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THIRD DIVISION

[G.R. NO. 133743, February 06, 2007]

EDGAR SAN LUIS, PETITIONER, VS. FELICIDAD SAN LUIS, RESPONDENT.

[G.R. NO. 134029]

RODOLFO SAN LUIS, PETITIONER, VS. FELICIDAD SAGALONGOS ALIAS FELICIDAD SAN LUIS, RESPONDENT.

DECISION

YNARES-SANTIAGO, J.:

Before us are consolidated petitions for review assailing the February 4, 1998 Decision[1] of the Court of Appeals in CA-G.R. CV No. 52647, which reversed and set aside the September 12, 1995[2] and January 31, 1996[3] Resolutions of the Regional Trial Court of Makati City, Branch 134 in SP. Proc. No. M-3708; and its May 15, 1998 Resolution[4] denying petitioners' motion for reconsideration.

The instant case involves the settlement of the estate of Felicisimo T. San Luis (Felicisimo), who was the former governor of the Province of Laguna. During his lifetime, Felicisimo contracted three marriages. His first marriage was with Virginia Sulit on March 17, 1942 out of which were born six children, namely: Rodolfo, Mila, Edgar, Linda, Emilita and Manuel. On August 11, 1963, Virginia predeceased Felicisimo.

Five years later, on May 1, 1968, Felicisimo married Merry Lee Corwin, with whom he had a son, Tobias. However, on October 15, 1971, Merry Lee, an American citizen, filed a Complaint for Divorce[5] before the Family Court of the First Circuit, State of Hawaii, United States of America (U.S.A.), which issued a Decree Granting Absolute Divorce and Awarding Child Custody on December 14, 1973.[6]

On June 20, 1974, Felicisimo married respondent Felicidad San Luis, then surnamed Sagalongos, before Rev. Fr. William Meyer, Minister of the United Presbyterian at Wilshire Boulevard, Los Angeles, California, U.S.A.[7] He had no children with respondent but lived with her for 18 years from the time of their marriage up to his death on December 18, 1992.

Thereafter, respondent sought the dissolution of their conjugal partnership assets and the settlement of Felicisimo's estate. On December 17, 1993, she filed a petition for letters of administration[8] before the Regional Trial Court of Makati City, docketed as SP. Proc. No. M-3708 which was raffled to Branch 146 thereof.

Respondent alleged that she is the widow of Felicisimo; that, at the time of his death, the decedent was residing at 100 San Juanico Street, New Alabang Village, Alabang, Metro Manila; that the decedent's surviving heirs are respondent as legal spouse, his six children by his first marriage, and son by his second marriage; that the decedent left real properties, both conjugal and exclusive, valued at P30,304,178.00 more or less; that the decedent does not have any unpaid debts. Respondent prayed that the conjugal partnership assets be liquidated and that letters of administration be issued to her.

On February 4, 1994, petitioner Rodolfo San Luis, one of the children of Felicisimo by his first marriage, filed a motion to dismiss[9] on the grounds of improper venue and failure to state a cause of action. Rodolfo claimed that the petition for letters of administration should have been filed in the Province of Laguna because this was Felicisimo's place of residence prior to his death. He further claimed that respondent has no legal personality to file the petition because she was only a mistress of Felicisimo since the latter, at the time of his death, was still legally married to Merry Lee.

On February 15, 1994, Linda invoked the same grounds and joined her brother Rodolfo in seeking the dismissal[10] of the petition. On February 28, 1994, the trial court issued an Order[11] denying the two motions to dismiss.

Unaware of the denial of the motions to dismiss, respondent filed on March 5, 1994 her opposition[12] thereto. She submitted documentary evidence showing that while Felicisimo exercised the powers of his public office in Laguna, he regularly went home to their house in New Alabang Village, Alabang, Metro Manila which they bought sometime in 1982. Further, she presented the decree of absolute divorce issued by the Family Court of the First Circuit, State of Hawaii to prove that the marriage of Felicisimo to Merry Lee had already been dissolved. Thus, she claimed that Felicisimo had the legal capacity to marry her by virtue of paragraph 2,[13] Article 26 of the Family Code and the doctrine laid down in *Van Dorn v. Romillo, Jr.*[14]

Thereafter, Linda, Rodolfo and herein petitioner Edgar San Luis, separately filed motions for reconsideration from the Order denying their motions to dismiss.[15] They asserted that paragraph 2, Article 26 of the Family Code cannot be given retroactive effect to validate respondent's bigamous marriage with Felicisimo because this would impair vested rights in derogation of Article 256[16] of the Family Code.

On April 21, 1994, Mila, another daughter of Felicisimo from his first marriage, filed a motion to disqualify Acting Presiding Judge Anthony E. Santos from hearing the case.

On October 24, 1994, the trial court issued an Order[17] denying the motions for reconsideration. It ruled that respondent, as widow of the decedent, possessed the legal standing to file the petition and that venue was properly laid. Meanwhile, the motion for disqualification was deemed moot and academic[18] because then Acting Presiding Judge Santos was substituted by Judge Salvador S. Tensuan pending the

resolution of said motion.

Mila filed a motion for inhibition[19] against Judge Tensuan on November 16, 1994. On even date, Edgar also filed a motion for reconsideration[20] from the Order denying their motion for reconsideration arguing that it does not state the facts and law on which it was based.

On November 25, 1994, Judge Tensuan issued an Order[21] granting the motion for inhibition. The case was re-raffled to Branch 134 presided by Judge Paul T. Arcangel.

On April 24, 1995,[22] the trial court required the parties to submit their respective position papers on the twin issues of venue and legal capacity of respondent to file the petition. On May 5, 1995, Edgar manifested[23] that he is adopting the arguments and evidence set forth in his previous motion for reconsideration as his position paper. Respondent and Rodolfo filed their position papers on June 14,[24] and June 20,[25] 1995, respectively.

On September 12, 1995, the trial court dismissed the petition for letters of administration. It held that, at the time of his death, Felicisimo was the duly elected governor and a resident of the Province of Laguna. Hence, the petition should have been filed in Sta. Cruz, Laguna and not in Makati City. It also ruled that respondent was without legal capacity to file the petition for letters of administration because her marriage with Felicisimo was bigamous, thus, void ab initio. It found that the decree of absolute divorce dissolving Felicisimo's marriage to Merry Lee was not valid in the Philippines and did not bind Felicisimo who was a Filipino citizen. It also ruled that paragraph 2, Article 26 of the Family Code cannot be retroactively applied because it would impair the vested rights of Felicisimo's legitimate children.

Respondent moved for reconsideration[26] and for the disqualification[27] of Judge Arcangel but said motions were denied.[28]

Respondent appealed to the Court of Appeals which reversed and set aside the orders of the trial court in its assailed Decision dated February 4, 1998, the dispositive portion of which states:

> WHEREFORE, the Orders dated September 12, 1995 and January 31, 1996 are hereby REVERSED and SET ASIDE; the Orders dated February 28 and October 24, 1994 are REINSTATED; and the records of the case is REMANDED to the trial court for further proceedings.[29]

The appellante court ruled that under Section 1, Rule 73 of the Rules of Court, the term "place of residence" of the decedent, for purposes of fixing the venue of the settlement of his estate, refers to the personal, actual or physical habitation, or actual residence or place of abode of a person as distinguished from legal residence or domicile. It noted that although Felicisimo discharged his functions as governor in Laguna, he actually resided in Alabang, Muntinlupa. Thus, the petition for letters of administration was properly filed in Makati City.

The Court of Appeals also held that Felicisimo had legal capacity to marry respondent by virtue of paragraph 2, Article 26 of the Family Code and the rulings in *Van Dorn v. Romillo, Jr.*[30] and *Pilapil v. Ibay-Somera*.[31] It found that the marriage between Felicisimo and Merry Lee was validly dissolved by virtue of the decree of absolute divorce issued by the Family Court of the First Circuit, State of Hawaii. As a result, under paragraph 2, Article 26, Felicisimo was capacitated to contract a subsequent marriage with respondent. Thus -

> With the well-known rule - express mandate of paragraph 2, Article 26, of the Family Code of the Philippines, the doctrines in Van Dorn, Pilapil, and the reason and philosophy behind the enactment of E.O. No. 227, - there is no justiciable reason to sustain the individual view - sweeping statement - of Judge Arc[h]angel, that "Article 26, par. 2 of the Family Code, contravenes the basic policy of our state against divorce in any form whatsoever." Indeed, courts cannot deny what the law grants. All that the courts should do is to give force and effect to the express mandate of the law. The foreign divorce having been obtained by the Foreigner on December 14, 1992,[32] the Filipino divorcee, "shall x x x have capacity to remarry under Philippine laws". For this reason, the marriage between the deceased and petitioner should not be denominated as "a bigamous marriage.
>
> Therefore, under Article 130 of the Family Code, the petitioner as the surviving spouse can institute the judicial proceeding for the settlement of the estate of the deceased. x x x[33]

Edgar, Linda, and Rodolfo filed separate motions for reconsideration[34] which were denied by the Court of Appeals.

On July 2, 1998, Edgar appealed to this Court *via* the instant petition for review on *certiorari*.[35] Rodolfo later filed a manifestation and motion to adopt the said petition which was granted.[36]

In the instant consolidated petitions, Edgar and Rodolfo insist that the venue of the subject petition for letters of administration was improperly laid because at the time of his death, Felicisimo was a resident of Sta. Cruz, Laguna. They contend that pursuant to our rulings in *Nuval v. Guray*[37] and *Romualdez v. RTC, Br. 7, Tacloban City*,[38] "residence" is synonymous with "domicile" which denotes a fixed permanent residence to which when absent, one intends to return. They claim that a person can only have one domicile at any given time. Since Felicisimo never changed his domicile, the petition for letters of administration should have been filed in Sta. Cruz, Laguna.

Petitioners also contend that respondent's marriage to Felicisimo was void and bigamous because it was performed during the subsistence of the latter's marriage to Merry Lee. They argue that paragraph 2, Article 26 cannot be retroactively applied because it would impair vested rights and ratify the void bigamous marriage. As such, respondent cannot be considered the surviving wife of Felicisimo; hence, she has no legal capacity to file the petition for letters of administration.

The issues for resolution: (1) whether venue was properly laid, and (2) whether respondent has legal capacity to file the subject petition for letters of administration.

The petition lacks merit.

Under Section 1,[39] Rule 73 of the Rules of Court, the petition for letters of administration of the estate of Felicisimo should be filed in the Regional Trial Court of the province "in which he *resides* at the time of his death." In the case of *Garcia Fule v. Court of Appeals*,[40] we laid down the doctrinal rule for determining the residence - as contradistinguished from domicile - of the decedent for purposes of fixing the venue of the settlement of his estate:

> [T]he term "resides" connotes *ex vi termini* "actual residence" as distinguished from "legal residence or domicile." This term "resides," like the terms "residing" and "residence," is elastic and should be interpreted in the light of the object or purpose of the statute *or rule* in which it is employed. In the application of venue statutes and rules - Section 1, Rule 73 of the Revised Rules of Court is of such nature - residence *rather than* domicile is the significant factor. Even where the statute uses the word "domicile" still it is construed as meaning residence and not domicile in the technical sense. Some cases make a distinction between the terms "residence" and "domicile" but as generally used in statutes fixing venue, the terms are synonymous, and convey the same meaning as the term "inhabitant." In other words, "resides" should be viewed or understood in its popular sense, meaning, **the personal, actual or physical habitation of a person, actual residence or place of abode**. It signifies physical presence in a place and actual stay thereat. In this popular sense, the term means merely residence, that is, personal residence, **not legal residence or domicile**. Residence simply requires bodily presence as an *inhabitant* in a given place, while domicile requires bodily presence in that place and also an intention to make it one's domicile. No particular length of time of residence is required though; however, the residence must be more than temporary.[41](Emphasis supplied)

It is incorrect for petitioners to argue that "residence," for purposes of fixing the venue of the settlement of the estate of Felicisimo, is synonymous with "domicile." The rulings in *Nuval* and *Romualdez* are inapplicable to the instant case because they involve election cases. Needless to say, there is a distinction between "residence" for purposes of election laws and "residence" for purposes of fixing the venue of actions. In election cases, "residence" and "domicile" are treated as synonymous terms, that is, the fixed permanent residence to which when absent, one has the intention of returning.[42] However, for purposes of fixing venue under the Rules of Court, the "residence" of a person is his personal, actual or physical habitation, or actual residence or place of abode, which may not necessarily be his legal residence or domicile provided he resides therein with continuity and consistency.[43] Hence, it is possible that a person may have his residence in one place and domicile in another.

In the instant case, while petitioners established that Felicisimo was domiciled in Sta. Cruz, Laguna, respondent proved that he also maintained a residence in Alabang, Muntinlupa from 1982 up to the time of his death. Respondent submitted in evidence the Deed of Absolute Sale[44] dated January 5, 1983 showing that the deceased purchased the aforesaid property. She also presented billing statements[45] from the Philippine Heart Center and Chinese General Hospital for the period August to December 1992 indicating the address of Felicisimo at "100 San Juanico, Ayala Alabang, Muntinlupa." Respondent also presented proof of membership of the deceased in the Ayala Alabang Village Association[46] and Ayala Country Club, Inc.,[47] letter-envelopes[48] from 1988 to 1990 sent by the deceased's children to him at his Alabang address, and the deceased's calling cards[49] stating that his home/city address is at "100 San Juanico, Ayala Alabang Village, Muntinlupa" while his office/provincial address is in "Provincial Capitol, Sta. Cruz, Laguna."

From the foregoing, we find that Felicisimo was a resident of Alabang, Muntinlupa for purposes of fixing the venue of the settlement of his estate. Consequently, the subject petition for letters of administration was validly filed in the Regional Trial Court[50] which has territorial jurisdiction over Alabang, Muntinlupa. The subject petition was filed on December 17, 1993. At that time, Muntinlupa was still a municipality and the branches of the Regional Trial Court of the National Capital Judicial Region which had territorial jurisdiction over Muntinlupa were then seated in Makati City as per Supreme Court Administrative Order No. 3.[51] Thus, the subject petition was validly filed before the Regional Trial Court of Makati City.

Anent the issue of respondent Felicidad's legal personality to file the petition for letters of administration, we must first resolve the issue of whether a Filipino who is divorced by his alien spouse abroad may validly remarry under the Civil Code, considering that Felicidad's marriage to Felicisimo was solemnized on June 20, 1974, or before the Family Code took effect on August 3, 1988. In resolving this issue, we need not retroactively apply the provisions of the Family Code, particularly Art. 26, par. (2) considering that there is sufficient jurisprudential basis allowing us to rule in the affirmative.

The case of *Van Dorn v. Romillo, Jr.*[52] involved a marriage between a foreigner and his Filipino wife, which marriage was subsequently dissolved through a divorce obtained abroad by the latter. Claiming that the divorce was not valid under Philippine law, the alien spouse alleged that his interest in the properties from their conjugal partnership should be protected. The Court, however, recognized the validity of the divorce and held that the alien spouse had no interest in the properties acquired by the Filipino wife after the divorce. Thus:

> In this case, the divorce in Nevada released private respondent from the marriage from the standards of American law, under which *divorce dissolves the marriage*. As stated by the Federal Supreme Court of the United States in Atherton vs. Atherton, 45 L. Ed. 794, 799:

> "The purpose and effect of a decree of divorce from the bond of matrimony by a competent jurisdiction are to change the existing status or domestic relation of husband and wife, and to free them both from the bond. The marriage tie, when thus severed as to one party, ceases to bind either. A husband without a wife, or a wife without a husband, is unknown to the law. When the law provides, in the nature of a penalty, that the guilty party shall not marry again, that party, as well as the other, is still absolutely freed from the bond of the former marriage."

Thus, pursuant to his national law, private respondent is no longer the husband of petitioner. He would have no standing to sue in the case below as petitioner's husband entitled to exercise control over conjugal assets. As he is bound by the Decision of his own country's Court, which validly exercised jurisdiction over him, and whose decision he does not repudiate, he is estopped by his own representation before said Court from asserting his right over the alleged conjugal property.[53]

As to the effect of the divorce on the Filipino wife, the Court ruled that she should no longer be considered married to the alien spouse. Further, she should not be required to perform her marital duties and obligations. It held:

> **To maintain, as private respondent does, that, under our laws, petitioner has to be considered still married to private respondent and still subject to a wife's obligations under Article 109, *et. seq.* of the Civil Code cannot be just.** Petitioner should not be obliged to live together with, observe respect and fidelity, and render support to private respondent. The latter should not continue to be one of her heirs with possible rights to conjugal property. **She should not be discriminated against in her own country if the ends of justice are to be served.**[54] (Emphasis added)

This principle was thereafter applied in *Pilapil v. Ibay-Somera*[55] where the Court recognized the validity of a divorce obtained abroad. In the said case, it was held that the alien spouse is not a proper party in filing the adultery suit against his Filipino wife. The Court stated that "*the severance of the marital bond had the effect of dissociating the former spouses from each other*, hence the actuations of one would not affect or cast obloquy on the other."[56]

Likewise, in *Quita v. Court of Appeals*,[57] the Court stated that where a Filipino is divorced by his naturalized foreign spouse, the ruling in *Van Dorn* applies.[58] Although decided on December 22, 1998, the divorce in the said case was obtained in 1954 when the Civil Code provisions were still in effect.

The significance of the *Van Dorn* case to the development of limited recognition of divorce in the Philippines cannot be denied. The ruling has long been interpreted as severing marital ties between parties in a mixed marriage and capacitating the Filipino spouse to remarry as a necessary consequence of upholding the validity of a divorce

obtained abroad by the alien spouse. In his treatise, Dr. Arturo M. Tolentino cited *Van Dorn* stating that "if the foreigner obtains a valid foreign divorce, the Filipino spouse shall have capacity to remarry under Philippine law."[59] In *Garcia v. Recio*,[60] the Court likewise cited the aforementioned case in relation to Article 26.[61]

In the recent case of *Republic v. Orbecido III*,[62] the historical background and legislative intent behind paragraph 2, Article 26 of the Family Code were discussed, to wit:

Brief Historical Background

> On July 6, 1987, then President Corazon Aquino signed into law Executive Order No. 209, otherwise known as the "Family Code," which took effect on August 3, 1988. Article 26 thereof states:
>
> 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, 37, and 38.
>
> On July 17, 1987, shortly after the signing of the original Family Code, Executive Order No. 227 was likewise signed into law, amending Articles 26, 36, and 39 of the Family Code. A second paragraph was added to Article 26. As so amended, it now provides:
>
> 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 have capacity to remarry under Philippine law.* (Emphasis supplied)
>
> x x x x
>
> *Legislative Intent*
>
> Records of the proceedings of the Family Code deliberations showed that the intent of Paragraph 2 of Article 26, according to Judge Alicia Sempio-Diy, a member of the *Civil Code Revision Committee*, is to avoid the absurd situation where the Filipino spouse remains married to the alien spouse who, after obtaining a divorce, is no longer married to the Filipino spouse.
>
> **Interestingly, Paragraph 2 of Article 26 traces its origin to the 1985 case of *Van Dorn v. Romillo, Jr.* The *Van Dorn* case involved a marriage between a Filipino citizen and a foreigner. The Court held**

> **therein that a divorce decree validly obtained by the alien spouse is valid in the Philippines, and consequently, the Filipino spouse is capacitated to remarry under Philippine law.**[63] (Emphasis added)

As such, the *Van Dorn* case is sufficient basis in resolving a situation where a divorce is validly obtained abroad by the alien spouse. With the enactment of the Family Code and paragraph 2, Article 26 thereof, our lawmakers codified the law already established through judicial precedent.

Indeed, when the object of a marriage is defeated by rendering its continuance intolerable to one of the parties and productive of no possible good to the community, relief in some way should be obtainable.[64] Marriage, being a mutual and shared commitment between two parties, cannot possibly be productive of any good to the society where one is considered released from the marital bond while the other remains bound to it. Such is the state of affairs where the alien spouse obtains a valid divorce abroad against the Filipino spouse, as in this case.

Petitioners cite Articles 15[65] and 17[66] of the Civil Code in stating that the divorce is void under Philippine law insofar as Filipinos are concerned. However, in light of this Court's rulings in the cases discussed above, the Filipino spouse should not be discriminated against in his own country if the ends of justice are to be served.[67] In *Alonzo v. Intermediate Appellate Court*,[68] the Court stated:

> But as has also been aptly observed, we test a law by its results; and likewise, we may add, by its purposes. It is a cardinal rule that, in seeking the meaning of the law, the first concern of the judge should be to discover in its provisions the intent of the lawmaker. Unquestionably, the law should never be interpreted in such a way as to cause injustice as this is never within the legislative intent. An indispensable part of that intent, in fact, for we presume the good motives of the legislature, is to *render justice*.
>
> Thus, we interpret and apply the law not independently of but in consonance with justice. Law and justice are inseparable, and we must keep them so. To be sure, there are some laws that, while generally valid, may seem arbitrary when applied in a particular case because of its peculiar circumstances. In such a situation, we are not bound, because only of our nature and functions, to apply them just the same, in slavish obedience to their language. What we do instead is find a balance between the word and the will, that justice may be done even as the law is obeyed.
>
> As judges, we are not automatons. We do not and must not unfeelingly apply the law as it is worded, yielding like robots to the literal command without regard to its cause and consequence. "Courts are apt to err by sticking too closely to the words of a law," so we are warned, by Justice Holmes again, "where these words import a policy that goes beyond them."
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> x x x x

> More than twenty centuries ago, Justinian defined justice "as the constant and perpetual wish to render every one his due." That wish continues to motivate this Court when it assesses the facts and the law in every case brought to it for decision. Justice is always an essential ingredient of its decisions. Thus when the facts warrants, we interpret the law in a way that will render justice, presuming that it was the intention of the lawmaker, to begin with, that the law be dispensed with justice.[69]

Applying the above doctrine in the instant case, the divorce decree allegedly obtained by Merry Lee which absolutely allowed Felicisimo to remarry, would have vested Felicidad with the legal personality to file the present petition as Felicisimo's surviving spouse. However, the records show that there is insufficient evidence to prove the validity of the divorce obtained by Merry Lee as well as the marriage of respondent and Felicisimo under the laws of the U.S.A. In *Garcia v. Recio,*[70] the Court laid down the specific guidelines for pleading and proving foreign law and divorce judgments. It held that presentation solely of the divorce decree is insufficient and that proof of its authenticity and due execution must be presented. Under Sections 24 and 25 of Rule 132, a writing or document may be proven as a public or official record of a foreign country by either (1) an official publication or (2) a copy thereof attested by the officer having legal custody of the document. If the record is not kept in the Philippines, such copy must be (a) accompanied by a certificate issued by the proper diplomatic or consular officer in the Philippine foreign service stationed in the foreign country in which the record is kept and (b) authenticated by the seal of his office.[71]

With regard to respondent's marriage to Felicisimo allegedly solemnized in California, U.S.A., she submitted photocopies of the Marriage Certificate and the annotated text[72] of the Family Law Act of California which purportedly show that their marriage was done in accordance with the said law. As stated in *Garcia,* however, the Court cannot take judicial notice of foreign laws as they must be alleged and proved.[73]

Therefore, this case should be remanded to the trial court for further reception of evidence on the divorce decree obtained by Merry Lee and the marriage of respondent and Felicisimo.

Even assuming that Felicisimo was not capacitated to marry respondent in 1974, nevertheless, we find that the latter has the legal personality to file the subject petition for letters of administration, as she may be considered the co-owner of Felicisimo as regards the properties that were acquired through their joint efforts during their cohabitation.

Section 6,[74] Rule 78 of the Rules of Court states that letters of administration may be granted to the surviving spouse of the decedent. However, Section 2, Rule 79 thereof also provides in part:

> SEC. 2. Contents of petition for letters of administration. - A petition for letters of administration must be filed by an interested person and must show, as far as known to the petitioner: x x x.

An "interested person" has been defined as one who would be benefited by the estate, such as an heir, or one who has a claim against the estate, such as a creditor. The interest must be material and direct, and not merely indirect or contingent.[75]

In the instant case, respondent would qualify as an interested person who has a direct interest in the estate of Felicisimo by virtue of their cohabitation, the existence of which was not denied by petitioners. If she proves the validity of the divorce and Felicisimo's capacity to remarry, but fails to prove that her marriage with him was validly performed under the laws of the U.S.A., then she may be considered as a co-owner under Article 144[76] of the Civil Code. This provision governs the property relations between parties who live together as husband and wife without the benefit of marriage, or their marriage is void from the beginning. It provides that the property acquired by either or both of them through their work or industry or their wages and salaries shall be governed by the rules on co-ownership. In a co-ownership, it is not necessary that the property be acquired through their joint labor, efforts and industry. Any property acquired during the union is *prima facie* presumed to have been obtained through their joint efforts. Hence, the portions belonging to the co-owners shall be presumed equal, unless the contrary is proven.[77]

Meanwhile, if respondent fails to prove the validity of both the divorce and the marriage, the applicable provision would be Article 148 of the Family Code which has filled the hiatus in Article 144 of the Civil Code by expressly regulating the property relations of couples living together as husband and wife but are incapacitated to marry. [78] In *Saguid v. Court of Appeals*,[79] we held that even if the cohabitation or the acquisition of property occurred before the Family Code took effect, Article 148 governs.[80] The Court described the property regime under this provision as follows:

> The regime of limited co-ownership of property governing the union of parties who are not legally capacitated to marry each other, but who nonetheless live together as husband and wife, applies to properties acquired during said cohabitation in proportion to their respective contributions. Co-ownership will only be up to the extent of the proven actual contribution of money, property or industry. Absent proof of the extent thereof, their contributions and corresponding shares shall be presumed to be equal.
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> x x x x
>
> In the cases of Agapay v. Palang, and Tumlos v. Fernandez, which involved the issue of co-ownership of properties acquired by the parties to a bigamous marriage and an adulterous relationship, respectively, we ruled that proof of actual contribution in the acquisition of the property is essential. x x x
>
> As in other civil cases, the burden of proof rests upon the party who, as determined by the pleadings or the nature of the case, asserts an affirmative issue. Contentions must be proved by competent evidence and

> reliance must be had on the strength of the party's own evidence and not upon the weakness of the opponent's defense. x x x[81]

In view of the foregoing, we find that respondent's legal capacity to file the subject petition for letters of administration may arise from her status as the surviving wife of Felicisimo or as his co-owner under Article 144 of the Civil Code or Article 148 of the Family Code.

WHEREFORE, the petition is **DENIED**. The Decision of the Court of Appeals reinstating and affirming the February 28, 1994 Order of the Regional Trial Court which denied petitioners' motion to dismiss and its October 24, 1994 Order which dismissed petitioners' motion for reconsideration is **AFFIRMED**. Let this case be **REMANDED** to the trial court for further proceedings.

SO ORDERED.

Austria-Martinez, Callejo, Sr., and *Chico-Nazario, JJ.,* concur.

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[1] *Rollo* of G.R. No. 133743, pp. 45-66. Penned by Associate Justice Artemon D. Luna and concurred in by Associate Justices Godardo A. Jacinto and Roberto A. Barrios.

[2] Records, pp. 335-338. Penned by Judge Paul T. Arcangel.

[3] *Id.* at 391-393.

[4] *Rollo* of G.R. No. 133743, p. 68. Penned by Associate Justice Artemon D. Luna and concurred in by Associate Justices Demetrio G. Demetria and Roberto A. Barrios.

[5] Records, p. 125.

[6] *Id.* at 137.

[7] *Id.* at 116.

[8] *Id.* at 1-5.

[9] *Id.* at 10-24.

[10] *Id.* at 30-35.

[11] *Id.* at 38.

[12] *Id.* at 39-138.

[13] When 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 have capacity to remarry under Philippine law.

[14] G.R. No. L-68470, October 8, 1985, 139 SCRA 139.

[15] See Records, pp. 155-158, 160-170 and 181-192.

[16] This Code shall have retroactive effect insofar as it does not prejudice or impair vested rights or acquired rights in accordance with the Civil Code or other laws.

[17] Records, p. 259.

[18] *Id.* at 260.

[19] *Id.* at 262-267.

[20] *Id.* at 270-272.

[21] *Id.* at 288.

[22] *Id.* at 301.

[23] *Id.* at 302-303.

[24] *Id.* at 306-311.

[25] *Id.* at 318-320.

[26] *Id.* at 339-349.

[27] *Id.* at 350-354.

[28] *Id.* at 391-393.

[29] *Rollo* of G.R. No. 133743, p. 66.

[30] Supra note 14.

[31] G.R. No. 80116, June 30, 1989, 174 SCRA 653.

[32] Parenthetically, it appears that the Court of Appeals proceeded from a mistaken finding of fact because the records clearly show that the divorce was obtained on December 14, 1973 (not December 14, 1992) and that the marriage of Gov. San Luis with respondent was celebrated on June 20, 1974. These events both occurred before

the effectivity of the Family Code on August 3, 1988.

[33] *Rollo* of G.R. No. 133743, p. 65.

[34] See CA *rollo,* pp. 309-322, 335-340, and 362-369.

[35] *Rollo* of G.R. No. 133743, pp. 8-42.

[36] *Id.* at 75.

[37] 52 Phil. 645 (1928).

[38] G.R. No. 104960, September 14, 1993, 226 SCRA 408.

[39] SECTION 1. *Where estate of deceased persons be settled.* - If the decedent is an inhabitant of the Philippines at the time of his death, whether a citizen or an alien, his will shall be proved, or letters of administration granted, and his estate settled, *in the Court of First Instance in the province in which he resides at the time of his death,* x x x. (Underscoring supplied)

[40] G.R. Nos. L-40502 & L-42670, November 29, 1976, 74 SCRA 189.

[41] *Id.* at 199-200.

[42] *Romualdez v. RTC,* Br. 7, Tacloban City, supra note 38 at 415.

[43] See *Boleyley v. Villanueva,* 373 Phil. 141, 146 (1999); *Dangwa Transportation Co. Inc. v. Sarmiento,* G.R. No. L-22795, January 31, 1977, 75 SCRA 124, 128-129.

[44] Records, pp. 76-78.

[45] *Id.* at 60-75.

[46] *Id.* at 79.

[47] *Id.* at 80.

[48] *Id.* at 81-83.

[49] *Id.* at 84.

[50] The Regional Trial Court and not the Municipal Trial Court had jurisdiction over this case because the value of Gov. San Luis' estate exceeded P200,000.00 as provided for under B.P. Blg 129, Section 19(4).

[51] SC Administrative Order No. 3 dated January 19, 1983 states in part:

> Pursuant to the provisions of Section 18 of B.P. Blg. 129, and Section 4 of the Executive Order issued by the President of the Philippines on January 17, 1983, declaring the reorganization of the Judiciary, the territorial jurisdiction of the Regional Trial Courts in the National Capital Judicial Region are hereby defined as follows:
>
> x x x x
>
> 5. Branches CXXXII to CL, inclusive, with seats at Makati - over the municipalities of Las Pinas, Makati, Muntinlupa and Parañaque. x x x

[52] *Supra* note 14.

[53] *Id.* at 139, 143-144.

[54] *Id.* at 144.

[55] *Supra* note 31.

[56] *Id.* at 664.

[57] G.R. No. 124862, December 22, 1998, 300 SCRA 406.

[58] *Id.* at 414; See also *Republic v. Orbecido III,* G.R. No. 154380, October 5, 2005, 472 SCRA 114, 121.

[59] Tolentino, Arturo M., *Commentaries and Jurisprudence on the Civil Code of the Philippines,* Vol. I, 1990 ed., p. 263.

[60] G.R. No. 138322, October 2, 2001, 366 SCRA 437.

[61] *Id.* at 447.

[62] *Supra* note 58.

[63] *Id.* at 119-121.

[64] *Goitia v. Campos Rueda,* 35 Phil. 252, 254-255 (1916).

[65] ART. 15. Laws relating to family rights and duties, or to the status, condition and legal capacity of persons are binding upon citizens of the Philippines, even though living abroad.

[66] Art. 17. x x x Prohibitive laws concerning persons, their acts or property, and those which have for their object public order, public policy and good customs shall not be rendered ineffective by laws or judgments promulgated, or by determinations or conventions agreed upon in a foreign country.

[67] *Supra* note 14 at 144.

[68] G.R. No. L-72873, May 28, 1987, 150 SCRA 259.

[69] *Id.* at 264-265, 268.

[70] Supra note 60.

[71] *Id.* at 448-449.

[72] Records, pp. 118-124.

[73] Supra note 60 at 451.

[74] SEC. 6. *When and to whom letters of administration granted.* - If x x x a person dies intestate, administration shall be granted:

> (a) To the surviving husband or wife, as the case may be, or next of kin, or both, in the discretion of the court, or to such person as such surviving husband or wife, or next of kin, requests to have appointed, if competent and willing to serve; x x x.

[75] *Saguinsin v. Lindayag,*116 Phil. 1193, 1195 (1962).

[76] Article 144 of the Civil Code reads in full:

> When a man and a woman live together as husband and wife, but they are not married, or their marriage is void from the beginning, the property acquired by either or both of them through their work or industry or their wages and salaries shall be governed by the rules on co-ownership.

[77] *Valdes v. RTC,* Br. 102, Quezon City, 328 Phil. 1289, 1297 (1996).

[78] *Francisco v. Master Iron Works & Construction Corporation,* G.R. No. 151967, February 16, 2005, 451 SCRA 494, 506.

[79] G.R. No. 150611, June 10, 2003, 403 SCRA 678.

[80] *Id.* at 686.

[81] *Id.* at 679, 686-687.
