GERBERT R. CORPUZ, PETITIONER, VS. DAISYLYN TIROL STO. TOMAS AND THE SOLICITOR GENERAL, RESPONDENTS.

G.R. No. 186571. August 11, 2010

Ponente: BRION, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-186571/

BRION, J.:

Before the Court is a direct appeal from the decision[1] of the Regional Trial Court (RTC) of Laoag City, Branch 11, elevated via a petition for review on certiorari[2] under Rule 45 of the Rules of Court (present petition).

Petitioner Gerbert R. Corpuz was a former Filipino citizen who acquired Canadian citizenship through naturalization on November 29, 2000.[3] On January 18, 2005, Gerbert married respondent Daisylyn T. Sto. Tomas, a Filipina, in Pasig City.[4] Due to work and other professional commitments, Gerbert left for Canada soon after the wedding. He returned to the Philippines sometime in April 2005 to surprise Daisylyn, but was shocked to discover that his wife was having an affair with another man. Hurt and disappointed, Gerbert returned to Canada and filed a petition for divorce. The Superior Court of Justice, Windsor, Ontario, Canada granted Gerbert's petition for divorce on December 8, 2005. The divorce decree took effect a month later, on January 8, 2006.[5]

Two years after the divorce, Gerbert has moved on and has found another Filipina to love. Desirous of marrying his new Filipina fiancée in the Philippines, Gerbert went to the Pasig City Civil Registry Office and registered the Canadian divorce decree on his and Daisylyn's marriage certificate. Despite the registration of the divorce decree, an official of the National Statistics Office (NSO) informed Gerbert that the marriage between him and Daisylyn still subsists under Philippine law; to be enforceable, the foreign divorce decree must first be judicially recognized by a competent Philippine court, pursuant to NSO Circular No. 4, series of 1982.[6]

Accordingly, Gerbert filed a petition for judicial recognition of foreign divorce and/or declaration of marriage as dissolved (petition) with the RTC. Although summoned, Daisylyn did not file any responsive pleading but submitted instead a notarized letter/manifestation to the trial court. She offered no opposition to Gerbert's petition and, in fact, alleged her desire to file a similar case herself but was prevented by financial and personal circumstances. She, thus, requested that she be considered as a party-in-interest with a similar prayer to Gerbert's.

In its October 30, 2008 decision,[7] the RTC denied Gerbert's petition. The RTC concluded that Gerbert was not the proper party to institute the action for judicial recognition of the foreign divorce decree as he is a naturalized Canadian citizen. It ruled that only the Filipino spouse can avail of the remedy, under the second paragraph of Article 26 of the Family Code,[8] in order for him or her to be able to remarry under Philippine law.[9] Article 26 of the Family Code 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.
>
> 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 conclusion, the RTC stated, is consistent with the legislative intent behind the enactment of the second paragraph of Article 26 of the Family Code, as determined by the Court in Republic v. Orbecido III;[10] the provision was enacted 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."[11]

THE PETITION

From the RTC's ruling,[12] Gerbert filed the present petition.[13]

Gerbert asserts that his petition before the RTC is essentially for declaratory relief, similar to that filed in Orbecido; he, thus, similarly asks for a determination of his rights under the second paragraph of Article 26 of the Family Code. Taking into account the rationale behind the second paragraph of Article 26 of the Family Code, he contends that the provision applies as well to the benefit of the alien spouse. He claims that the RTC ruling unduly stretched the doctrine in Orbecido by limiting the standing to file the petition only to the Filipino spouse - an interpretation he claims to be contrary to the essence of the second paragraph of Article 26 of the Family Code. He considers himself as a proper party, vested with sufficient legal interest, to institute the case, as there is a possibility that he might be prosecuted for bigamy if he marries his Filipina fiancée in the Philippines since two marriage certificates, involving him, would be on file with the Civil Registry Office. The Office of the Solicitor General and Daisylyn, in their respective Comments,[14] both support Gerbert's position.

Essentially, the petition raises the issue of whether the second paragraph of Article 26 of the Family Code extends to aliens the right to petition a court of this jurisdiction for the recognition of a foreign divorce decree.

THE COURT'S RULING

The alien spouse can claim no right under the second paragraph of Article 26 of the Family Code as the substantive right it establishes is in favor of the Filipino spouse

The resolution of the issue requires a review of the legislative history and intent behind the second paragraph of Article 26 of the Family Code.

The Family Code recognizes only two types of defective marriages - void[15] and voidable[16] marriages. In both cases, the basis for the judicial declaration of absolute nullity or annulment of the marriage exists before or at the time of the marriage. Divorce, on the other hand, contemplates the dissolution of the lawful union for cause arising after the marriage.[17] Our family laws do not recognize absolute divorce between Filipino citizens.[18]

Recognizing the reality that divorce is a possibility in marriages between a Filipino and an alien, President Corazon C. Aquino, in the exercise of her legislative powers under the Freedom Constitution,[19] enacted Executive Order No. (EO) 227, amending Article 26 of the Family Code to its present wording, as follows:

> 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 likewise have capacity to remarry under Philippine law.

Through the second paragraph of Article 26 of the Family Code, EO 227 effectively incorporated into the law this

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

Court's holding in Van Dorn v. Romillo, Jr.[20] and Pilapil v. Ibay-Somera.[21] In both cases, the Court refused to acknowledge the alien spouse's assertion of marital rights after a foreign court's divorce decree between the alien and the Filipino. The Court, thus, recognized that the foreign divorce had already severed the marital bond between the spouses. The Court reasoned in Van Dorn v. Romillo that:

> To maintain x x x that, under our laws, [the Filipino spouse] has to be considered still married to [the alien spouse] and still subject to a wife's obligations x x x cannot be just. [The Filipino spouse] should not be obliged to live together with, observe respect and fidelity, and render support to [the alien spouse]. 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.[22]

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."[23] 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.[24] 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;[25] 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.[26]

Given the rationale and intent behind the enactment, and the purpose of the second paragraph of Article 26 of the Family Code, the RTC was correct in limiting the applicability of the provision for the benefit of the Filipino spouse. In other words, only the Filipino spouse can invoke the second paragraph of Article 26 of the Family Code; the alien spouse can claim no right under this provision.

The foreign divorce decree is presumptive evidence of a right that clothes the party with legal interest to petition for its recognition in this jurisdiction

We qualify our above conclusion - i.e., that the second paragraph of Article 26 of the Family Code bestows no rights in favor of aliens - with the complementary statement that this conclusion is not sufficient basis to dismiss Gerbert's petition before the RTC. In other words, the unavailability of the second paragraph of Article 26 of the Family Code to aliens does not necessarily strip Gerbert of legal interest to petition the RTC for the recognition of his foreign divorce decree. The foreign divorce decree itself, after its authenticity and conformity with the alien's national law have been duly proven according to our rules of evidence, serves as a presumptive evidence of right in favor of Gerbert, pursuant to Section 48, Rule 39 of the Rules of Court which provides for the effect of foreign judgments. This Section states:

> SEC. 48. Effect of foreign judgments or final orders.--The effect of a judgment or final order of a tribunal of a

> foreign country, having jurisdiction to render the judgment or final order is as follows:
>
> (a) In case of a judgment or final order upon a specific thing, the judgment or final order is conclusive upon the title of the thing; and
>
> (b) In case of a judgment or final order against a person, the judgment or final order is presumptive evidence of a right as between the parties and their successors in interest by a subsequent title.
>
> In either case, the judgment or final order may be repelled by evidence of a want of jurisdiction, want of notice to the party, collusion, fraud, or clear mistake of law or fact.

To our mind, direct involvement or being the subject of the foreign judgment is sufficient to clothe a party with the requisite interest to institute an action before our courts for the recognition of the foreign judgment. In a divorce situation, we have declared, no less, that the divorce obtained by an alien abroad may be recognized in the Philippines, provided the divorce is valid according to his or her national law.[27]

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."[28] 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.[29] 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.

In Gerbert's case, since both the foreign divorce decree and the national law of the alien, recognizing his or her capacity to obtain a divorce, purport to be official acts of a sovereign authority, Section 24, Rule 132 of the Rules of Court comes into play. This Section requires proof, either by (1) official publications or (2) copies attested by the officer having legal custody of the documents. If the copies of official records are not kept in the Philippines, these 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.

The records show that Gerbert attached to his petition a copy of the divorce decree, as well as the required certificates proving its authenticity,[30] but failed to include a copy of the Canadian law on divorce.[31] Under this situation, we can, at this point, simply dismiss the petition for insufficiency of supporting evidence, unless we deem it more appropriate to remand the case to the RTC to determine whether the divorce decree is consistent with the Canadian divorce law.

We deem it more appropriate to take this latter course of action, given the Article 26 interests that will be served and the Filipina wife's (Daisylyn's) obvious conformity with the petition. A remand, at the same time, will allow other interested parties to oppose the foreign judgment and overcome a petitioner's presumptive evidence of a right by proving want of jurisdiction, want of notice to a party, collusion, fraud, or clear mistake of law or fact. Needless to state, every precaution must be taken to ensure conformity with our laws before a recognition is made, as the foreign judgment, once recognized, shall have the effect of res judicata[32] between the parties, as provided in Section 48, Rule 39 of the Rules of Court.[33]

In fact, more than the principle of comity that is served by the practice of reciprocal recognition of foreign judgments between nations, the res judicata effect of the foreign judgments of divorce serves as the deeper basis for extending judicial recognition and for considering the alien spouse bound by its terms. This same effect, as discussed above, will not obtain for the Filipino spouse were it not for the substantive rule that the second

paragraph of Article 26 of the Family Code provides.

Considerations beyond the recognition of the foreign divorce decree

As a matter of "housekeeping" concern, we note that the Pasig City Civil Registry Office has already recorded the divorce decree on Gerbert and Daisylyn's marriage certificate based on the mere presentation of the decree.[34] We consider the recording to be legally improper; hence, the need to draw attention of the bench and the bar to what had been done.

Article 407 of the Civil Code states that "[a]cts, events and judicial decrees concerning the civil status of persons shall be recorded in the civil register." The law requires the entry in the civil registry of judicial decrees that produce legal consequences touching upon a person's legal capacity and status, i.e., those affecting "all his personal qualities and relations, more or less permanent in nature, not ordinarily terminable at his own will, such as his being legitimate or illegitimate, or his being married or not."[35]

A judgment of divorce is a judicial decree, although a foreign one, affecting a person's legal capacity and status that must be recorded. In fact, Act No. 3753 or the Law on Registry of Civil Status specifically requires the registration of divorce decrees in the civil registry:

> Sec. 1. Civil Register. - A civil register is established for recording the civil status of persons, in which shall be entered:
>
> (a) births;
> (b) deaths;
> (c) marriages;
> (d) annulments of marriages;
> (e) divorces;
> (f) legitimations;
> (g) adoptions;
> (h) acknowledgment of natural children;
> (i) naturalization; and
> (j) changes of name.
>
> x x x x
>
> Sec. 4. Civil Register Books. -- The local registrars shall keep and preserve in their offices the following books, in which they shall, respectively make the proper entries concerning the civil status of persons:
>
> (1) Birth and death register;
>
> (2) Marriage register, in which shall be entered not only the marriages solemnized but also divorces and dissolved marriages.
>
> (3) Legitimation, acknowledgment, adoption, change of name and naturalization register.

But while the law requires the entry of the divorce decree in the civil registry, the law and the submission of the decree by themselves do not ipso facto authorize the decree's registration. The law should be read in relation with the requirement of a judicial recognition of the foreign judgment before it can be given res judicata effect. In the context of the present case, no judicial order as yet exists recognizing the foreign divorce decree. Thus, the Pasig City Civil Registry Office acted totally out of turn and without authority of law when it annotated the Canadian divorce decree on Gerbert and Daisylyn's marriage certificate, on the strength alone of the foreign decree presented by Gerbert.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

Evidently, the Pasig City Civil Registry Office was aware of the requirement of a court recognition, as it cited NSO Circular No. 4, series of 1982,[36] and Department of Justice Opinion No. 181, series of 1982[37] - both of which required a final order from a competent Philippine court before a foreign judgment, dissolving a marriage, can be registered in the civil registry, but it, nonetheless, allowed the registration of the decree. For being contrary to law, the registration of the foreign divorce decree without the requisite judicial recognition is patently void and cannot produce any legal effect.

Another point we wish to draw attention to is that the recognition that the RTC may extend to the Canadian divorce decree does not, by itself, authorize the cancellation of the entry in the civil registry. A petition for recognition of a foreign judgment is not the proper proceeding, contemplated under the Rules of Court, for the cancellation of entries in the civil registry.

Article 412 of the Civil Code declares that "no entry in a civil register shall be changed or corrected, without judicial order." The Rules of Court supplements Article 412 of the Civil Code by specifically providing for a special remedial proceeding by which entries in the civil registry may be judicially cancelled or corrected. Rule 108 of the Rules of Court sets in detail the jurisdictional and procedural requirements that must be complied with before a judgment, authorizing the cancellation or correction, may be annotated in the civil registry. It also requires, among others, that the verified petition must be filed with the RTC of the province where the corresponding civil registry is located;[38] that the civil registrar and all persons who have or claim any interest must be made parties to the proceedings;[39] and that the time and place for hearing must be published in a newspaper of general circulation.[40] As these basic jurisdictional requirements have not been met in the present case, we cannot consider the petition Gerbert filed with the RTC as one filed under Rule 108 of the Rules of Court.

We hasten to point out, however, that this ruling should not be construed as requiring two separate proceedings for the registration of a foreign divorce decree in the civil registry - one for recognition of the foreign decree and another specifically for cancellation of the entry under Rule 108 of the Rules of Court. The recognition of the foreign divorce decree may be made in a Rule 108 proceeding itself, as the object of special proceedings (such as that in Rule 108 of the Rules of Court) is precisely to establish the status or right of a party or a particular fact. Moreover, Rule 108 of the Rules of Court can serve as the appropriate adversarial proceeding[41] by which the applicability of the foreign judgment can be measured and tested in terms of jurisdictional infirmities, want of notice to the party, collusion, fraud, or clear mistake of law or fact.

WHEREFORE, we GRANT the petition for review on certiorari, and REVERSE the October 30, 2008 decision of the Regional Trial Court of Laoag City, Branch 11, as well as its February 17, 2009 order. We order the REMAND of the case to the trial court for further proceedings in accordance with our ruling above. Let a copy of this Decision be furnished the Civil Registrar General. No costs.

SO ORDERED.

Carpio Morales, (Chairperson), Bersamin, [*]Abad, and Villarama, Jr., JJ., concur.

---

[*] Designated additional Member of the Third Division, in view of the retirement of Chief Justice Reynato S. Puno, per Special Order No. 843 dated May 17, 2010.

[1] Dated October 30, 2008, penned by Judge Perla B. Querubin; rollo, pp. 24-31.

[2] Id. at 3-20.

[3] Id. at 27.

[4] Marriage Certificate, id. at 37.

[5] Certificate of Divorce, id. at 38.

[6] Id. at 47-50; the pertinent portion of NSO Circular No. 4, series of 1982, states:

It would therefore be premature to register the decree of annulment in the Register of Annulment of Marriages in Manila, unless and until final order of execution of such foreign judgment is issued by competent Philippine court.

[7] Supra note 1.

[8] Executive Order No. 209, enacted on July 6, 1987.

[9] Rollo, p. 31.

[10] G.R. No. 154380, October 5, 2005, 472 SCRA 114.

[11] Id. at 121.

[12] Gerbert's motion for reconsideration of the RTC's October 30, 2008 decision was denied in an order dated February 17, 2009; rollo, p. 32.

[13] Supra note 2.

[14] Rollo, pp. 79-87 and 125-142, respectively.

[15] The void marriages are those enumerated under Articles 35, 36, 37, 38, 40, 41, 44, and 53 in relation to Article 52 of the Family Code.

[16] The voidable marriages are those enumerated under Article 45 of the Family Code.

[17] Garcia v. Recio, G.R. No. 138322, October 2, 2001, 366 SCRA 437, 452.

[18] Ibid. See A. Tolentino, Commentaries and Jurisprudence on the Civil Code of the Philippines, Volume One, with the Family Code of the Philippines (2004 ed.), p. 262.

[19] Proclamation No. 3, issued on March 25, 1996.

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

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

[22] Van Dorn v. Romillo, supra note 20 at 144.

[23] Republic v. Orbecido, supra note 10 at 121.

[24] The capacity of the Filipino spouse to remarry, however, depends on whether the foreign divorce decree capacitated the alien spouse to do so.

[25] See Article 17 in relation to Article 15 of the Civil Code:

> 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.
>
> x x x x

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

> 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.

[26] Parenthetically, we add that an alien's legal capacity to contract is evidenced by a certificate issued by his or her respective diplomatic and consular officials, which he or she must present to secure a marriage license (Article 21, Family Code). The Filipino spouse who seeks to remarry, however, must still resort to a judicial action for a declaration of authority to remarry.

[27] Garcia v. Recio, supra note 17 at 447; citing Van Dorn v. Romillo, supra note 20.

[28] Remedial Law, Volume II, Rules 23-56 (2007 ed.), p. 529.

[29] Republic v. Orbecido III, supra note 10 at 123 and Garcia v. Recio, supra note 17 at 448; see also Bayot v. Court of Appeals, G.R. No. 155635, November 7, 2008, 570 SCRA 472.

[30] Rollo, pp. 38-41.

[31] The foreign divorce decree only stated that the marriage between Gerbert and Daisylyn was dissolved by the Canadian court. The full text of the court's judgment was not included.

[32] Literally means "a thing adjudged," Black's Law Dictionary (5[th] ed.), p. 1178; it establishes a rule that a final judgment or decree on the merits by a court of competent jurisdiction is conclusive of the rights of the parties or their privies in all later suits, on points and matters determined in the former. Supra note 28 at 462.

[33] See Philsec Investment Corporation v. Court of Appeals, G.R. No. 103493, June 19, 1997, 274 SCRA 102, 110, where the Court said:

> While this Court has given the effect of res judicata to foreign judgments in several cases, it was after the parties opposed to the judgment had been given ample opportunity to repel them on grounds allowed under the law. It is not necessary for this purpose to initiate a separate action or proceeding for enforcement of the foreign judgment. What is essential is that there is opportunity to challenge the foreign judgment, in order for the court to properly determine its efficacy. This is because in this jurisdiction, with respect to actions in personam, as distinguished from actions in rem, a foreign judgment merely constitutes prima facie evidence of the justness of the claim of a party and, as such, is subject to proof to the contrary.

[34] On the face of the marriage certificate, the word "DIVORCED" was written in big, bold letters; rollo, p. 37.

[35] Silverio v. Republic, G.R. No. 174689, October 22, 2007, 537 SCRA 373, 390, citing Beduya v. Republic, 120 Phil. 114 (1964).

[36] Rollo, pp. 47-50.

[37] Id. at 51.

[38] Section 1, Rule 108, Rules of Court.

[39] Section 3, Rule 108, Rules of Court.

[40] Section 4, Rule 108, Rules of Court.

[41] When the entry sought to be corrected is substantial (i.e., the civil status of a person), a Rule 108 proceeding is deemed adversarial in nature. See Co v. Civil Register of Manila, G.R. No. 138496, February 23, 2004, 423 SCRA 420, 430.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.