond was not filed within ten days after the signing of the lower court judgment. *Held*, appeal dismissed as suspensive but maintained as devolutive. *Ramizest v. Ramizest*, 77 So.2d 733 (La. 1955).

Article 573 of the Code of Practice prohibits a devolutive appeal in cases where the judgment decrees a divorce. Since there is no statutory provision prohibiting a devolutive appeal from an annulment decree, the court in the instant case was left with no alternative to granting the appeal. However, by dismissing the suspensive appeal to the decree annulling the marriage, the court left the parties free to enter into new marriages with third parties. If they did so pending the final decision on appeal, and the court reversed the annulment decree, numerous questions could arise as to the status of all parties concerned and the status of their children, if any were conceived during that time. These problems were perhaps contemplated when it was provided in article 573 of the Code of Practice that no devolutive appeal is allowed from a divorce decree. An amendment to this article to include judgments decreeing the annulment of marriages would fill the *lacuna* that presently exists in the law.

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