# FIRST DIVISION

# [ G.R. No. 223628, March 04, 2020 ]

## EDNA S. KONDO, REPRESENTED BY ATTORNEY-IN-FACT, LUZVIMINDA S. PINEDA, PETITIONER, V. CIVIL REGISTRAR GENERAL, RESPONDENT.

## D E C I S I O N

**LAZARO-JAVIER, J.:**

### The Case

This Petition for Review on *Certiorari*[1] seeks to reverse the Decision[2] of the Court of Appeals dated March 16, 2016 in CA-G.R. CV No. 103150 which affirmed the trial court's denial of petitioner's Motion for New Trial.

### Antecedents

On March 15, 1991, petitioner Edna S. Kondo and Katsuhiro Kondo, a Filipina and Japanese national, respectively, were married before the Head of Hirano Ward in Japan.[3] They registered their Marriage Certificate of even date with the National Statistics Office[4] in the Philippines. But on July 3, 2000, after around nine (9) years of marriage, they obtained a divorce by agreement in Japan for which they were issued a Report of Divorce.[5]

On November 7, 2012, Edna, through her sister and Attorney-in-Fact Luzviminda S. Pineda, filed a petition for judicial recognition of the divorce decree,[6] citing Article 26 (2) of the Family Code, *viz:*

x x x x

> 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.

Edna essentially alleged that the divorce capacitated Katsuhiro to remarry under Japanese laws. She sought formal recognition of the divorce decree and asked the trial court to direct the Civil Registrar to annotate the same in her Marriage Certificate. Docketed as Civil Case No. 12-128981, the case was raffled to the Regional Trial Court (RTC)-Branch 4, Manila.

In compliance with the trial court's order dated May 28, 2013, Edna duly established the trial court's jurisdiction over her petition[7] which was unopposed, except by the Republic of the Philippines through the Office of the Solicitor General (OSG). Trial on the merits ensued.

During the trial, Luzviminda testified[8] that in June 2000, Edna informed her that Katsuhiro will be divorcing her to marry a Japanese woman. She (Luzviminda) was able to confirm this with Katsuhiro himself.

Luzviminda presented, among others, the Report of Divorce and Katsuhiro's authenticated Family Register record, both with English translation, stating that he and Edna divorced by agreement on July 3, 2000. She offered the following exhibits in evidence:[9]

| | |
|---|---|
| "A" | Petition for Judicial Recognition of Foreign Decree of Divorce |
| "B" | Order of the Court dated December 18, 2012 |
| "C" | Copy of summons dated January 11, 2013 |
| "D" | Compliance dated January 25, 2013 |
| "E to E-1-A" | Copy of Affidavit of Publication dated January 25, 2013; Copy of Police Files Tonite newspaper issue dated January 24, 2013 |
| "F to F-4" | Authenticated Special Power of Attorney dated July 2, 2012 |
| "G to G-1" | Authenticated Report of Divorce in Japanese Language |
| "H to H-1" | English translation of the Report of Divorce |
| "I to I-4" | Authenticated Original copy of the Family Register of Katsuhiro |
| "J to J-1" | Authenticated copy of marriage certificate of petitioner and Katsuhiro |
| "K to K-4" | Judicial Affidavit of Luzviminda S. Pineda |

Luzviminda withdrew her offer though to present additional evidence, including an authenticated English translation of Articles 763 to 769 of the Japanese Civil Code on divorce by agreement.[10] By Order dated December 3, 2013, the trial court allowed the reception of additional evidence, citing no objection on the part of the State.[11] On the other hand, the Republic did not present its own evidence. Thus, the case was submitted for decision.

## The Trial Court's Ruling

By Decision[12] dated April 10, 2014, the trial court denied the petition, *viz*:

> WHEREFORE, premises considered, the relief sought by the petitioner is DENIED. The above-captioned petition is DISMISSED.
>
> Following Section 9 Rule 13 of the Rules of Court and considering publication was required by this court in is Order dated December 18, 2012, counsel for petitioner is directed to cause the publication of this Decision in a newspaper of general circulation once within a period of fifteen (15) days from receipt of this Decision.
>
> Let copy of this Decision be sent to petitioner as well as to her counsel for their information and guidance.
>
> SO ORDERED.

It noted that under Article 26 (2) of the Family Code, the foreign divorce should have been obtained by the alien spouse, not by mutual agreement, as here. More, the provisions of the Japanese Civil Code, as presented to the trial court, did not show that Katsuhiro was allowed to remarry upon obtaining a divorce.

On May 20, 2014, Edna filed a Motion for New Trial,[13] alleging she had newly discovered evidence which could alter the result of the case - a copy of Katsuhiro's Report of Divorce, allegedly indicating that he had already married a certain Tsukiko Umegaki. She requested for thirty (30) days to secure a duly authenticated English copy of the document to prove its contents.

She emphasized that an absurd situation would occur if the trial court would not admit the second Report of Divorce to prove Katsuhiro's second marriage. For she would still be deemed married to Katsuhiro even though he had already remarried on May 30, 2001.

By Resolution[14] dated June 30, 2014, the RTC denied Edna's Motion for New Trial for failure to file an Affidavit of Merit, as required under Rule 37, Section 2 of the Rules of Court.[15] Further, the Report of Divorce was not sufficient to establish that Katsuhiro contracted a subsequent marriage, unauthenticated as it was. Her failure to present a duly authenticated copy during trial was by no means excusable.

As for the applicability of Article 26 (2) of the Family Code, the trial court ruled that Edna's divorce from Katsuhiro was by mere agreement and, therefore, beyond the coverage of the provision, which requires the divorce to have been obtained by the foreign spouse.

## Proceedings before the Court of Appeals

Aggrieved, Edna assailed the trial court's Resolution[16] dated June 30, 2014 before the Court of Appeals. In her *Brief*,[17] she faulted the trial court for (1) not allowing her to introduce evidence to prove Katsuhiro's subsequent marriage and (2) finding that Article 26 (2) of the Family Code was inapplicable simply because the divorce was obtained by mutual agreement.

Meanwhile, the OSG through Assistant Solicitor General Eric Remegio O. Panga and Senior State Solicitor Maricar S.A. Prudon-Sison defended the trial court's ruling.[18] It argued that the second Report of Divorce cannot be considered "newly discovered" and the evidence on record was not sufficient to warrant the grant of Edna's petition.

**The Court of Appeals' Ruling**

Through its Decision[19] dated March 16, 2016, the Court of Appeals affirmed. It emphasized that Rule 37, Section 2 (2) of the Rules of Court required supporting evidence by way of affidavits of witnesses or duly authenticated documents. But Edna appended a mere photocopy of Katsuhiro's records and asked for relaxation of technical rules.

Too, the Court of Appeals did not consider the second Report of Divorce as newly discovered evidence as Edna could have easily presented it during the trial. Despite the trial court's earlier Order dated December 3, 2013 allowing Edna to present additional evidence, she still failed to adduce the necessary documents in support of her case.

Be that as it may, it disagreed with the trial court's ruling on the supposed inapplicability of Article 26 (2) of the Family Code, citing the rationale behind the law - it is a corrective measure to prevent the anomalous situation where the foreign spouse is free to contract a subsequent marriage while the Filipino spouse cannot do so.

**The Present Appeal**

Petitioner now seeks affirmative relief from the Court for the disposition of the Court of Appeals to be reversed and the case remanded to the trial court.[20] She, too, begs the indulgence of the Court to allow her to present additional evidence to establish her case.

Petitioner admits to lapses on her part due to logistical and financial difficulties. She claims that although the divorce and remarriage took place in 2000 and 2001, respectively, it was only in November 2012 when she secured the adequate financial capacity to institute the petition before the trial court. Hence, the delayed acquisition and presentation of documentary evidence.

In its Comment,[21] the OSG maintains that the appeal does not raise a question of law. More, the Court of Appeals was correct in affirming the denial of Edna's Motion for New Trial as the second Report of Divorce was not newly discovered evidence within the contemplation of the Rules of Court.

Although it agrees with the rulings of the courts below, the OSG submits to the Court's sound discretion on the possibility of relaxing the rules, considering Edna's predicament. Further, the denial of a petition for recognition of foreign judgment pertaining to a person's status is never barred by *res judicata*. Thus, the rulings below would simply force Edna to refile the petition, clogging the trial court's docket and wasting the time of both parties.

**Issue**

Should the case be remanded to the trial court for reception of additional evidence?

**Ruling**

We grant the petition.

Rule 37, Section 1 of the Rules of Court sets forth the grounds for a motion for new trial, *viz*:

> Section 1. Grounds of and period for filing motion for new trial or reconsideration. — Within the period for taking an appeal, the aggrieved party may move the trial court to set aside the judgment or final order and grant a new trial for one or more of the following causes materially affecting the substantial rights of said party:
>
> > (a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired in his rights; or
> >
> > **(b) Newly discovered evidence, which he could not, with reasonable diligence, have discovered and produced at the trial, and which if presented would probably alter the result.**
>
> Within the same period, the aggrieved party may also move for reconsideration upon the grounds that the damages awarded are excessive, that the evidence is insufficient to justify the decision or final order, or that the decision or final order is contrary to law. (1a) (Emphasis supplied)

For the court to grant a new trial on ground of newly discovered evidence, the following requirements must be met: (1) the evidence was discovered after trial; (2) such evidence could not have been discovered and produced at the trial even with the exercise of reasonable diligence; (3) it is material, not merely cumulative, corroborative, or impeaching; and (4) the evidence is of such weight that it would probably change the judgment if admitted. If the alleged newly discovered evidence could have been presented during the trial with the exercise of reasonable diligence, it cannot be considered newly discovered.[22]

We find the first and second requirements sorely missing.

Here, Edna herself did not deny, as she in fact admitted that the second Divorce Report was already existing during the proceedings below. To be sure, Katsuhiro allegedly married Tsukiko as early as May 30, 2001. If this were true, she should have promptly secured and presented a copy of the document during the trial. The Divorce Report could not therefore be deemed as newly discovered evidence. More so, since the trial court gave her an additional opportunity to present evidence through its Order dated December 3, 2013, but she still failed to present the second Divorce Report.

Be that as it may, what is at stake is not merely Edna's status, but also her actual marital and family life. In fact, Edna addressed a handwritten letter,[23] dated April 22, 2017, to this Court stating she had been anxiously worried for years about the possible repercussions that Philippine laws may have on her because she, too, had remarried in Japan in November 2014. Considering the recent jurisprudence on mixed marriages under Article 26 of the Family Code, the trial court should have been more circumspect in strictly adhering to procedural rules. For these rules are meant to facilitate administration of fairness and may be relaxed when a rigid application hinders substantial justice.[24]

The landmark case of ***Republic v. Manalo***[25] is instructive. Respondent therein offered the following in evidence: 1) Decision of the Japanese Court allowing the divorce; 2) the Authentication/Certificate issued by the Philippine Consulate General in Osaka, Japan of the Decree of Divorce; and 3) Acceptance of Certificate of Divorce by Petitioner and the Japanese national. The Court found though that the Japanese law on divorce was not duly established. It noted, nonetheless, that the existence of the divorce decree was not denied, jurisdiction of the divorce court was not impeached, nor the validity of the foreign proceedings challenged. Thus, the Court exercised liberality and remanded the case for further proceedings, specifically for reception of evidence to prove the relevant Japanese law.

In ***Racho v. Tanaka***,[26] therein petitioner was divorced by her Japanese husband. She obtained an authenticated Divorce Certificate from the Japanese embassy which the trial court deemed insufficient to prove the divorce decree. The Court, nonetheless, ruled that the Filipino spouse may be granted the capacity to remarry once it is proven that the foreign divorce was validly obtained and that the foreign spouse's national law considers the dissolution of the marital relationship to be absolute. For it would be unjust to insist, as the OSG did, that petitioner should still be considered married to her foreign husband. The Court noted that justice would not have been served if petitioner was discriminated against by her own country's law.

In the recent case of ***Moraña v. Republic of the Philippines***,[27] therein petitioner offered mere printouts of pertinent portions of the Japanese law on divorce and its English translation from a website, sans any proof of its correctness. The lower courts denied her action for recognition of divorce report because she did not present an authenticated Divorce Certificate issued by the Japanese government. The Court acknowledged that petitioner duly proved the fact of divorce but failed to prove the Japanese law on divorce. Relying on ***Racho***[28] and ***Manalo***,[29] the Court nonetheless relaxed procedural requirements and granted the petition. It likewise remanded the case to the trial court for presentation of the pertinent Japanese law on divorce for a new decision on the merits.

In ***Garcia v. Recio***,[30] the Court could not determine if respondent, a naturalized Australian citizen, was legally recapacitated to remarry despite the evidence already offered which included: Family Law Act 1975 Decree Nisi of Dissolution of Marriage in the Family Court of Australia; Decree Nisi of Dissolution of Marriage in the Family Court of Australia; and Decree Nisi of Dissolution of Marriage in the Family Court of Australia Certificate, among others. Hence, the Court remanded the case to the trial court to receive evidence to show respondent's legal capacity to remarry.

Indeed, the Court has time and again granted liberality in cases involving the recognition of foreign decrees to Filipinos in mixed marriages and free them from a marriage in which they are the sole remaining party. In the aforementioned cases, the Court has emphasized that procedural rules are designed to secure and not override substantial justice, especially here where what is involved is a matter affecting lives of families.

The Court sees no reason why the same treatment should not be applied here. Consider:

**First.** Edna presented an Authenticated Report of Divorce in Japanese Language; an English translation of the Report of Divorce; and an Authenticated Original copy of the Family Register of Katsuhiro. Too, she actively participated throughout the proceedings through her sister and

attorney-in-fact, Luzviminda, despite financial and logistical constraints. She also showed willingness to provide the final document the trial court needed to prove Katsuhiro's capacity to remarry.

**Second.** As the OSG noted, the present case concerns Edna's status. Hence, *res judicata* shall not apply and Edna could simply refile the case if dismissed. This process though would be a waste of time and resources, not just for both parties, but the trial court as well.[31] In ***RCBC v. Magwin Marketing Corp.***,[32] the Court surmised that there was no substantial policy upheld had it simply dismissed the case and required petitioner to pay the docket fees again, file the same pleadings as it did in the proceedings with the trial court, and repeat the belabored process. This reenactment would have been a waste of judicial time, capital, and energy.

**Third.** In its Comment, the OSG did not object to Edna's prayer to have the case remanded, *viz*:

> Hence, the OSG interposes no objection if this Honorable Court remands this case to the trial court and allows petitioner to present evidence to prove her case bearing in mind that only this High Court can relax its own rules for compassionate justice.

**Finally.** The present case stands on meritorious grounds, as petitioner had actually presented certified documents establishing the fact of divorce and relaxation of the rules will not prejudice the State.[33]

Verily, a relaxation of procedural rules is in order.

**ACCORDINGLY**, the petition is **GRANTED**. The Decision of the Court of Appeals dated March 16, 2016 in CA-G.R. CV No. 103150 is **REVERSED** and **SET ASIDE**. The case is **REMANDED** to the Regional Trial Court - Branch 4, Manila for presentation in evidence of the pertinent Japanese law on divorce and the document proving Katsuhiro was recapacitated to marry.

**SO ORDERED.**

*J. Reyes, Jr.,* and *Lopez, JJ.*, concur.
C*aguioa (Acting Chairperson), J.*, see separate concurring opinion.
*Peralta, C.J.*, on official leave.

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[1] *Rollo*, pp. 8-14.

[2] Penned by Associate Justice Florito S. Macalino with Associate Justices Mariflor P. Punzalan Castillo and Zenaida T. Galapate-Laguilles, concurring; *rollo*, pp. 15-23.

[3] Original Record, pp. 4-5, marked as Annex "A" and "A-1" (photocopies); Original copies in pp. 67-68.

[4] Now Philippine Statistics Authority.

[5] Original Record, pp. 6-16, marked as Annex "B" to "B-7", photocopies of Report of Divorce dated July 3, 2000 in Japanese and in English translation.

[6] *Id.* at 1-3.

[7] *Id.* at 39-44.

[8] *Id.* at 74-78.

[9] *Id.* at 86-88; Formal Offer of Evidence.

[10] *Id.* at 100-105. Exhibits "L" to "L-5".

[11] *Id.* at 97.

[12] Penned by Presiding Judge Jose Lorenzo R. Dela Rosa; CA *rollo*, pp. 16-17; Original Record pp. 108-109.

[13] Original Record, pp. 112-115.

[14] CA *rollo*, p. 24.

[15] Contents of motion for new trial or reconsideration and notice thereof. — The motion shall be made in writing stating the ground or grounds therefor, a written notice of which shall be served by the movant on the adverse party. A motion for new trial shall be proved in the manner provided for proof of motion. A motion for the cause mentioned in paragraph (a) of the preceding section shall be supported by affidavits of merits which may be rebutted by affidavits. A motion for the cause mentioned in paragraph (b) shall be supported by affidavits of the witnesses by whom such evidence is expected to be given, or by duly authenticated documents which are proposed to be introduced in evidence. (Emphasis supplied)

[16] CA *rollo*, p. 7; Notice of Appeal.

[17] *Id.* at 19-23; Appellant's Brief.

[18] *Id.* at 44-62; Brief for the Appellee.

[19] *Id.* at 70-78; Penned by Associate Justice Florito S. Macalino with Associate Justices Mariflor P. Punzalan Castillo and Zenaida T. Galapate-Laguilles, concurring.

[20] *Rollo*, pp. 8-14.

[21] *Id.* at 31-43.

[22] *Ybiernas, et al. v. Tanco-Gabaldon, et al.*, 665 Phil. 297, 311 (2011), citing *Brig. Gen. Custodio v. Sandiganbayan*, 493 Phil. 194, 203-204 (2005).

[23] *Rollo*, p. 59.

[24] *City of Dagupan v. Maramba*, 738 Phil. 71, 87 (2014), citing *Samala v. Court of Appeals*, 416 Phil. 1 (2001).

[25] G.R. No. 221029, April 24, 2018 [Per (now Chief Justice) Peralta, En Banc].

[26] G.R. No. 199515, June 25, 2018.

[27] G.R. No. 227605, December 5, 2019.

[28] G.R. No. 199515, June 25, 2018.

[29] G.R. No. 221029, April 24, 2018.

[30] 418 Phil. 723, 738-739 (2001).

[31] *Sps. Chan v. Regional Trial Court of Zamboanga del Norte*, 471 Phil. 822, 832-833 (2004).

[32] 450 Phil. 720, 734 (2003).

[33] See *Barnes v. Hon. Quijano Padilla*, 482 Phil. 903, 915 (2004).

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## SEPARATE CONCURRING OPINION

**CAGUIOA, *J.*:**

I concur in the result.

However, I submit, as I did in the case of *Republic v. Manalo*[1] (*Manalo*), that Article 26(2) of the Family Code had been crafted to serve as an exception to the nationality principle embodied in Article 15 of the Civil Code. This exception is narrow, and intended *only* to address the unfair situation that results when a foreign national obtains a divorce decree against a Filipino citizen, leaving the latter stuck in a marriage without a spouse.[2]

As stated in my *Dissenting Opinion* in *Manalo*:

> x x x [R]ather than serving as bases for the blanket recognition of foreign divorce decrees in the Philippines, I believe that the Court's rulings in [*Van Dorn v. Romillo,*

> *Jr.*[3]), [*Republic v. Orbecido III*[4]] and [*Dacasin v. Dacasin*[5] merely clarify the parameters for the application of the nationality principle found in Article 15 of the Civil Code, and the exception thereto found in Article 26(2) [of] the Family Code. These parameters may be summarized as follows:
>
> 1. Owing to the nationality principle, all Filipino citizens are covered by the prohibition against absolute divorce. As a consequence of such prohibition, a divorce decree obtained abroad by a Filipino citizen cannot be enforced in the Philippines. To allow otherwise would be to permit a Filipino citizen to invoke foreign law to evade an express prohibition under Philippine law.
>
> 2. Nevertheless, the effects of a divorce decree obtained by a foreign national may be extended to the Filipino spouse, provided the latter is able to prove (i) the issuance of the divorce decree, and (ii) the personal law of the foreign spouse allowing such divorce. This exception, found under Article 26(2) of the Family Code, respects the binding effect of the divorce decree on the foreign national, and merely recognizes the residual effect of such decree on the Filipino spouse.[6] (Emphasis and underscoring omitted)

Petitioner Edna S. Kondo is a Filipino citizen seeking recognition of the divorce decree issued upon a joint application filed with her husband Katsuhiro Kondo, a Japanese national.

Unlike the divorce decree in question in *Manalo*, the divorce decree in this case had been obtained *not* by the Filipino citizen alone, but *jointly*, by the Filipino and alien spouse. Verily, a divorce decree granted upon a joint application filed by the parties in a mixed marriage is still one "obtained by the alien spouse", *albeit* with the conformity of the latter's Filipino spouse. Thus, the twin requisites for the application of the exception under Article 26(2) are present — there is a valid marriage that has been celebrated between a Filipino citizen and a foreign national; and **a valid divorce is obtained abroad <u>by the alien spouse</u> capacitating him or her to remarry.**[7]

Based on these premises, I vote to **REMAND** the case to the Regional Trial Court of Manila to allow Edna S. Kondo to present evidence to prove the pertinent provisions of the Japanese Civil Code allowing Katsuhiro Kondo to remarry.

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[1] G.R. No. 221029, April 24, 2018, 862 SCRA 580.

[2] Id. at 638.

[3] 223 Phil. 357 (1985).

[4] 509 Phil. 108 (2005).

[5] 625 Phil. 494 (2010).

[6] *Republic v. Manalo*, supra note 1, at 641.

[7] See *Republic v. Orbecido III*, supra note 4, at 115.

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