



Republic of the Philippines
 Supreme Court
 Manila

FIRST DIVISION

CYNTHIA A. GALAPON,
 Petitioner,

G.R. No. 243722
 (Formerly UDK-16060)

Present:

- versus -

PERALTA, C.J., Chairperson,
 CAGUIOA,
 J. REYES, JR.,
 LAZARO-JAVIER, and
 LOPEZ, JJ.

REPUBLIC OF THE
 PHILIPPINES,
 Respondent.

Promulgated:

JAN 22 2020

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DECISION

CAGUIOA, J.:

The Case

This is a petition for review on *certiorari*¹ (Petition) filed under Rule 45 of the Rules of Court against the Decision² dated February 27, 2017 (assailed Decision) and Resolution³ dated September 29, 2017 (assailed Resolution) in CA-G.R. CV No. 106950, rendered by the Court of Appeals (CA), Eleventh Division and Former Eleventh Division, respectively.

The assailed Decision and Resolution reversed the Decision⁴ dated July 3, 2015 issued by the Regional Trial Court (RTC) of Sto. Domingo, Nueva Ecija, Branch 88 in Special Proceedings No. SD(14)-417, which recognized the foreign divorce decree obtained by Cynthia A. Galapon (Cynthia) and her spouse Noh Shik Park (Park), a Korean national.

¹ *Rollo*, pp. 8-19.

² *Id.* at 20-29. Penned by Associate Justice Rodil V. Zalameda (now a Member of the Court), with the concurrence of Associate Justices Sesinando E. Villon and Pedro B. Corales.

³ *Id.* at 30-31.

⁴ *Id.* at 58-62. Penned by Presiding Judge Anarica J. Castillo-Reyes.

The Facts

The antecedents, as narrated by the CA, are as follows:

[Cynthia], a Filipina, and [Park], a South Korean national, got married in the City of Manila, Philippines on [February 27, 2012]. Unfortunately, their relationship turned sour and ended with a divorce by mutual agreement in South Korea. After the divorce was confirmed on [July 16, 2012] by the Cheongju Local Court, [Cynthia] filed before the [RTC] a Petition for the Judicial Recognition of a Foreign Divorce [(Recognition Petition)].

The [RTC], finding the [Recognition] Petition sufficient in form and substance, issued an Order dated [November 11, 2014] setting the case for hearing. The said Order was then published once a week for three (3) consecutive weeks in The Daily Tribune. Meanwhile, the Office of [the] Solicitor General [(OSG)] filed a Notice of Appearance as counsel for the Republic of the Philippines. The Office of the Provincial Prosecutor of Baloc, Sto. Domingo, Nueva Ecija was also deputized to assist the OSG.

During the presentation of evidence, Abigail Galapon [(Abigail)], [Cynthia's] sister and attorney-in-fact, testified in court. Abigail identified and affirmed her Judicial Affidavit, including the contents thereof and her signature thereon. Furthermore, Abigail averred that [Cynthia] could not personally testify because the latter's Korean visa expired upon her divorce with Park. Nevertheless, Abigail [alleged that she] has personal knowledge of the facts alleged in the [Recognition] Petition and claimed, among other things, that Park intended to marry his former girlfriend [and that Cynthia] was forced to agree to the divorce because Park made a threat to her life x x x.⁵

RTC Ruling

On July 3, 2015, the RTC issued a Decision⁶ granting the Recognition Petition. The dispositive portion of said Decision reads:

IN VIEW OF THE FOREGOING, the [Recognition Petition] is hereby **GRANTED** and the Divorce Decree obtained in Seoul, Korea between [Cynthia] and [Park] on [July 16, 2012] is hereby **RECOGNIZED**. The Civil Registrar General and [the] Office of the Manila Civil Registrar are hereby **DIRECTED** to **RECORD** the said divorce decrees (*sic*) upon presentation of a duly authenticated copy thereof and payment of appropriate fees, if any. [Cynthia] is now legally capacitated to remarry under Philippine Laws pursuant to [Article] 26, [Paragraph] 2 of the Family Code of the Philippines.

Let a copy of this Decision be furnished the Office of the Solicitor General, the Provincial Prosecutor of Nueva Ecija, the Office of the Civil Registrar General-National Statistics Office, the Office of the Civil

⁵ Id. at 21-22.

⁶ Id. at 58-62.



Registrar of the City of Manila and the Embassy of the Philippines in Seoul, Korea through the Department of Foreign Affairs.

SO ORDERED.⁷

The OSG filed a Motion for Reconsideration. The arguments therein, as summarized by the RTC, are as follows:

1. The [Recognition Petition] should [have been] filed in the RTC of Manila because the marriage was celebrated and was recorded in the City Civil Registry of Manila. Citing the case of *Fujiki vs. Marinay*⁸ x x x, the [OSG] argued that [the recognition] of foreign divorce judgments may be made in a special proceeding for cancellation or correction of entries in the civil registry under Rule 108 of the Rules of Court. Thus, the venue of such proceedings is laid on the appropriate RTC where the civil registry is located;
2. Absolute divorce is not allowed in this jurisdiction. Considering that the divorce x x x was obtained not by the alien spouse alone but by both spouses, x x x [Cynthia] is not qualified to avail of the benefits provided by [Article] 26 of the Family Code.⁹ (Italics supplied)

The Motion for Reconsideration was denied by the RTC through its Resolution¹⁰ dated March 17, 2016.

Foremost, the RTC held that while the Court, in *Fujiki v. Marinay*,¹¹ ruled that the recognition of a foreign divorce decree *may* be made in a special proceeding, the use of the permissive word “may” was intentional so as not to foreclose the option of seeking such recognition through a special civil action for declaratory relief under Rule 63 of the Rules of Court, as in the case of *Republic v. Orbecido III*¹² (*Orbecido*).¹³ Expounding further, the RTC held that since there are no specific rules governing petitions for recognition of foreign divorce, it applied by analogy Section 2, Rule 4 of the Rules of Court (Rules) which requires personal actions to be filed at the place where either the plaintiff or defendant resides.¹⁴

In addition, the RTC found that the requisites for the application of Article 26, paragraph 2 of the Family Code [Article 26(2)] concur.

⁷ Id. at 62.

⁸ 712 Phil. 524 (2013).

⁹ *Rollo*, p. 63.

¹⁰ Id. at 63-70.

¹¹ *Supra* note 8.

¹² 509 Phil. 108 (2005).

¹³ *Rollo*, pp. 64-65.

¹⁴ See *id.* at 65-66.



First, there was a valid marriage celebrated between Cynthia and Park, as shown by the Certificate of Marriage issued by the National Statistics Office.¹⁵

Second, a valid divorce was obtained abroad by Park capacitating him to remarry, as shown by the Certification¹⁶ issued by the Cheongju Local Court stating that he and Cynthia were divorced on July 16, 2012. While the RTC recognized that the divorce decree in question was obtained by mutual agreement, it ruled that such fact does not preclude its recognition in this jurisdiction since the testimony of Abigail Galapon (Abigail) confirms that Park merely coerced Cynthia to agree to the divorce.¹⁷

Not satisfied, the OSG appealed to the CA *via* Rule 41.

CA Ruling

On February 27, 2017, the CA issued the assailed Decision¹⁸ granting the OSG's appeal, thus:

WHEREFORE, premises considered, the instant [a]ppel is **GRANTED**. The Decision dated [July 3, 2015] and Resolution dated [March 17, 2016] issued by Branch 88, [RTC] of Sto. Domingo, Nueva Ecija, [are] **REVERSED AND SET ASIDE**.

Accordingly, the Petition filed by [Cynthia] is hereby **DISMISSED**, for lack of merit.

SO ORDERED.¹⁹

The CA found no merit in the OSG's contention that the RTC erred when it acted on the Recognition Petition since venue was improperly laid. While Section 1, Rule 108 requires petitions for judicial recognition of foreign divorce decrees to be filed with the RTC where the civil entry of the marriage in question is registered, the CA held that courts cannot *motu proprio* dismiss an action on the ground of improper venue.²⁰ Hence, the CA found that the RTC did not err in taking cognizance of the Recognition Petition since the OSG failed to move for its dismissal on the ground of improper venue at the first instance.²¹

¹⁵ Id. at 66.

¹⁶ Id. at 35.

¹⁷ Id. at 66-67.

¹⁸ Id. at 20-29.

¹⁹ Id. at 28.

²⁰ Id. at 23-24.

²¹ Id. at 24.

Nonetheless, the CA held that the divorce decree in question cannot be recognized in this jurisdiction insofar as Cynthia is concerned since it was obtained by mutual agreement.²² Said the CA:

To be sure, it is crystal clear from pertinent law and jurisprudence that the foreign divorce contemplated under the second (2nd) paragraph of Article 26 of the Family Code must have been initiated and obtained by the foreigner spouse. Thus, the Supreme Court had made it also clear that in determining whether or not a divorce secured abroad would come within the pale of the country's policy against absolute divorce, the reckoning point is the citizenship of the parties at the time a valid divorce is obtained.

There can be no dispute that [Cynthia] was a Filipino citizen when she obtained the divorce decree with her foreign spouse and, in fact, remains to be so up to the present. Clearly, since the divorce under consideration was jointly applied for and obtained by a Filipino and a foreigner spouse, it was incorrect for the [RTC] to apply the provision of the second (2nd) paragraph, Article 26 of the Family Code. Owing to the nationality principle embodied in Article 15 of the Civil Code, Philippine nationals, like [Cynthia], are covered by the policy against absolute divorces the same being considered contrary to our concept of public policy and morality.

Notably, the [RTC] took as gospel truth the assertion of Abigail that [Cynthia] was merely acting under duress when she agreed to the demand of Park to sever their marriage, lest something bad would happen to her. Said allegation was used by the [RTC] as basis to conclude that the divorce was initiated by Park alone and that there was actually no divorce by mutual agreement that took place.

This was obviously a serious error on the part of the [RTC].

For one, the very evidence relied upon by [Cynthia] clearly show that the divorce between [Cynthia] and Park was obtained by mutual agreement, in accordance with Section 5, Article 834 of the Korean Civil Code. If [the CA follows] the [RTC's] conclusion, then it is with more reason that the [Recognition] Petition should be denied since it becomes evident that the divorce obtained by Park is contrary to, nay in violation of, [the Korean Civil Code], which clearly requires a divorce by mutual agreement. It is not amiss to point out x x x that the divorce obtained by an alien abroad may be recognized in the Philippines only when the divorce is valid according to his or her national law.

For another, [Cynthia] herself was not presented in court while her sister, Abigail, testified on matters not derived from her own perception but from what [Cynthia] allegedly told her. x x x Verily, the personal knowledge of a witness is a substantive prerequisite for accepting testimonial evidence that establishes the truth of a disputed fact. x x x²³

²² Id. at 26.

²³ Id. at 26-27.



On September 29, 2017, the CA denied Cynthia's subsequent Motion for Reconsideration through the assailed Resolution.²⁴

Cynthia received the assailed Resolution through counsel on October 10, 2017.²⁵

On October 24, 2017, Cynthia filed a Motion for Extension of Time to File Petition for Review with Application for Authorization to Litigate as Indigent Party.²⁶ Therein, Cynthia moved for an additional period of thirty (30) days, or until November 24, 2017 to file her petition for review. In addition, Cynthia alleged that she remains in Korea "under questionable alien status," and is suffering from an illness which requires immediate medical attention. Because of these circumstances, Cynthia prayed that she be granted authorization to litigate as an indigent party, for while her counsel on record has agreed to continue handling her case *pro bono*, she has no sufficient means to pay the required filing fees.²⁷

Cynthia filed the present Petition on November 20, 2017.

On January 31, 2018, the Court issued a Resolution²⁸ granting Cynthia's prayer for extension, and requiring Cynthia to submit proof of her indigency within five (5) days from notice. The Court also directed the OSG to file its comment on the Petition.

Upon submission of the required proof, the Court granted Cynthia's application to litigate as an indigent party.²⁹

Meanwhile, the OSG filed its Comment³⁰ on the Petition on April 26, 2018. In turn, Cynthia filed her Reply³¹ on September 25, 2018.

In this Petition, Cynthia avers that this case calls for the exercise of the Philippine courts' power of "limited review" over a foreign judgment. Cynthia argues that by reversing the RTC Decision, the CA erroneously delved into the merits of the divorce decree in question, and substituted its judgment for the judgment of the Korean courts with respect to matters relating to the status, condition and legal capacity of Park who is a Korean national.³² Further, Cynthia claims that the assailed Decision and Resolution would result in the unjust situation Article 26(2) is meant to prevent.³³

²⁴ Id. at 30-31.

²⁵ Id. at 2.

²⁶ Id. at 2-5.

²⁷ Id. at 2.

²⁸ Id. at 84-85.

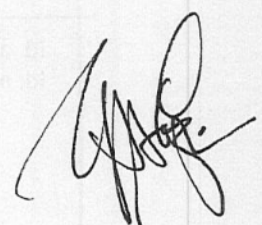
²⁹ Id. at 120.

³⁰ Id. at 96-113.

³¹ Id. at 127-131.

³² Id. at 10-12.

³³ Id. at 13.



In her Reply, Cynthia further argues that all doubts as to the application of Article 26(2) to foreign divorce decrees obtained by mutual consent of the Filipino citizen and the alien spouse have been laid to rest in the recent case of *Republic v. Manalo*³⁴ (*Manalo*).³⁵

The Issue

The sole issue for the Court's resolution is whether the CA erred in denying the recognition of the divorce decree obtained by Cynthia and her foreign spouse, Park.

The Court's Ruling

The Petition is granted.

The controversy is centered on the interpretation of Article 26(2) as applied to divorce decrees obtained *jointly* by the foreign spouse and Filipino citizen.

Article 26 of the Family Code 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 (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)

In *Orbecido*, the Court laid down the elements for the application of Article 26(2), bearing in mind the spirit and intent behind the provision as reflected in the Committee deliberations. The Court held:

x x x [The Court states] 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**

³⁴ G.R. No. 221029, April 24, 2018, 862 SCRA 580.

³⁵ *Rollo*, p. 127.



divorce is obtained abroad by the alien spouse capacitating the latter to remarry.

In this case, when [the Filipino spouse's] wife was naturalized as an American citizen, there was still a valid marriage that has been celebrated between [them]. As fate would have it, **the naturalized alien wife subsequently obtained a valid divorce capacitating her to remarry.** Clearly, the twin requisites for the application of Paragraph 2 of Article 26 are both present in this case. Thus x x x the "divorced" Filipino spouse, should be allowed to remarry.³⁶ (Emphasis and underscoring supplied; italics in the original)

Here, the CA anchored the assailed Decision on the absence of the second element set forth in *Orbecido*. According to the CA, the fact that the divorce decree had been obtained by mutual agreement of Cynthia and Park precludes the application of Article 26(2), since the language of the provision requires that the divorce decree be obtained *solely* by the foreign spouse.

Adopting the same view, the OSG argues that the divorce decree in question is not one "obtained x x x by the alien spouse alone[,] but [one obtained] at the instance of both [spouses]."³⁷ Hence, the OSG insists that Article 26(2) simply cannot apply to Cynthia.³⁸ In this connection, the OSG claims that Abigail's testimony to the effect that Cynthia had been merely forced to agree to the divorce should not be given credence for being hearsay.³⁹

The CA and OSG are mistaken.

In the recent case of *Manalo*, the Court *en banc* extended the scope of Article 26(2) to even cover instances where the divorce decree is obtained *solely* by the Filipino spouse. The Court's ruling states, in part:

Paragraph 2 of Article 26 speaks of "a divorce x x x 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."

³⁶ *Republic v. Orbecido III*, supra note 12, at 115-116.

³⁷ *Rollo*, p. 99.

³⁸ *Id.* at 100.

³⁹ *Id.* at 101-102.

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 on Filipinos whose marital ties to their alien spouses are severed by operation of the latter’s national law.**⁴⁰ (Emphasis supplied; italics in the original)

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.

Based on the records, Cynthia and Park obtained a divorce decree by mutual agreement under the laws of South Korea. The sufficiency of the evidence presented by Cynthia to prove the issuance of said divorce decree and the governing national law of her husband Park was not put in issue. In fact, the CA considered said evidence sufficient to establish the authenticity and validity of the divorce in question:

⁴⁰ *Republic v. Manalo*, supra note 34, at 606-608.



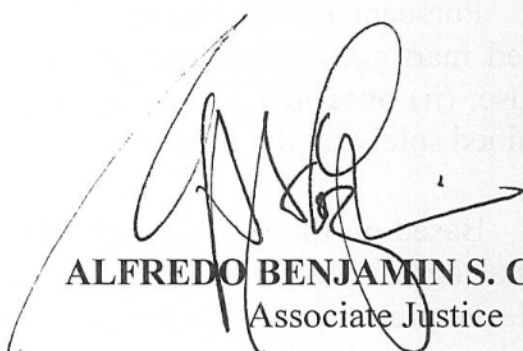
x x x [T]he records show that [Cynthia] submitted, inter alia, the original and translated foreign divorce decree, as well as the required certificates proving its authenticity. She also offered into evidence a copy of the Korean Civil Code, duly authenticated through a Letter of Confirmation with Registry No. 2013-020871, issued by the Embassy of the Republic of Korea in the Philippines. **These pieces of evidence may have been sufficient to establish the authenticity and validity of the divorce obtained by the estranged couple abroad** but [the CA agrees] with the OSG that the divorce cannot be recognized in this jurisdiction insofar as [Cynthia] is concerned since it was obtained by mutual agreement of a foreign spouse and a Filipino spouse.⁴¹ (Emphasis and underscoring supplied)

In this light, it becomes unnecessary to delve into the admissibility and probative value of Abigail's testimony claiming that Cynthia had been constrained to consent to the divorce. As confirmed by *Manalo*, the divorce decree obtained by Park, with or without Cynthia's conformity, falls within the scope of Article 26(2) and merits recognition in this jurisdiction.

WHEREFORE, premises considered, the Petition is **GRANTED**. The Decision dated February 27, 2017 and Resolution dated September 29, 2017 rendered by the Court of Appeals, Eleventh Division and Former Eleventh Division, respectively, in CA-G.R. CV No. 106950 are **REVERSED and SET ASIDE**.

Accordingly, the Decision dated July 3, 2015 issued by the Regional Trial Court of Sto. Domingo, Nueva Ecija, Branch 88 in Special Proceedings No. SD(14)-417 is **REINSTATED**. By virtue of Article 26, paragraph 2 of the Family Code and the Certification of the Cheongju Local Court dated July 16, 2012, petitioner Cynthia A. Galapon is declared capacitated to remarry under Philippine law.

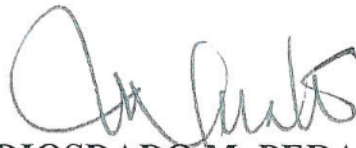
SO ORDERED.



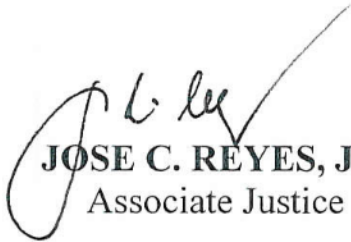
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

⁴¹ *Rollo*, pp. 25-26.

WE CONCUR:



DIOSDADO M. PERALTA
Chief Justice
Chairperson



JOSE C. REYES, JR.
Associate Justice



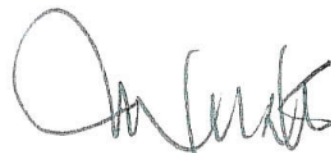
AMY C. LAZARO-JAVIER
Associate Justice



MARIO N. LOPEZ
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.



DIOSDADO M. PERALTA
Chief Justice



