

The Expat Trap by Susannah Quinn



Pictured Dr Marilyn Clancy, Manager of JH Kids in Woollahra and Double Bay Lawyer, Susannah Quinn

More and more couples are deciding to take a posting overseas to add an international dimension to their careers and to enrich their life experience. In some cases the posting comes to an end and the couple returns home with souvenirs of their adventure to share with family and friends.

But in many cases a further career opportunity presents itself and the expat experience can become a concertina of decisions which, before you know it, can add up to a decade or more overseas.

Often clients explain to me that the initial decision to relocate was for a short time – the priority was to develop one or both careers and earning potential. And this is usually before children are fully in the picture. But later, and with the benefit of hindsight, these clients say that they would not necessarily have chosen to raise their children without grandparents, uncles, aunts, extended family and lifelong friends around them.

This is particularly so for the parent whose “career” it is to nurture and kindle well-being through childhood and adolescence while the breadwinner works the long hours so often required.

Dr Marilyn Clancy, Manager of JH Kids in Woollahra, a program of Jewish House specialising in behaviour, learning and health explains:

“Healthy child development involves relationships with adults. An array of adults, committed to the well-being of the family, creates an environment in which the brain builds the connections that form our thinking skills. It starts with the parents, then extends to other adults like family members. These motivated adults understand and respond to the child in ways that stimulate high-level thinking abilities, such as getting along with others & self-regulation of emotions.

“It is often said that it takes a village to raise a child – a village of committed, loyal adults sympathetic to the family - to provide focused, trusting interactions that are so important to our healthy mind.”

In a recently reported Family Court case (pseudonyms are used) I represented Ms Valera the mother of four pre-teenage children. The family had moved to Melbourne from California so that the father, Mr Slater, could develop his career through a three year

posting.

Ms Valera’s mother, sister and approximately 20 close relatives live in California and it was always Ms Valera’s wish to raise her children there. When the posting ended, the father took another contract in

Sydney without telling Ms Valera.

During the second contract, the marriage broke down and Mr Slater divorced Ms Valera which left her with no right to reside in Australia under the Spouse Visa linked to Mr Slater’s work visa.

Mr Slater’s employer, a multi-national

company, then sponsored Mr Slater and the four children (all US citizens) for permanent residency in Australia. *By this time Ms Valera’s lifestyle was very different and she was living in a women’s refuge as she had been cut off financially and was unable to travel overseas or work on the temporary visa she had been issued.*

Mr Slater issued Family Court pro-

ceedings applying for sole custody of the four children on the basis that the mother could be deported.

Ms Valera did not want her four US citizen children to settle and become permanent residents of Australia. “I pleaded with the children’s father directly to respect my wishes and to honour our agreement to go home to California. He told me ‘Life sucks for some people.’ I was devastated.”

Despite Ms Valera’s objection, the Family Court ordered that Mr Slater be allowed to take over the mother’s rights and sign her consent to the children’s application for Permanent Residency as this provided a benefit to the children and was therefore considered to be in the children’s best interests. It will be some time before the matter comes to a final hearing about where the children should live on a permanent basis.

Ms Valera has applied to the Minister for Immigration and Border Protection, the Hon. Peter Dutton, for permanent residency on compassionate grounds. The Minister’s decision will take some months.

Cases such as Ms Valera’s illustrate the complex strands of family and immigration law that arise when families move abroad. These situations require a balancing of interests by international families and the multi-national corporations who deploy them to further their commercial objectives.

The overtures that are made to families considering relocation focus on the attractive elements such as business class flights home, and accommodation allowances, but these benefits are in reality strictly linked to the role and do not consider the development of children’s well-being.

And, as Ms Valera discovered, they are conditional upon staying married to the sponsored partner.

*Susannah Quinn, Principal
Quinn Legal Advisory*

*Level 3, 53 Cross Street,
Double Bay NSW 2028, Australia
sq@quinnadvisory.com.au*