

Divorce by Mutual Agreement Recognized in Philippine Courts

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In a Decision by the Supreme Court of the Philippines on 27 February 2024, the High Court ruled that foreign divorce decrees do not require judicial proceedings abroad to be recognized in the Philippines.



1. Facts and Course of the Case

In 2004, Ruby Ng (“Ms. Ng”) a Filipino citizen married Akihiro Sono (“Mr. Sono”), a Japanese national in Quezon City, Philippines. After moving to Japan, their relationship turned sour. The spouses successfully secured a “divorce decree by mutual agreement” in Japan some time in 2007. A Divorce Certificate was issued by the Embassy of Japan in the Philippines as proof of said divorce. The Department of Foreign Affairs in Manila provided an Authentication Certificate and a Certificate of Notification of Divorce. Likewise, the City Civil Registry Office of Manila released a Certification, guaranteeing that the Divorce Certificate provided by the Embassy of Japan in the Philippines was filed and recorded in its Office. The fact of divorce was duly recorded in the Civil Registry of Japan as exhibited by the original copy of the Family Registry of Japan bearing the official stamp of the Mayor of Nakano-Ku, Tokyo, Japan, and supported by its corresponding English translation.¹

Thereafter, Ms. Ng filed a Petition for judicial recognition of foreign divorce and declaration of capacity to remarry before the Regional Trial Court (“RTC”). The RTC granted the petition and ratiocinated that there was a valid divorce obtained by Ms. Ng abroad.

Displeased by the lower court’s verdict, the petitioner Republic of the Philippines, represented by the Office of the Solicitor General moved for reconsideration of the RTC’s Decision which was denied by the RTC.

2. Issue of the Case

The pivotal issues for the Court’s resolution are *first*, whether the trial court erred in judicially recognizing the divorce decree jointly obtained by mere agreement between the spouses without undergoing an adversarial proceeding before a foreign court of competent jurisdiction; and *second*, whether Ng has sufficiently proven the divorce decree and the Japanese law on divorce.

3. SC ruling on Divorce Validly Obtained Abroad

¹ *Republic of the Philippines vs Ruby Cuevas Ng a.k.a. Ruby Ng Sono*, G.R. No. 249238, 29 February 2024, Page 2.

(1) Previous SC ruling on Similar Cases

In deciding the issue, the Supreme Court acknowledged numerous cases involving similar facts such as in *Republic vs Manalo*², *Minori Fujiki vs Marinay*³, *Medina vs Michiyuki Koike*⁴, *Racho vs Seiichi Tanaka*⁵, *Galapon vs Republic*⁶, *In re: Ordaneza vs Republic*⁷, *Republic vs Bayog-Saito*⁸, *Basa-Egami vs Bersales*⁹.

Thereafter, the Supreme Court upheld the decision of the trial court in this case. It declared that altogether, the similar cases wherein the foreign divorce was recognized in Philippine Courts uniformly embody the jurisprudential rule that the foreign divorce by mutual agreement, as applicable in Japan, is within the ambit of Article 26, paragraph 2, of the Family Code of the Philippines, and as such, may be judicially recognized in the Philippines.

Refusing to recognize a foreign divorce validly obtained abroad will result in a situation wherein the Filipino spouse will remain tied to the marriage while the foreign spouse is free to remarry. Article 26, paragraph 2 of the Family Code is a corrective measure to address the anomaly that results from a marriage between a Filipino, whose laws do not allow divorce, and a foreign citizen, whose laws allow divorce.¹⁰

(2) Proof of the Divorce Decree and the National Law of the Alien

The Court also pointed out that in order for a divorce obtained abroad by the alien spouse to be recognized in our jurisdiction, it must be shown that the divorce decree is valid according to the national law of the foreigner. Both the divorce decree and the governing personal law of the alien spouse who obtained the divorce must be proven. Since our courts do not take judicial notice of foreign laws and judgments, our law on evidence requires that both the divorce decree and the national law of the alien must be alleged and proven like any other fact.

The Court emphasized that 'the burden of proving' the pertinent Japanese law, as well as the foreign spouse's capacity to remarry, fall squarely upon the petitioner. And then, the Court remanded the case to the court of origin for further proceedings and reception of evidence as to the relevant law on divorce.

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² *Republic of the Philippines vs Marelyn Tanedo Manalo*, G.R. No. 221029, 24 April 2018.

³ *Minori Fujiki vs Maria Paz Galela Marinay, et.al.*, G.R. No 196049, 26 June 2013.

⁴ *Doreen Grace Parilla Medina a.k.a. Doreen Grace Medina Kioke vs Michiyuki Koike, et.al.*, G.R. No 215723.

⁵ *Rhodora Illumin Racho a.k.a. Rhodora Racho Tanaka vs Seiichi Tanaka, et.al.*, G.R. No. 199515, 25 June 2018.

⁶ *Cynthia A. Galapon vs Republic of the Philippines*, G.R. No. 243722, 22 January 2020.

⁷ *In re: Petition for Recognition of Foreign Judgment of Divorce with Prayer to Change Civil Status of Janevic Orteza Ordaneza from Married to Single, Janevic Orteza Ordaneza, Represented By: Ricky O. Ordaneza vs Republic of the Philippines*, G.R. No. 254484, 24 November 2001.

⁸ *Republic of the Philippines vs Helen Bayog-Saito, et.al.*, G.R. No 247297, 17 August 2022.

⁹ *Maria Teresa Dino Basa-Egami vs Dr. Lisa Grace Bersales, et.al.*, G.R. No. 249410, 06 July 2022.

¹⁰ *Minoru Fujiki vs Marinay*.

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