SECOND DIVISION

[G.R. No. 226013, July 02, 2018]

LUZVIMINDA DELA CRUZ MORISONO, PETITIONER, VS. RYOJI* MORISONO AND LOCAL CIVIL REGISTRAR OF QUEZON CITY, RESPONDENTS.

D E C I S I O N

PERLAS-BERNABE, J.:

This is a direct recourse to the Court from the Regional Trial Court of Quezon City, Branch 105 (RTC), through a petition for review on *certiorari*[1] assailing the Decision[2] dated July 18, 2016 of the RTC in SP. PROC. NO. Q-12-71830 which denied petitioner Luzviminda Dela Cruz Morisono's (Luzviminda) petition before it.

The Facts

Luzviminda was married to private respondent Ryoji Morisono (Ryoji) in Quezon City on December 8, 2009.[3] Thereafter, they lived together in Japan for one (1) year and three (3) months but were not blessed with a child. During their married life, they would constantly quarrel mainly due to Ryoji's philandering ways, in addition to the fact that he was much older than Luzviminda.[4] As such, she and Ryoji submitted a "Divorce by Agreement" before the City Hall of Mizuho-Ku, Nagoya City, Japan, which was eventually approved on January 17, 2012 and duly recorded with the Head of Mizuho-Ku, Nagoya City, Japan on July 1, 2012.[5] In view of the foregoing, she filed a petition for recognition of the foreign divorce decree obtained by her and Ryoji[6] before the RTC so that she could cancel the surname of her former husband in her passport and for her to be able to marry again.[7]

After complying with the jurisdictional requirements, the RTC set the case for hearing. Since nobody appeared to oppose her petition except the government, Luzviminda was allowed to present her evidence *ex-parte.* After the presentation and absent any objection from the Public Prosecutor, Luzviminda's formal offer of evidence was admitted as proof of compliance with the jurisdictional requirements, and as part of the testimony of the witnesses.[8]

The RTC Ruling

In a Decision[9] dated July 18, 2016, the RTC denied Luzviminda's petition. It held that while a divorce obtained abroad by an alien spouse may be recognized in the Philippines – provided that

such decree is valid according to the national law of the alien – the same does not find application when it was the Filipino spouse, *i.e.,* petitioner, who procured the same. Invoking the nationality principle provided under Article 15 of the Civil Code, in relation to Article 26 (2) of the Family Code, the RTC opined that since petitioner is a Filipino citizen whose national laws do not allow divorce, the foreign divorce decree she herself obtained in Japan is not binding in the Philippines;[10] hence, this petition.

The Issue Before the Court

The issue for the Court's resolution is whether or not the RTC correctly denied Luzviminda's petition for recognition of the foreign divorce decree she procured with Ryoji.

The Court's Ruling

The petition is partly meritorious.

The rules on divorce prevailing in this jurisdiction can be summed up as follows: *first,* Philippine laws do not provide for absolute divorce, and hence, the courts cannot grant the same; *second,* consistent with Articles 15[11] and 17[12] of the Civil Code, the marital bond between two (2) Filipino citizens cannot be dissolved even by an absolute divorce obtained abroad; *third,* an absolute divorce obtained abroad by a couple, who are both aliens, may be recognized in the Philippines, provided it is consistent with their respective national laws; and *fourth,* **in mixed marriages involving a Filipino and a foreigner, the former is allowed to contract a subsequent marriage in case the absolute divorce is validly obtained abroad by the alien spouse capacitating him or her to remarry**.[13]

The fourth rule, which has been invoked by Luzviminda in this case, is encapsulated in Article 26 (2) of the Family Code which reads:

> Article 26. 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 likewise. have capacity to remarry under Philippine law.

This provision 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. It authorizes our courts to adopt the effects of a foreign divorce decree precisely because the Philippines does not allow divorce. Philippine courts cannot try the case on the merits because it is tantamount to trying a divorce case. Under the principles of comity, our jurisdiction recognizes a valid divorce obtained by a spouse of foreign nationality, but the legal effects thereof, *e.g.,* on custody, care and support of the children or property relations of the

spouses, must still be determined by our courts. The rationale for this rule is to avoid the absurd situation of a Filipino as still being married to his or her alien spouse, although the latter is no longer married to the former because he or she had obtained a divorce abroad that is recognized by his or her national law.[14] In *Corpuz v. Sto. Tomas,*[15] the Court held:

> As the RTC correctly stated, the provision was included in the law **"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."** The legislative intent is for the benefit of the Filipino spouse, by clarifying his or her marital status, settling the doubts created by the divorce decree. **Essentially, the second paragraph of Article 26 of the Family Code provided the Filipino spouse a substantive right to have his or her marriage to the alien spouse considered as dissolved, capacitating him or her to remarry.** Without the second paragraph of Article 26 of the Family Code, the judicial recognition of the foreign decree of divorce, whether in a proceeding instituted precisely for that purpose or as a related issue in another proceeding, would be of no significance to the Filipino spouse since our laws do not recognize divorce as a mode of severing the marital bond; Article 17 of the Civil Code provides that the policy against absolute divorces cannot be subverted by judgments promulgated in a foreign country. The inclusion of the second paragraph in Article 26 of the Family Code provides the direct exception to this rule and serves as basis for recognizing the dissolution of the marriage between the Filipino spouse and his or her alien spouse.
>
> Additionally, an action based on the second paragraph of Article 26 of the Family Code is not limited to the recognition of the foreign divorce decree. **If the court finds that the decree capacitated the alien spouse to remarry, the courts can declare that the Filipino spouse is likewise capacitated to contract another marriage.** No court in this jurisdiction, however, can make a similar declaration for the alien spouse (other than that already established by the decree), whose status and legal capacity are generally governed by his national law.[16] (Emphases and underscoring supplied)

According to *Republic v. Orbecido III,*[17] the following elements must concur in order for Article 26 (2) to apply, namely: *(a)* that there is a valid marriage celebrated between a Filipino citizen and a foreigner; and *(b)* that a valid divorce is obtained abroad by the alien spouse capacitating him or her to remarry.[18] In the same case, the Court also initially clarified that Article 26 (2) applies not only to cases where a foreigner was the one who procured a divorce of his/her marriage to a Filipino spouse, but also to instances where, at the time of the celebration of the marriage, the parties were Filipino citizens, but later on, one of them acquired foreign citizenship by naturalization, initiated a divorce proceeding, and obtained a favorable decree.[19]

However, in the recent case of *Republic v. Manalo (Manalo),*[20] the Court *En Banc* extended the application of Article 26 (2) of the Family Code to further cover mixed marriages where it was the Filipino citizen who divorced his/her foreign spouse. Pertinent portions of the ruling

read:

Now, the Court is tasked to resolve **whether, under the same provision, a Filipino citizen has the capacity to remarry under Philippine law after initiating a divorce proceeding abroad and obtaining a favorable judgment against his or her alien spouse who is capacitated to remarry.** x x x.

We rule in the affirmative.

x x x x

When this Court recognized a foreign divorce decree that was initiated and obtained by the Filipino spouse and extended its legal effects on the issues of child custody and property relation, it should not stop short in likewise acknowledging that one of the usual and necessary consequences of absolute divorce is the right to remarry. Indeed, there is no longer a mutual obligation to live together and observe fidelity. When the marriage tie is severed and ceased to exist, the civil status and the domestic relation of the former spouses change as both of them are freed from the marital bond.

x x x x

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."

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. x x x.

x x x x

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.**

x x x x

A Filipino who is married to another Filipino is not similarly situated with a Filipino who is married to a foreign citizen. There are real, material and substantial differences between them. *Ergo,* they should not be treated alike, both as to rights conferred and liabilities imposed. Without a doubt, there are political, economic, cultural, and religious dissimilarities as well as varying legal systems and procedures, all too unfamiliar, that a Filipino national who is married to an alien spouse has to contend with. More importantly, while a divorce decree obtained abroad by a Filipino against another Filipino is null and void, a divorce decree obtained by an alien against his or her Filipino spouse is recognized if made in accordance with the national law of the foreigner.

On the contrary, there is no real and substantial difference between a Filipino who initiated a foreign divorce proceedings and a Filipino who obtained a divorce decree upon the instance of his or her alien spouse. In the eyes of the Philippine and foreign laws, both are considered as Filipinos who have the same rights and obligations in an alien land. The circumstances surrounding them are alike. Were it not for Paragraph 2 of Article 26, both are still married to their foreigner spouses who are no longer their wives/husbands. Hence, to make a distinction between them based merely on the superficial difference of whether they initiated the divorce proceedings or not is utterly unfair. Indeed, the treatment gives undue favor to one and unjustly discriminate against the other.

x x x x

The declared State policy that marriage, as an inviolable social institution, is the foundation of the family and shall be protected by the State, should not be read in total isolation but must be harmonized with other constitutional provisions. Aside from strengthening the solidarity of the Filipino family, the State is equally mandated to actively promote its total development. It is also obligated to defend, among others, the right of children to special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development. To our mind, the State cannot effectively enforce these obligations if We limit the application of Paragraph 2 of Article 26 only to those foreign divorce initiated by the

alien spouse. x x x.

A prohibitive view of Paragraph 2 of Article 26 would do more harm than good. If We disallow a Filipino citizen who initiated and obtained a foreign divorce from the coverage of Paragraph 2 of Article 26 and still require him or her to first avail of the existing "mechanisms" under the Family Code, any subsequent relationship that he or she would enter in the meantime shall be considered as illicit in the eyes of the Philippine law. Worse, any child born out of such "extra-marital" affair has to suffer the stigma of being branded as illegitimate. Surely, these are just but a few of the adverse consequences, not only to the parent but also to the child, if We are to hold a restrictive interpretation of the subject provision. The irony is that the principle of inviolability of marriage under Section 2, Article XV of the Constitution is meant to be tilted in favor of marriage and. against unions not formalized by marriage, but without denying State protection and assistance to live-in arrangements or to families formed according to indigenous customs.

This Court should not turn a blind eye to the realities of the present time. With the advancement of communication and information technology, as well as the improvement of the transportation system that almost instantly connect people from all over the world, mixed marriages have become not too uncommon. Likewise, it is recognized that not all marriages are made in heaven and that imperfect humans more often than not create imperfect unions. Living in a flawed world, the unfortunate reality for some is that the attainment of the individual's full human potential and self-fulfillment is not found and achieved in the context of a marriage. Thus, it is hypocritical to safeguard the quantity of existing marriages and, at the same time, brush aside the truth that some of them are of rotten quality.

Going back, We hold that **marriage, being 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.** x x x.[21] (Emphases and underscoring supplied)

Thus, pursuant to *Manalo,* foreign divorce decrees obtained to nullify marriages between a Filipino and an alien citizen may already be recognized in this jurisdiction, regardless of who between the spouses initiated the divorce; provided, of course, that the party petitioning for the recognition of such foreign divorce decree – presumably the Filipino citizen – must prove the divorce as a fact and demonstrate its conformity to the foreign law allowing it.[22]

In this case, a plain reading of the RTC ruling shows that the denial of Luzviminda's petition to have her foreign divorce decree recognized in this jurisdiction was anchored on the sole ground that she admittedly initiated the divorce proceedings which she, as a Filipino citizen, was not allowed to do. In light of the doctrine laid down in *Manalo,* such ground relied upon by the RTC had been rendered nugatory. However, the Court cannot just order the grant of Luzviminda's petition for recognition of the foreign divorce decree, as Luzviminda has yet to prove the fact of her. "Divorce by Agreement" obtained, in Nagoya City, Japan and its conformity with prevailing Japanese laws on divorce. Notably, the RTC did not rule on such issues. Since these are

questions which require an examination of various factual matters, a remand to the court a *quo* is warranted.

WHEREFORE, the petition is **PARTLY GRANTED.** The Decision dated July 18, 2016 of the Regional Trial Court of Quezon City, Branch 105 in SP. PROC. NO. Q-12-71830 is hereby **REVERSED** and **SET ASIDE.** Accordingly, the instant case is **REMANDED** to the court *a quo* for further proceedings, as directed in this Decision.

SO ORDERED.

Carpio, (Chairperson), Peralta, and Reyes, Jr., JJ., concur.
Caguioa, J., maintains dissent in RP vs. Manalo. See separate concurring opinion.

---

* "Kyoji" in some parts of the *rollo.*

[1] *Rollo,* pp. 9-25.

[2] Id. at 26-29. Penned by Presiding Judge Rosa M. Samson.

[3] Id. at 26 and 30.

[4] Id. at 27.

[5] See Divorce Notification; id. at 37-38.

[6] Dated August 24, 2012. Id. at 30-33.

[7] See id. at 27.

[8] See id. at 27-28.

[9] Id. at 26-29.

[10] See id. at 28-29.

[11] Article 15 of the Civil Code reads:

> Article 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.

[12] Article 17 of the Civil Code reads:

> Article 17. The forms and solemnities of contracts, wills, and other public instruments shall be governed by the laws of the country in which they are executed.

[13] See *Republic v. Manalo,* G.R No. 221029, April 24, 2018; citations omitted.

[14] See id.; citations omitted

[15] 642 Phil. 420 (2010).

[16] Id. at 430; citations omitted.

[17] 509 Phil. 108 (2005).

[18] Id. at 115.

[19] See supra note 13.

[20] Id.

[21] See id.; citations omitted.

[22] See id.; citing *Garcia v. Recio,* 418 Phil. 723, 731 (2001). See also *Medina v. Koike,* 791 Phil. 645 (2016); *Corpuz v. Sto. Tomas,* supra note 15; *Bayot v. CA,* 591 Phil. 452 (2008); and *San Luis v. San Luis, 543 Phil. 275 (2007).*

SEPARATE CONCURRING OPINION

CAGUIOA, *J.:*

I concur in the result.

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. Such 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.

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. Judge Romillo, Jr.*[2]], [*Republic of the Philippines v. Orbecido III*[3]] and [*Dacasin v. Dacasin*[4]] 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.[5]

Petitioner herein is a Filipino citizen, seeking recognition of a divorce decree obtained in accordance with Japanese law.

Unlike the divorce decree in question in *Manalo,* the divorce decree herein had been obtained *not* by petitioner alone, but *jointly,* by petitioner *and* her then husband, who, in turn, is a Japanese national. Hence, 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 foreigner; and **a valid divorce is obtained abroad by the alien spouse capacitating him or her to remarry.**[6]

Based on these premises, I vote to **GRANT** the Petition.

---

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

[2] 223 Phil. 357 (1985) [Per J. Melencio-Herrera, First Division].

[3] 509 Phil. 108 (2005) [Per J. Quisumbing, First Division].

[4] 625 Phil. 494 (2010) [Per J. Carpio, Second Division].

[5] *J.* Caguioa, Dissenting Opinion in *Republic v. Manalo,* G.R. No. 221029, April 24, 2018, p. 6.

[6] *Republic v. Orbecido III,*supra note 3.