



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

REPUBLIC
PHILIPPINES,

OF THE

G.R. No. 243646

Petitioner,

Present:

- versus -

GESMUNDO, C.J.,
Chairperson,
HERNANDO,
ZALAMEDA,
ROSARIO, and
MARQUEZ, JJ.

JOCELYN ASUSANO
KIKUCHI, as represented by her
Attorney-In-Fact, Edwin E.
Asusano,

Respondent.

Promulgated:

JUN 22 2022 *[Signature]*

X-----X

DECISION

HERNANDO, J.:

This Petition for Review on *Certiorari*¹ assails the November 15, 2018 Decision² of the Court of Appeals (CA) in CA-G.R. CV No. 110750, which affirmed the June 17, 2016 Order³ of the Regional Trial Court (RTC) of San Pedro City, Laguna, Branch 93, in Sp. Proc. Case No. SPL-0990-15 judicially recognizing the divorce between respondent Jocelyn Asusano Kikuchi (Jocelyn), Filipino, and Fumio U. Kikuchi (Fumio), Japanese.⁴

¹ *Rollo*, pp. 11-36.

² *Id.* at 38-46. Penned by Associate Justice Ma. Luisa C. Quijano-Padilla and concurred in by Associate Justices Elihu A. Ybañez and Franchito N. Diamante.

³ *CA rollo*, pp. 58-60. Penned by Judge Francisco Dizon Paño.

⁴ *Id.* at 59.

Antecedents

In 2015, Jocelyn, through her attorney-in-fact, Edwin Asusano (Edwin), filed before the trial court a Petition⁵ for judicial recognition of foreign divorce.⁶ She alleged that she was married to Fumio in 1993, and in 2007, they jointly filed for divorce before the City Hall of Sakado City, Saitama Prefecture.⁷ As the divorce was accepted, Jocelyn sought the recognition thereof here in the Philippines.⁸

Finding Jocelyn's petition to be sufficient in form and substance, the RTC set the case for hearing.⁹ The Republic, through the Office of the Solicitor General (OSG), entered its appearance and authorized the Office of the City Prosecutor (OCP) of San Pedro City, Laguna, to appear on its behalf.¹⁰ The Notice of Appearance¹¹ contained a reservation that "only notices or orders, resolutions and decisions served on it will bind the party represented."¹²

During the presentation of evidence, the following documents, among others, were presented: (1) the Acceptance Certificate¹³ issued by the Mayor of Sakado City, Saitama Prefecture, Japan; (2) an Authentication¹⁴ from the Vice Consul of Philippine Embassy in Tokyo, Japan; and (3) a photocopy¹⁵ of the Civil Code of Japan in English text.¹⁶ The Republic, through the OCP, did not object to the presentation and offer of such evidence and manifested that it will not be adducing controverting evidence.¹⁷

Thereafter, the Commissioner rendered a Report¹⁸ recommending that the petition be granted considering that Jocelyn was able to successfully establish the fact of divorce and the law of Japan.¹⁹

Ruling of the Regional Trial Court

Adopting the Commissioner's recommendation, the trial court granted the petition, viz.:

⁵ Records, pp. 1-2.

⁶ *Rollo*, p. 39.

⁷ *Id.* at 53.

⁸ *Id.*

⁹ *Id.* at 39.

¹⁰ *Id.*

¹¹ Records, p. 16.

¹² *Id.*

¹³ *Id.* at 63-64.

¹⁴ *Id.* at 65-68.

¹⁵ *Id.* at 69-76.

¹⁶ *Rollo*, p. 39.

¹⁷ *Id.* at 39-40.

¹⁸ *Id.* at 87-89. Penned by Commissioner Atty. Catherin B. Beran-Baraoidan.

¹⁹ *Id.* at 89.

Consequently, the instant petition is hereby GRANTED and the divorce between petitioner and respondent as per the Divorce Certificate is judicially recognized. Petitioner is now capacitated to remarry pursuant to Article 26 of the Family Code.

The Philippine Statistics Authority, the Local Civil Registrar of San Pedro, Laguna and the Department of Foreign Affairs are hereby directed to annotate the said Divorce Certificate in the Report of Marriage of petitioner and respondent on file in their respective offices.

SO ORDERED.²⁰

The trial court held that Jocelyn indeed was able to establish the fact of divorce and the national law of Japan.²¹

Aggrieved, the Republic, through the OSG, moved for reconsideration,²² but this was denied by the trial court.²³ Hence, its appeal before the CA.²⁴

Ruling of the Court of Appeals

The appellate court denied the appeal, *viz.* :

WHEREFORE, the appeal is **DENIED**. The Order dated June 17, 2016 of the RTC, Branch 93, San Pedro, Laguna, in Sp. Proc. Case No. SPL-0990-15, is hereby **AFFIRMED**.

SO ORDERED.²⁵

The CA held that Jocelyn was able to present documents proving the fact of divorce and the law of Japan.²⁶ It also noted that the Republic did not deny the existence of the divorce decree nor challenged the jurisdiction of the divorce court.²⁷

Undeterred, the Republic, still through the OSG, filed the instant Petition,²⁸ arguing that Jocelyn failed to comply with the requirements of authentication and proof of documents concerning the Acceptance Certificate, and the Authentication by the Philippine Embassy in Tokyo, Japan; that Edwin's

²⁰ CA *rollo*, pp. 59-60.

²¹ *Id.* at 59.

²² *Rollo*, p. 40.

²³ *Id.*

²⁴ *Id.* at 104-105.

²⁵ *Id.* at 45.

²⁶ *Id.* at 44-45.

²⁷ *Id.* at 45.

²⁸ *Id.* at 11-36.

testimony as to the fact of divorce should have been excluded for being hearsay; and that the foreign law had not been proven.²⁹

Issue

Did the appellate court err in affirming the trial court?

Our Ruling

The Petition is meritorious.

Preliminarily, the Court notes that the questions raised by the Republic are factual in nature. Under Rule 45 of the Rules of Court, such questions are generally barred as the Court is not a trier of facts.³⁰ However, the rule admits of exceptions, viz.:

(1) the conclusion is grounded on speculations, surmises or conjectures; (2) the inference is manifestly mistaken, absurd or impossible; (3) there is grave abuse of discretion; (4) the judgment is based on misapprehension of facts; (5) the findings of fact are conflicting; (6) there is no citation of specific evidence on which the factual findings are based; (7) **the findings of absence of facts are contradicted by the presence of evidence on record**; (8) the findings of the CA are contrary to those of the trial court; (9) **the CA manifestly overlooked certain relevant and undisputed facts that, if properly considered, would justify a different conclusion**; (10) the findings of the CA are beyond the issues of the case; and (11) such findings are contrary to the admissions of both parties.³¹ (Emphasis supplied)

Here, the Republic posits that the CA manifestly overlooked certain facts which, if considered, would justify a different conclusion, and that the factual findings are contradicted by the evidence on record.³² As these are both recognized exceptions to the rule, the Court will proceed to review the factual findings of the lower courts.

For a petition for judicial recognition of foreign divorce to prosper, the party pleading it must prove the fact of divorce and the national law of the foreign spouse

²⁹ Id. at 16-31.

³⁰ RULES OF COURT, Rule 45, Sec. 1.

³¹ *Sea Power Shipping Enterprises, Inc. v. Comendador*, G.R. No. 236804, February 1, 2021, citing *Carbonell v. Carbonell-Mendes*, 762 Phil. 529, 537 (2015).

³² *Rollo*, p. 13.

Under Article 26 of Executive Order No. 209, series of 1987,³³ as amended,³⁴ or The Family Code of the Philippines, a divorce between a foreigner and a Filipino may be recognized in the Philippines as long as it was validly obtained according to the foreign spouse's national law, *viz.*:

Art. 26. All marriages solemnized outside the Philippines, in accordance with the laws in force in the country where they were solemnized, and valid there as such, shall also be valid in this country, except those prohibited under Articles 35(1), (4), (5) and (6), 36, 37 and 38.

Where a marriage between a Filipino citizen and a foreigner is validly celebrated and a divorce is thereafter validly obtained abroad by the alien spouse capacitating him or her to remarry, the Filipino spouse shall likewise have capacity to remarry under Philippine law. (Emphasis supplied)

Before a foreign divorce decree can be recognized by the court, the party pleading it must first prove the **fact of divorce** and its conformity to the **foreign law** allowing it.³⁵ As both of these purport to be official acts of a sovereign authority, the required proof are their official publications or copies attested by the officers having legal custody thereof, pursuant to Section 24, Rule 132 of the Rules of Court.³⁶

Jocelyn was able to establish the fact of divorce

To prove the fact of divorce, Jocelyn submitted the Acceptance Certificate stating that her and Fumio's written notification of divorce had been accepted, as certified by Kiyoshi Ishikawa, Mayor of Sakado City, Saitama Prefecture. The Acceptance Certificate was accompanied by an Authentication from the Philippine Embassy in Tokyo, Japan.

The Republic assails the Acceptance Certificate for being insufficient to establish the fact of divorce, arguing that the foreign judgment itself should have been presented.³⁷

*Moraña v. Republic*³⁸ is instructive.

³³ Entitled "THE FAMILY CODE OF THE PHILIPPINES." Approved: July 6, 1987.

³⁴ Executive Order No. 227, entitled "AMENDING E.O. NO. 209 (FAMILY CODE) RE: SOLEMNIZATION OF MARRIAGE." Approved: July 17, 1987.

³⁵ *Republic v. Manalo*, 831 Phil. 33, 75 (2018), citing *Garcia v. Recio*, 418 Phil. 723, 731 (2001).

³⁶ *Juego-Sakai v. Republic*, 836 Phil. 810, 817-818 (2018), citing RULES OF COURT, Rule 132, Sec. 24. See also the 2019 PROPOSED AMENDMENTS TO THE REVISED RULES ON EVIDENCE, Rule 132, Sec. 24.

³⁷ *Rollo*, pp. 21-23.

³⁸ G.R. No. 227605, December 5, 2019.

In that case, the petitioner submitted a Divorce Report (not a judgment of divorce) to prove the fact of divorce. While both the trial and appellate courts rejected the document for not being a “divorce judgment,” the Court accepted it considering that the divorce was coursed not through Japanese courts, but through the Office of the Mayor of Fukuyama City which issues such document with respect to divorce filings, *viz.*:

The Court is not persuaded. Records show that the Divorce Report is what the Government of Japan issued to petitioner and her husband when they applied for divorce. There was no “divorce judgment” to speak of because the divorce proceeding was not coursed through Japanese courts but through the Office of the Mayor of Fukuyama City in Hiroshima Prefecture, Japan. In any event, since the Divorce Report was issued by the Office of the Mayor of Fukuyama City, the same is deemed an *act of an official body* in Japan. By whatever name it is called, the Divorce Report is clearly the equivalent of the “Divorce Decree” in Japan, hence, the best evidence of the fact of divorce obtained by petitioner and her former husband.³⁹
(Emphasis supplied)

Similarly here, the divorce was coursed not through Japanese courts but through the Mayor of Sakado City, Saitama Prefecture. The Acceptance Certificate was what was issued to Jocelyn and Fumio when they filed their divorce before the mayor. Hence, it already suffices as proof of the fact of divorce.

The Republic nevertheless argues that the Acceptance Certificate is insufficient because the accompanying Authentication issued by the Embassy of the Philippines in Tokyo, Japan does not comply with the rules on authentication.⁴⁰

We disagree.

In *Racho v. Seiichi Tanaka*,⁴¹ which involves a similarly-worded Authentication from the Embassy of the Philippines in Japan, the Court held that the document was sufficient, *viz.*:

The Certificate of Acceptance of the Report of Divorce was accompanied by an Authentication issued by Consul Bryan Dexter B. Lao of the Embassy of the Philippines in Tokyo, Japan, certifying that Kazutoyo Oyabe, Consular Service Division, Ministry of Foreign Affairs, Japan was an official in and for Japan. The Authentication further certified that he was authorized to sign the Certificate of Acceptance of the Report of Divorce and that his signature in it was

³⁹ Id.

⁴⁰ *Rollo*, pp. 23-27.

⁴¹ 834 Phil. 21 (2018).

genuine. Applying Rule 132, Section 24, the Certificate of Acceptance of the Report of Divorce is admissible as evidence of the *fact* of divorce between petitioner and respondent.⁴² (Citation omitted, emphasis supplied)

As in *Racho*, We rule that the Authentication submitted by Jocelyn is also sufficient.

As to the issue on the admission of Edwin's testimony (which the Republic assails for being hearsay),⁴³ jurisprudence teaches that evidence not objected to is deemed admitted.⁴⁴ Since the Republic failed to object to the offer of evidence and even manifested that the State will not submit controverting evidence, Edwin's testimony was properly admitted.

Further, while the Republic insists that it could not have objected to the offer because it was not served a copy of Jocelyn's formal offer of evidence—implying that the OCP's failure to object did not bind the Republic because the authority conferred to it by the OSG is subject to the reservation that the latter be furnished with notices of "hearings, orders and other court processes"⁴⁵—We still uphold the admission of evidence because the reservation does not cover pleadings of the parties. It is limited only to issuances of the trial court.

Besides, the records show that the offer was done orally.⁴⁶ Since objection to evidence offered orally must be made immediately after the offer,⁴⁷ the OSG, even if served a copy of all court processes and pleadings of the parties, still could not have personally made the objection because it was not present during the hearing and was instead duly represented by the OCP.

Nevertheless, Jocelyn was unable to establish the law of Japan on divorce

To prove that the divorce was valid under Japanese laws, Jocelyn submitted a photocopy of the English translation of the Civil Code of Japan, published by Eibun-Horei-Sha, Inc. and stamped with "LIBRARY, Japan Information and Culture Center, Embassy of Japan, 2627 Roxas Boulevard,

⁴² Id. at 34-35.

⁴³ *Rollo*, pp. 28-29.

⁴⁴ *Spouses Enriquez v. Isarog Line Transport, Inc.*, 800 Phil. 145, 149 (2016), citing *People v. Lopez*, 658 Phil. 647, 651 (2011).

⁴⁵ *Rollo*, pp. 20-21.

⁴⁶ TSN, December 15, 2015, pp. 5-6.

⁴⁷ RULES OF COURT, Rule 132, Sec. 36. See also the 2019 PROPOSED AMENDMENTS TO THE REVISED RULES ON EVIDENCE, Rule 132, Sec. 36.

Pasay City.”⁴⁸ The Republic assails the document for being insufficient to prove the law of Japan on divorce.⁴⁹

We agree with the Republic. Following jurisprudence, the document is devoid of any probative value.⁵⁰

In *Nullada v. Civil Registrar of Manila*,⁵¹ the Court held that the submission of the same document does not constitute sufficient compliance with the rules on proof of Japan’s law on divorce, viz.:

Marlyn failed to satisfy the foregoing requirements. **The records only include a photocopy of excerpts of The Civil Code of Japan, merely stamped LIBRARY, Japan Information and Culture Center, Embassy of Japan, 2627 Roxas Boulevard, Pasay City 1300. This clearly does not constitute sufficient compliance with the rules on proof of Japan’s law on divorce.** In any case, similar to the remedy that was allowed by the Court in *Manalo* to resolve such failure, a remand of the case to the RTC for further proceedings and reception of evidence on the laws of Japan on divorce is allowed, as it is hereby ordered by the Court. (Citation omitted, emphasis supplied)

Further, in *Arreza v. Toyo*,⁵² the Court noted that the translations by Eibun-Horei-Sha, Inc. (the publisher of the document submitted by Jocelyn) are not advertised as a source of official translations of Japanese laws.⁵³

Not being an official translation, the document submitted by Jocelyn does not prove the existing law on divorce in Japan. Unfortunately, without such evidence, there is nothing on record to establish that the divorce between Jocelyn and Fumio was validly obtained and is consistent with the Japanese law on divorce.

Given that Jocelyn was able to prove the fact of divorce but not the Japanese law on divorce, a remand of the case rather than its outright dismissal is proper. This is consistent with the policy of liberality that the Court has adopted in cases involving the recognition of foreign decrees to Filipinos in mixed marriages.⁵⁴

WHEREFORE, the Petition is **GRANTED**. The November 15, 2018 Decision of the Court of Appeals in CA-G.R. CV No. 110750 is **REVERSED** and **SET ASIDE**. The case is **REMANDED** to the court of origin for further proceedings and reception of evidence on the Japanese law on divorce.

⁴⁸ Records, pp. 69-76.

⁴⁹ Id. at 30-31.

⁵⁰ *Rivera v. Republic*, G.R. No. 238259, February 17, 2021; *Arreza v. Toyo*, G.R. No. 213198, July 1, 2019; and *Nullada v. Civil Registrar of Manila*, G.R. No. 224548, January 23, 2019.


⁵¹ *Supra*.

⁵² *Supra*.

⁵³ Id.


⁵⁴ *Kondo v. Civil Registrar General*, G.R. No. 223628, March 4, 2020.

SO ORDERED.

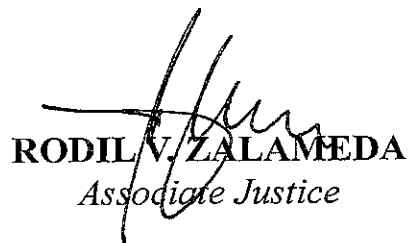


RAMON PAUL L. HERNANDO
Associate Justice

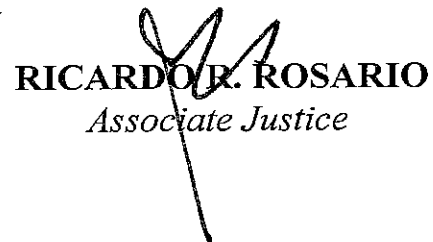
WE CONCUR:



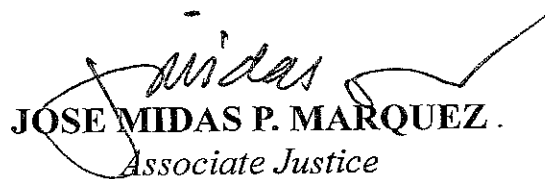
ALEXANDER G. GESMUNDO
Chief Justice
Chairperson



RODIL V. ZALAMEDA
Associate Justice



RICARDO R. ROSARIO
Associate Justice



JOSE MIDAS P. MARQUEZ.
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice