



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

In the Matter of Petition for the
Judicial Recognition of a
Divorce Decree obtained in the
State of Nevada, U.S.A.,

G.R. No. 218008

MARIA JOSEPHINE
PRAXEDES OCTAVIANO,
Petitioner,

Present:

LEONEN, *Acting Chief Justice*,*
LAZARO-JAVIER, *Working Chairperson*,**
LOPEZ, M.
LOPEZ, J., and
KHO, JR., *JJ*.

- versus -

KARL HEINZ RUTHE and
LISA GRACE S. BERNALES,
Civil Registrar General,
Respondents,

Promulgated:

JUN 26 2023

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DECISION

KHO, JR., J.:

Before the Court is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assailing the Orders dated March 23, 2015² and April 14, 2015³ of Branch 28, Regional Trial Court of Mambajao, Camiguin (RTC) in Special Proceeding No. 489, which dismissed the petition for the judicial recognition of a foreign divorce decree for lack of jurisdiction.

* Per Special Order No. 2989 dated June 24, 2023.

** Per Special Order No. 2993 dated June 26, 2023.

¹ *Rollo*, pp. 9-16.

² *Id.* at 18-21. Penned by Acting Presiding Judge Giovanni Alfred H. Navarro.

³ *Id.* at 17.

The Facts

As culled from the records, petitioner Maria Josephine Praxedes Octaviano (petitioner), a Filipino citizen, and respondent Karl Heinz Ruthe (respondent), a German national, were married in Burg, Germany on August 13, 1990.⁴ They bore two children, Emmanuel Ruthe and Miguel Ruthe, born on November 4, 1989 and August 20, 1991 respectively, in Burg, Germany.⁵

On June 9, 2006, petitioner sought the dissolution of her marriage with respondent before the District Court of Clark County, Nevada, United States of America (U.S.A.), which in turn, granted the same and the parties are restored to the status of a single and unmarried person.⁶

Petitioner then filed a petition for the judicial recognition of a foreign divorce decree before the RTC.⁷

The RTC Ruling

In an Order⁸ dated March 23, 2015, the RTC dismissed the petition for lack of jurisdiction over the subject matter. The RTC ratiocinated that the divorce decree was obtained abroad not by the alien spouse but by petitioner herself, who is a Filipino citizen. Petitioner admitted this fact in her petition, and it can be gleaned from the divorce decree that she was the plaintiff in the case, which was docketed as D-353584, and it was respondent, the alien spouse, who is the defendant.⁹

The RTC further ruled that Article 26(2) of the Family Code confers jurisdiction on Philippine courts to extend the effect of a foreign divorce decree to a Filipino spouse only if the divorce decree is obtained abroad by the alien spouse.¹⁰

Petitioner moved for reconsideration but the same was denied in an Order¹¹ dated April 14, 2015. Aggrieved, petitioner sought a direct recourse before the Court through the instant petition.

⁴ *Id.* at 18.

⁵ *Id.* at 22–34.

⁶ *Id.*

⁷ *Id.* at 18.

⁸ *Id.* at 18–21.

⁹ *Id.* at 20.

¹⁰ *Id.*

¹¹ *Id.* at 17.

The Issue Before the Court

The issue for the Court's resolution is whether a divorce decree dissolving a marriage between a Filipino spouse and a foreign national, which was obtained by the former, can be judicially recognized in the Philippines.

In the instant petition, petitioner claims that Article 26 of the Family Code did not specify nor require who must initiate the divorce proceedings. Petitioner further contends that the twin requirements under Article 26 are present in the instant case: *first*, there is a valid mixed marriage between a Filipina and a German national; and *second*, a valid divorce decree was obtained before the District Court of Clark County, Nevada, U.S.A. Finally, petitioner avers that if the order of the RTC is not reversed, every Filipino citizen in an unhappy marriage to a foreigner has no way out but to remain married to his or her alien spouse.¹²

In its Comment,¹³ public respondent Lisa Grace Bernales, Civil Registrar General, through the Office of the Solicitor General (OSG), stresses that the RTC did not err in dismissing the petition considering that the second element under Article 26 of the Family Code is wanting because the divorce decree was obtained not by the alien spouse but rather by the petitioner. Further, the OSG argues that petitioner is bound by the nationality principle under Article 15 of the Civil Code of the Philippines. Hence, petitioner, at her own instance, cannot obtain a valid divorce from her alien spouse without violating the nationality principle. The OSG finally argues that what Article 26(2) of the Family Code provides to the Filipino spouse is the substantive right to have his or her marriage to the alien spouse considered as dissolved, capacitating him or her to remarry. It does not, however, grant the Filipino spouse, the right to file divorce proceedings against his or her alien spouse, otherwise, it would result in the circumvention of the provisions of Articles 15 and 17 of the Civil Code of the Philippines.¹⁴

In her Reply,¹⁵ petitioner reiterates her contention that the law did not specify who must institute the divorce proceeding. What the law mentioned is the fact that when a valid divorce is obtained abroad capacitating the alien spouse to remarry, it makes the Filipino spouse capacitated as well to remarry. Petitioner further stresses that she will be in an absurd situation of remaining in a marital bond that is already severed by the divorce decree. It provides not only disparity but injustice. Therefore, the divorce decree obtained in the State of Nevada is valid for purposes of the application of Article 26 of the Family Code.¹⁶

¹² *Id.* at 13.

¹³ *Id.* at 77-84.

¹⁴ *Id.* at 82-83.

¹⁵ *Id.* at 89-92.

¹⁶ *Id.* at 90-91.

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The Court's Ruling

The petition is granted.

Article 26 of the Family Code states:

Article 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)

Here, the RTC anchored its assailed order on the absence of the second element set forth in the case of *Republic v. Orbecido III*,¹⁷ which states that:

The twin elements for the application of Paragraph 2 of Article 26 as follows:

- 1.) There is a valid marriage that has been celebrated between a Filipino citizen and a foreigner; and
- 2.) **A valid divorce is obtained abroad by the alien spouse capacitating him or her to remarry.**

The reckoning point is not the citizenship of the parties at the time of the celebration of the marriage, but their citizenship *at the time a valid divorce is obtained abroad* by the alien spouse capacitating the latter to remarry.¹⁸ (Emphasis supplied)

According to the RTC, the fact that the divorce decree had been obtained abroad by petitioner, who is a Filipino citizen, precludes the application of Article 26(2) of the Family Code, since the language of the law requires that the divorce decree be obtained solely by the foreign spouse. Echoing the RTC's view, the OSG argues that this provision cannot be applied to petitioner because it does not grant the Filipino spouse the right to file divorce proceedings against his or her alien spouse as it is in violation of Article 15 and Article 17 of the Civil Code.

The Court cannot sustain such contention.

¹⁷ 509 Phil. 108 (2005) [Per J. Quisumbing, First Division].

¹⁸ *Id.* at 115.

In *Republic v. Manalo*,¹⁹ the Court *En Banc*, through retired Chief Justice Diosdado M. Peralta, emphasized that a Filipino spouse could initiate a foreign divorce proceeding that will capacitate him or her to remarry:

Paragraph 2 of Article 26 speaks of “*a divorce . . . validly obtained abroad by the alien spouse capacitating him or her to remarry.*” Based on a clear and plain reading of the provision, it only requires that there be a divorce validly obtained abroad. **The letter of the law does not demand that the alien spouse should be the one who initiated the proceeding wherein the divorce decree was granted. It does not distinguish whether the Filipino spouse is the petitioner or the respondent in the foreign divorce proceeding.** The Court is bound by the words of the statute; neither can We put words in the mouths of the lawmakers. “The legislature is presumed to know the meaning of the words, to have used words advisedly, and to have expressed its intent by the use of such words as are found in the statute. *Verba legis non est recedendum*, or from the words of a statute there should be no departure.”

Assuming, for the sake of argument, that the word “*obtained*” should be interpreted to mean that the divorce proceeding must be actually initiated by the alien spouse, still, the Court will not follow the letter of the statute when to do so would depart from the true intent of the legislature or would otherwise yield conclusions inconsistent with the general purpose of the act. Laws have ends to achieve, and statutes should be so construed as not to defeat but to carry out such ends and purposes. As held in *League of Cities of the Phils., et al. v. COMELEC, et al.*:

The legislative intent is not at all times accurately reflected in the manner in which the resulting law is couched. Thus, applying a *verba legis* or strictly literal interpretation of a statute may render it meaningless and lead to inconvenience, an absurd situation or injustice. To obviate this aberration, and bearing in mind the principle that the intent or the spirit of the law is the law itself, resort should be to the rule that the spirit of the law controls its letter.

To reiterate, the purpose of Paragraph 2 of Article 26 is to avoid the absurd situation where the Filipino spouse remains married to the alien spouse who, after a foreign divorce decree that is effective in the country where it was rendered, is no longer married to the Filipino spouse. The provision is a corrective measure to address an anomaly where the Filipino spouse is tied to the marriage while the foreign spouse is free to marry under the laws of his or her country. **Whether the Filipino spouse initiated the foreign divorce proceeding or not, a favorable decree dissolving the marriage bond and capacitating his or her alien spouse to remarry will have the same result: the Filipino spouse will effectively be without a husband or wife. A Filipino who initiated a foreign divorce proceeding is in the same place and in like circumstance as a Filipino who is at the receiving end of an alien initiated proceeding. Therefore, the subject provision should not make a distinction. In both instance, it is extended as a means to recognize the residual effect of the foreign divorce decree**

¹⁹ 831 Phil. 33 (2018) [Per J. Peralta, *En Banc*].

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on Filipinos whose marital ties to their alien spouses are severed by operation of the latter's national law.²⁰ (Emphasis supplied)

As further reiterated in the case of *Galapon v. Republic*,²¹ the Court, through Associate Justice Alfredo Benjamin S. Caguioa, ruled that “pursuant to the majority ruling in *Manalo*, Article 26(2) applies to mixed marriages where the divorce decree is: (i) obtained by the foreign spouse; (ii) obtained jointly by the Filipino and foreign spouse; and **(iii) obtained solely by the Filipino spouse.**”

As to the contention of the OSG that the same is in violation of the nationality principle, the Court in *Manalo*, stresses that:

Conveniently invoking the nationality principle is erroneous. Such principle, found under Article 15 of the Civil Code, is not an absolute and unbending rule. In fact, the mere existence of Paragraph 2 of Article 26 is a testament that the State may provide for an exception thereto. Moreover, blind adherence to the nationality principle must be disallowed if it would cause unjust discrimination and oppression to certain classes of individuals whose rights are equally protected by law. The courts have the duty to enforce the laws of divorce as written by the Legislature only if they are constitutional.²²

Applying the foregoing in this case, the Court rules that the RTC erred in dismissing the petition for recognition of divorce decree filed before it by petitioner. Notably, since no ruling was made as to the merits of the said petition, it is only appropriate that the Court remand the same to the court of origin for further proceedings and reception of evidence.

ACCORDINGLY, the Petition for Review on *Certiorari* is **GRANTED**. The Orders dated March 23, 2015 and April 14, 2015 of Branch 28, Regional Trial Court of Mambajao, Camiguin in Special Proceeding No. 489 are hereby **REVERSED** and **SET ASIDE**. The case is **REMANDED** to the court of origin for further proceedings and reception of evidence **WITH DISPATCH**.

SO ORDERED.



ANTONIO T. KHO, JR.
Associate Justice


²⁰ *Id.* at 57–59.

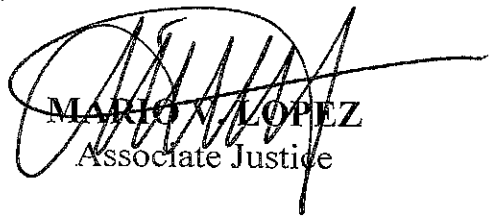
²¹ 869 Phil. 351, 364 (2020) [Per J. Caguioa, First Division].

²² 831 Phil. 33, 59 (2018) [Per J. Peralta, *En Banc*].

WE CONCUR:


MARVIC M.V.F. LEONEN
Acting Chief Justice
Chairperson


AMY C. LAZARO-JAVIER
Associate Justice
Working Chairperson


MARIO V. LOPEZ
Associate Justice


JHOSEP V. LOPEZ
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 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.


MARVIC M.V.F. LEONEN
Acting Chief Justice

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