G.R. No. 226013 — LUZVIMINDA DELA CRUZ MORISONO, *petitioner,* ***versus*** **RYOJI MORISONO and LOCAL CIVIL REGISTRAR OF QUEZON CITY,** *respondents.*

Promulgated:

02 JUL 2018

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SEPARATE CONCURRING OPINION

CAGUIOA, *J.*:

I concur in the result.

I submit, as I did in the case of *Republic v. Manalo*[1] (*Manalo*), that Article 26(2) of the Family Code had been crafted to serve as an exception to the nationality principle embodied in Article 15 of the Civil Code. Such exception is narrow, and intended *only* to address the unfair situation that results when a foreign national obtains a divorce decree against a Filipino citizen, leaving the latter stuck in a marriage without a spouse.

As stated in my *Dissenting Opinion* in *Manalo*:

> x x x [R]ather than serving as bases for the blanket recognition of foreign divorce decrees in the Philippines, I believe that the Court's rulings in [*Van Dorn v. Judge Romillo, Jr.*[2]], [*Republic of the Philippines v. Orbecido III*[3]] and [*Dacasin v. Dacasin*[4]] merely clarify the parameters for the application of the nationality principle found in Article 15 of the Civil Code, and the exception thereto found in Article 26(2) [of] the Family Code. These parameters may be summarized as follows:
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> 1. Owing to the nationality principle, all Filipino citizens are covered by the prohibition against absolute divorce. As a consequence of such prohibition, a divorce decree obtained abroad by a Filipino citizen cannot be enforced in the Philippines. To allow otherwise would be to permit a Filipino citizen to invoke foreign law to evade an express prohibition under Philippine law.
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> 2. Nevertheless, the effects of a divorce decree obtained by a foreign national may be extended to the Filipino spouse, provided the latter is able to prove (i) the issuance of the divorce decree, and (ii) the personal law of the foreign spouse allowing such divorce. This exception, found under Article 26(2) of the Family Code, respects the binding effect of the divorce decree on the foreign national, and

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1 G.R. No. 221029, April 24, 2018.
2 223 Phil. 357 (1985) [Per J. Melencio-Herrera, First Division].
3 509 Phil. 108 (2005) [Per J. Quisumbing, First Division].
4 625 Phil. 494 (2010) [Per J. Carpio, Second Division].

> merely recognizes the residual effect of such decree on the Filipino spouse.[5]

Petitioner herein is a Filipino citizen, seeking recognition of a divorce decree obtained in accordance with Japanese law.

Unlike the divorce decree in question in *Manalo*, the divorce decree herein had been obtained *not* by petitioner alone, but *jointly,* by petitioner *and* her then husband, who, in turn, is a Japanese national. Hence, the twin requisites for the application of the exception under Article 26(2) are present — there is a valid marriage that has been celebrated between a Filipino citizen and a foreigner; and **a valid divorce is obtained abroad by the alien spouse capacitating him or her to remarry.**[6]

Based on these premises, I vote to **GRANT** the Petition.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

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5 *J.* Caguioa, Dissenting Opinion in *Republic v. Manalo*, G.R. No. 221029, April 24, 2018, p. 6.
6 *Republic v. Orbecido III,* supra note 3.