791 Phil. 645

FIRST DIVISION

[G.R. No. 215723, July 27, 2016]

DOREEN GRACE PARILLA MEDINA, A.K.A. "DOREEN GRACE MEDINA KOIKE," PETITIONER, VS. MICHIYUKI KOIKE, THE LOCAL CIVIL REGISTRAR OF QUEZON CITY, METRO MANILA, AND THE ADMINISTRATOR AND CIVIL REGISTRAR GENERAL OF THE NATIONAL STATISTICS OFFICE, RESPONDENTS.

D E C I S I O N

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*[1] are the Decision[2] dated July 31, 2014 and the Resolution[3] dated November 28, 2014, of the Regional Trial Court of Quezon City, Branch 106 (RTC), in Sp. Proc. No. Q-13-72692, denying petitioner's petition for judicial recognition of foreign divorce and declaration of capacity to remarry pursuant to Article 26 of the Family Code.

The Facts

Petitioner Doreen Grace Parilla (Doreen), a Filipino citizen, and respondent Michiyuki Koike (Michiyuki), a Japanese national, were married on June 14, 2005 in Quezon City, Philippines.[4] Their union bore two children, Masato Koike, who was born on January 23, 2006, and Fuka Koike who was born on April 4, 2007.[5]

On June 14, 2012, Doreen and Michiyuki, pursuant to the laws of Japan, filed for divorce[6] before the Mayor of Ichinomiya City, Aichi Prefecture, Japan. They were divorced on even date as appearing in the Divorce Certificate[7] and the same was duly recorded in the Official Family Register of Michiyuki Koike.[8]

Seeking to have the said Divorce Certificate annotated on her Certificate of Marriage[9] on file with the Local Civil Registrar of Quezon City, Doreen filed on February 7, 2013 a petition[10] for judicial recognition of foreign divorce and declaration of capacity to remarry pursuant to the second paragraph of Article 26 of the Family Code[11] before the RTC, docketed as Sp. Proc.No. Q-13-72692.

At the hearing, no one appeared to oppose the petition.[12] On the other hand, Doreen presented several foreign documents, namely, "Certificate of Receiving/Certificate of Acceptance of Divorce"[13] and "Family Register of Michiyuki Koike"[14] both issued by the Mayor of Ichinomiya City and duly authenticated by the Consul of the Republic of the Philippines for Osaka, Japan. She also presented a certified machine copy of a

document entitled "Divorce Certificate" issued by the Consul for the Ambassador of Japan in Manila that was authenticated by the Department of the Foreign Affairs, as well as a Certification[15] issued by the City Civil Registry Office in Manila that the original of said divorce certificate was filed and recorded in the said Office. In addition, photocopies of the Civil Code of Japan and their corresponding English translation, as well as two (2) books entitled "The Civil Code of Japan 2000"[16] and "The Civil Code of Japan 2009"[17] were likewise submitted as proof of the existence of Japan's law on divorce.[18]

The RTC Ruling

In a Decision[19] dated July 31, 2014, the RTC denied Doreen's petition, ruling that in an action for recognition of foreign divorce decree pursuant to Article 26 of the Family Code, the foreign divorce decree and" the national law of the alien recognizing his or her capacity to obtain a divorce must be proven in accordance with Sections 24[20] and 25[21] of Rule 132 of the Revised Rules on Evidence. The RTC ruled that while the divorce documents presented by Doreen were successfully proven to be public or official records of Japan, she nonetheless fell short of proving the national law of her husband, particularly the existence of the law on divorce. The RTC observed that the "The Civil Code of Japan 2000" and "The Civil Code of Japan 2009," presented were not duly authenticated by the Philippine Consul in Japan as required by Sections 24 and 25 of the said Rules, adding too that the testimony of Doreen relative to the applicable provisions found therein and its effect on the matrimonial relations was insufficient since she was not presented as a qualified expert witness nor was shown to have, at the very least, a working knowledge of the laws of Japan, particularly those on family relations and divorce. It likewise did not consider the said books as learned treatises pursuant to Section 46,[22] Rule 130 of the Revised Rules on Evidence, since no expert witness on the subject matter was presented and considering further that Philippine courts cannot take judicial notice of foreign judgments and law.[23]

Doreen's motion for reconsideration[24] was denied in a Resolution[25] dated November 28, 2014; hence, this petition.

The Issue Before the Court

The core issue for the Court's resolution is whether or not the RTC erred in denying the petition for judicial recognition of foreign divorce.

The Court's Ruling

At the outset, it bears stressing that Philippine law does not provide for absolute divorce; hence, our courts cannot grant it. However, Article 26 of the Family Code - which addresses foreign marriages or mixed marriages involving a Filipino and a foreigner - allows a Filipino spouse to contract a subsequent marriage in case the divorce is validly obtained abroad by an alien spouse capacitating him or her to remarry. The provision reads:

> 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.
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> **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)

Under the above-highlighted paragraph, the law confers jurisdiction on Philippine courts to extend the effect of a foreign divorce decree to a Filipino spouse without undergoing trial to determine the validity of the dissolution of the marriage.[26]

In *Corpuz v. Sto. Tomas*,[27] the Court had the occasion to rule that:

> The starting point in any recognition of a foreign divorce judgment is the acknowledgment that our courts do not take judicial notice of foreign judgments and laws. Justice Herrera explained that, as a rule, "no sovereign is bound to give effect within its dominion to a judgment rendered by a tribunal of another country." **This means that the foreign judgment and its authenticity must be proven as facts under our rules on evidence, together with the alien's applicable national law to show the effect of the judgment on the alien himself or herself.** The recognition may be made in an action instituted specifically for the purpose or in another action where a party invokes the foreign decree as an integral aspect of his claim or defense.[28] (Emphasis and underscoring supplied; citation omitted)

Thus, in *Garcia v. Recio*,[29] it was pointed out that in order for a divorce obtained abroad by the alien spouse to be recognized in our jurisdiction, it must be shown that the divorce decree is valid according to the national law of the foreigner. Both the divorce decree and the governing personal law of the alien spouse who obtained the divorce must be proven.[30] Since our courts do not take judicial notice of foreign laws and judgment, our law on evidence requires that both the divorce decree and the national law of the alien must be alleged and **proven like any other fact**.[31]

Considering that the validity of the divorce decree between Doreen and Michiyuki, as well as the existence of pertinent laws of Japan on the matter are essentially factual that calls for a re-evaluation of the evidence presented before the RTC, the issue raised in the instant appeal is obviously a question of fact that is beyond the ambit of a Rule 45 petition for review.

Well entrenched is the rule that this Court is not a trier of facts. The resolution of factual issues is the function of the lower courts, whose findings on these matters are received with respect and are in fact binding subject to certain exceptions.[32] In this regard, it is settled that appeals taken from judgments or final orders rendered by RTC in the exercise of its original jurisdiction raising questions of fact or mixed questions of

fact and law should be brought to the Court of Appeals (CA) in accordance with Rule 41 of the Rules of Court.[33]

Nonetheless, despite the procedural restrictions on Rule 45 appeals as above-adverted, the Court may refer the case to the CA under paragraph 2, Section 6 of Rule 56 of the Rules of Court, which provides:

> SEC. 6. *Disposition of improper appeal*. - x x x
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> An appeal by *certiorari* taken to the Supreme Court from the Regional Trial Court submitting issues of fact may be referred to the Court of Appeals for decision or appropriate action. The determination of the Supreme Court on whether or not issues of fact are involved shall be final.

This, notwithstanding the express provision under Section 5 (f) thereof that an appeal likewise "may" be dismissed when there is error in the choice or mode of appeal.[34]

Since the said Rules denote discretion on the part of the Court to either dismiss the appeal or refer the case to the CA, the question of fact involved in the instant appeal and substantial ends of justice warrant that the case be referred to the CA for further appropriate proceedings. It bears to stress that procedural rules were intended to ensure proper administration of law and justice. The rules of procedure ought not to be applied in a very rigid, technical sense, for they are adopted to help secure, not override, substantial justice. A deviation from its rigid enforcement may thus be allowed to attain its prime objective, for after all, the dispensation of justice is the core reason for the existence of the courts.[35]

WHEREFORE, in the interest of orderly procedure and substantial justice, the case is hereby **REFERRED** to the Court of Appeals for appropriate action including the reception of evidence to **DETERMINE** and **RESOLVE** the pertinent factual issues in accordance with this Decision.

SO ORDERED.

Sereno, C. J., (Chairperson), Leonardo-De Castro, Bersamin, and *Caguioa, JJ.*, concur.

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[1] *Rollo*, pp. 3-54.

[2] Id. at 58-65. Penned by Judge Angelene Mary W. Quimpo-Sale.

[3] Id. at 66-70.

[4] Id. at 80.

[5] Id. at 59.

[6] See Certificate of Receiving; id. at 109.

[7] Id. at 81.

[8] See id.

[9] Id. at 97.

[10] Id. at 71-79.

[11] Executive Order No. 209, as amended, entitled "The Family Code of the Philippines," August 4, 1988.

[12] *Rollo*, p. 58.

[13] Id. at 109-110.

[14] Id. at 101-107.

[15] Id. at 83.

[16] Id. at 111-115.

[17] Id. at 116-119.

[18] See id. at 62.

[19] Id. at 58-65.

[20] SECTION 24. *Proof of official record*. — The record of public documents referred to in paragraph (a) of section 19, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his deputy, and accompanied, if the record is not kept in the Philippines, with a certificate that such officer has the custody. If the office in which the record is kept is in a foreign country, the certificate may be made by a secretary of the embassy or legation, consul-general, consul, vice-consul, or consular agent or by any officer in the foreign service of the Philippines stationed in the foreign country in which the record is kept, and authenticated by the seal of his office.

[21] SECTION 25. *What attestation of copy must state*. - Whenever a copy of a document or record is attested for the purpose of evidence, the attestation must state, in substance, that the copy is a correct copy of the original, or a specific part thereof, as the case may be. The attestation must be under the official seal of the attesting officer, if there be any, or if he be the clerk of a court having a seal, under the seal of such court.

[22] SECTION 46. *Learned treatises*. - A published treatise, periodical or pamphlet on a subject of history, law, science, or art is admissible as tending to prove the truth of a matter stated therein if the court takes judicial notice, or a witness expert in the subject testifies, that the writer of the statement in the treatise, periodical or pamphlet is recognized in his profession or calling as expert in the subject.

[23] *Rollo*, pp. 63-64.

[24] Id. at 169-193.

[25] Id. at 66-70.

[26] *Fujiki v. Marinay*, 712 Phil. 524, 555 (2013).

[27] 642 Phil. 420 (2010).

[28] Id. at 432-433.

[29] 418 Phil. 723(2001).

[30] Id. at 725.

[31] Id. at 735.

[32] *Bank of the Philippine Islands v. Sarabia Manor Hotel Corporation*, 715 Phil. 420, 433-435 (2013).

[33] See *Far Eastern Surety and Insurance Co., Inc. v. People*, 721 Phil. 760, 766-767 (2013).

[34] *CGP Transportation and Services Corporation v. PCI Leasing and Finance, Inc.*, 548 Phil. 242, 253-254 (2007).

[35] *Spouses Agbulos v. Gutierrez*, 607 Phil. 288, 295 (2009).