EN BANC

G.R. No. 249238 – REPUBLIC OF THE PHILIPPINES, Petitioner, **v. RUBY CUEVAS NG a.k.a. "RUBY NG SONO,"** Respondent.

Promulgated:

February 27, 2024

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CONCURRING OPINION

GESMUNDO, *C.J.*:

This case involves Ruby Ng's (Ruby) Petition for Judicial Recognition of Foreign Divorce and Declaration of Capacity to Remarry under Article 26, paragraph 2 of the Family Code, which was granted by Branch 220, Regional Trial Court of Quezon City (RTC) in its January 3, 2019 Decision. The Republic of the Philippines (Republic) filed a Motion for Reconsideration, but the RTC denied it through its September 6, 2019 Order. The case was elevated to this Court via the present Petition for Review on *Certiorari*.

The relevant facts are as follows: In 2004, Ruby, a Filipino citizen, and Akihiro Sono, a Japanese national, contracted marriage in Quezon City and later had a child. After their marriage, they moved to Japan. When their relationship turned sour, they secured a "divorce decree *by mutual agreement*" in Japan on August 31, 2007. The divorce was duly recorded both in Japan and in Manila. In 2018, Ruby filed the Petition for Judicial Recognition before the RTC, and eventually, obtained a favorable ruling.

The Republic, through the Office of the Solicitor General (OSG), filed a Petition before this Court arguing that: (a) the RTC gravely erred in judicially recognizing a foreign divorce that was obtained by mere mutual agreement between the parties, and thus, did not undergo adversarial proceedings before a foreign court of competent jurisdiction; and (b) Ruby did not proffer an authenticated copy of the alleged Japanese Civil Code or one held by the official repository of Japanese laws and records. Ruby submitted before the RTC only *an unauthenticated photocopy* of the pertinent portions of the Japanese law on divorce and its corresponding English translation.

The *ponencia* grants the Petition of the Republic. *First*, it pronounces that although Philippine laws do not provide for absolute divorce, Article 26 of the Family Code extends the effect of a foreign divorce decree to a Filipino spouse without undergoing trial to determine the validity of the dissolution of the marriage. In *Basa-Egami v. Bersales*,[1] the Court already rejected the OSG's postulate that a foreign divorce decree by mutual agreement should not be recognized here in the Philippines. *Second*, the *ponencia* acknowledges that "courts cannot take judicial notice of foreign laws."[2] Considering that Ruby was able to establish the fact of divorce but not the Japanese law on divorce, a remand to the trial court for reception of evidence on the Japanese law on divorce is necessary.[3]

I fully concur in the *ponencia* that: (a) a judicial proceeding abroad is not required for Article 26, paragraph 2 of the Family Code to apply; and (b) a remand to the trial court, instead of outright dismissal, is proper.

Article 26, paragraph 2 of the Family Code; Current jurisprudence on foreign divorce by mutual agreement

At the outset, it must be emphasized that absolute divorce is not allowed under the Philippine law. This prohibition against severance of marriages through the mode of divorce is said to be "rooted in the constitutional policy" of "protecting the inviolability of the institution of marriage."[4] Thus, the marital bond between two Filipinos cannot be dissolved even by an absolute divorce obtained abroad. This is consistent also with the nationality principle under Article 15 of the Civil Code.[5]

A different rule applies, however, in mixed marriages involving a Filipino citizen and a foreign national. Article 26, paragraph 2 of the Family Code allows a Filipino spouse to remarry when a divorce is validly "*obtained abroad*" capacitating the alien spouse to remarry. The provision reads:

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1 G.R. No. 249410, July 6, 2022 [Per J. Zalameda, First Division].

2 *Ponencia*, p. 13.

3 *Id.* at 17–18.

4 *Republic v. Bayog-Saito*, G.R. No. 247297, August 17, 2022 [Per J. Inting, Third Division] at 7, n.55. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

5 Article 15 of the CIVIL CODE states that "[l]aws 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."

> Article 26. . . .
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> 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. (Emphasis supplied)

The rationale behind this provision has been clearly explained, thus: it serves as 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 their country.[6] The provision only authorizes Philippine courts to *adopt the effects* of a foreign divorce decree precisely because the Philippines does not allow divorce. To underscore, Philippine courts cannot and do not try the case on the merits because doing so would be tantamount to trying a case for divorce.[7] This provision purposefully rectifies the inequality of the situation wherein by virtue of a foreign divorce decree, the foreign spouse can remarry, but the Filipino spouse cannot.[8]

To my mind, simply stated, Article 26, paragraph 2 of the Family Code focuses on the *effect* of the foreign divorce on the Filipino spouse, thereby levelling the field for both parties in the mixed marriage. In assessing whether to give judicial recognition to the foreign divorce and consequently allow the Filipino spouse to remarry, courts do not look back to ascertain whether the foreign divorce should have been granted, but ventures forward to see whether the *effects* thereof should be extended to the Filipino spouse.[9]

In the process of judicial recognition of a foreign divorce decree under Article 26, paragraph 2 of the Family Code, the party pleading it has the burden to plead and prove the following as facts: (1) the national law of the foreign spouse that allows a divorce; and (2) the divorce decree obtained.[10] Notably, Article 26, paragraph 2 of the Family Code does not state that the divorce decree presented before the Philippine courts must be a decree

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6 *Minoru Fujiki v. Marinay*, 712 Phil. 524, 555 (2013) [Per J. Carpio, Second Division].

7 *Id.*

8 *Id.* at 556. "If the foreign judgment is not recognized in the Philippines, the Filipino spouse will be discriminated — the foreign spouse can remarry while the Filipino spouse cannot remarry."

9 *Medina v. Michiyuki Koike*, 791 Phil. 645, 651 (2016) [Per J. Perlas-Bernabe, First Division]. The Court held that "the law confers jurisdiction on Philippine courts to extend the *effect* of a foreign divorce decree to a Filipino spouse[.]"

10 *See Republic v. Bayog-Saito*, G.R. No. 247297, August 17, 2022 [Per J. Inting, Third Division] at 8 (this pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website); *Basa-Egami v. Bersales*, G.R. No. 249410, July 6, 2022 [Per J. Zalameda, First Division] at 14 (this pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website); *Racho v. Seiichi Tanaka*, 834 Phil. 21, 24 (2018) [Per J. Leonen, Third Division].

obtained in a judicial proceeding before a foreign court. It simply requires that a divorce be "validly obtained abroad."

For this reason, in *Republic v. Orbecido III*,[11] the Court allowed a Filipino spouse to remarry after his Filipino wife became a naturalized American citizen and obtained a divorce. Tracing the legislative history of Article 26, paragraph 2 of the Family Code, the Court explained, thus:

> On its face, the foregoing provision does not appear to govern the situation presented by the case at hand. It seems to apply only to cases where at the time of the celebration of the marriage, the parties are a Filipino citizen and a foreigner. The instant case is one where at the time the marriage was solemnized, the parties were two Filipino citizens, but later on, the wife was naturalized as an American citizen and subsequently obtained a divorce granting her capacity to remarry, and indeed she remarried an American citizen while residing in the U.S.A.
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> . . . .
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> *Thus, taking into consideration the legislative intent and applying the rule of reason, we hold that Paragraph 2 of Article 26 should be interpreted to include cases involving parties who, at the time of the celebration of the marriage were Filipino citizens, but later on, one of them becomes naturalized as a foreign citizen and obtains a divorce decree. The Filipino spouse should likewise be allowed to remarry as if the other party were a foreigner at the time of the solemnization of the marriage. To rule otherwise would be to sanction absurdity and injustice. Where the interpretation of a statute according to its exact and literal import would lead to mischievous results or contravene the clear purpose of the legislature*, it should be construed according to its spirit and reason, disregarding as far as necessary the letter of the law. A statute may therefore be extended to cases not within the literal meaning of its terms, so long as they come within its spirit or intent.
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> If we are to give meaning to the legislative intent 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, then the instant case must be deemed as coming within the contemplation of Paragraph 2 of Article 26.
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> . . . .

[11] 509 Phil. 109 (2005) [Per J. Quisumbing, First Division].

> 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 divorce is obtained abroad* by the alien spouse capacitating the latter to remarry.[12] (Emphasis supplied)

In that case, the Court gave premium to the legislative intent behind the statutory provision by *expanding* its application to marriages celebrated between Filipino citizens where one of them later becomes a foreign citizen and obtains a divorce abroad.

In the seminal case of *Republic v. Manalo*,[13] the Court further *expanded* the application of Article 26, paragraph 2 of the Family Code by recognizing a foreign divorce that was initiated by the Filipino spouse. While the text of statutory provision specifies a divorce that is "*obtained* abroad *by the alien spouse*," the Court found it more consistent with the legislative intent to judicially recognize a foreign divorce "without regard as to who initiated it."[14]

Following this ruling in *Manalo*, Article 26, paragraph 2 of the Family Code has been held to apply in mixed marriages where the divorce decree is: (1) obtained by the foreign spouse; (2) *obtained jointly* by the Filipino and foreign spouse; and (3) obtained solely by the Filipino spouse.[15]

As shown in these jurisprudential pronouncements, the focus is on the *residual effect* of the divorce on the Filipino spouse's capacity to remarry. The rationale behind these expansions is to give depth to the legislative spirit. Clearly, the perspective of the Court has consistently been to uphold the legislative purpose behind the statutory provision.

In the present case, the foreign law involved supposedly allows a divorce to be obtained by mutual agreement of the parties, and thus, without undergoing a judicial or adversarial proceeding. In resolving the issue of whether to recognize such divorce in this jurisdiction, *it is my humble view that as long as the foreign law allows a divorce decree by mutual agreement by the parties even without judicial proceedings in such foreign country, and the said foreign law is proven in evidence in the judicial proceeding before the Philippines, then it is covered by Article 26, paragraph 2 of the Family*

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12 *Id.* at 113–115.

13 831 Phil. 33 (2018) [Per J. Peralta, *En Banc*].

14 *Basa-Egami v. Bersales*, G.R. No. 249410, July 6, 2022 [Per J. Zalameda, First Division] at 10, n.39. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

15 *Galapon v. Republic*, 869 Phil. 351, 364 (2020) [Per J. Caguioa, First Division].

Code. Essentially this same doctrine has been adopted by the Court in previous cases involving similar facts.

In *Galapon v. Republic*,[16] a Filipino and a South Korean secured a divorce decree by mutual agreement in South Korea. The trial court granted the petition for judicial recognition of the foreign divorce, but the appellate court reversed such ruling. The Court of Appeals (CA) explained that a divorce decree obtained by mutual agreement falls outside the ambit of Article 26, paragraph 2 of the Family Code. When the case was elevated, the Court reinstated the trial court's ruling and held that the CA erred in denying the recognition of the divorce decree obtained by mutual agreement. In resolving the controversy, the Court centered on the interpretation of Article 26, paragraph 2 of the Family Code as applied to divorce decrees *obtained jointly* by the foreign spouse and a Filipino citizen.[17]

In the case of *In Re: Ordaneza v. Republic*,[18] the Court concisely noted that the divorce by agreement – between a Filipino and a Japanese national – "severed the marital relationship between the spouses, and the Japanese spouse is capacitated to remarry." Hence, the "foreign divorce decree by agreement" was judicially recognized.[19]

Similarly, in *Republic v. Bayog-Saito*,[20] which involves a Filipino and a Japanese who obtained a divorce in Japan via a Notice of Divorce, the recognition of a foreign divorce decree was likewise upheld. The Japanese husband asked the Filipino wife to sign the divorce notification papers, to which the latter acquiesced. The husband then submitted the divorce document to the Mayor of Minami-ku, Yokohama City. After the divorce notification was accepted, the divorce was recorded in the family registry in Japan. Thereafter, the vice-consul of the Japanese Embassy in the Philippines issued a Divorce Decree which was then authenticated by the Department of Foreign Affairs (DFA).[21] When the Filipino filed a petition for judicial recognition of foreign divorce decree, the trial court granted it. The OSG interposed an appeal to the CA asserting that absolute divorce is against public policy and the Filipino spouse cannot jointly seek a divorce

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16 *Id.*

17 *See also Abel v. Rule*, G.R. No. 234457, May 12, 2021 [Per J. Leonen, Third Division] at 10 (this pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website), where the Court, *citing Manalo* and *Galapon*, held that Article 26, paragraph 2 of the Family Code "does not impose an additional requirement for the alien spouse to solely obtain the divorce." Hence, the foreign divorce was recognized.

18 G.R. No. 254484, November 24, 2021 [Per J. Carandang, Third Division].

19 *Id.* at 11. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

20 G.R. No. 247297, August 17, 2022 [Per J. Inting, Third Division].

21 *Id.* at 2. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

decree with her husband even if such is allowed in the latter's country. The CA affirmed the RTC's ruling. On appeal, the Court also affirmed the ruling of the lower courts.

In that same case,[22] the Court categorically held that a foreign decree of divorce may be recognized in the Philippines even though "the divorce decree was *jointly obtained* by the spouses abroad."[23] If such decree is valid according to the national law of the foreign spouse, the legal effects thereof may be recognized in our jurisdiction. Considering that the dissolution of their marriage under Japan's laws capacitated the former husband to remarry, the Court found no reason to deprive the Filipino spouse of her legal capacity to remarry under our own laws.[24]

In *Basa-Egami*,[25] the Japanese husband asked his Filipino wife for a divorce. The latter, allegedly, was initially averse to the idea, but after relentless prodding, she eventually agreed to sign the divorce papers. Thereafter, they were issued a Japanese Divorce Decree, which was duly recorded in the family registry in Nagoya City. Subsequently, the Filipino wife filed before the trial court a petition for recognition of foreign divorce to be able to remarry. The trial court granted the petition, but on OSG's appeal, the CA reversed the ruling. When the case reached the Court, the pertinent issue of *whether Philippine courts should recognize a divorce by mutual consent*, was answered in the affirmative. The Court illuminated, thus:

> If We are to follow the OSG's interpretation of the law, petitioner would sadly remain in limbo – a divorcee who cannot legally remarry – as a result of the ambiguity in the law, particularly the phrase "divorce is thereafter validly obtained abroad by the alien spouse." This perfectly manifests the dire situation of most of our *kababayans* in unsuccessful mixed marriages since, more often than not, their divorces abroad are obtained through mutual agreements. Thus, some of them are even constrained to think of creative and convincing plots to make it appear that they were against the divorce or that they were just prevailed upon by their foreigner spouse to legally end their relationship. What is more appalling here is that those whose divorce end up getting rejected by Philippine courts for such a flimsy reason would still be considered as engaging in illicit extra-marital affairs in the eyes of Philippine laws if ever they choose to move on with their lives and enter into another relationship like

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22 *Republic v. Bayog-Saito*, G.R. No. 247297, August 17, 2022 [Per J. Inting, Third Division].

23 *Id.* at 7. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

24 *Id.* at 12. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

25 *Basa-Egami v. Bersales*, G.R. No. 249410, July 6, 2022 [Per J. Zalameda, First Division].

> their foreigner spouse. Worse, their children in the subsequent relationship would be legally considered as illegitimate.
>
> The myopic understanding of [Article 26, paragraph 2], as incessantly advocated by the OSG, would have been sound and successful in the past, since the Court repeatedly upheld this ultra-conservative view by relying on the letter of the law that *killeth*, instead of choosing that spirit of the law which *giveth* life.[26]

The Court concluded that "the divorce obtained by petitioner abroad against her foreign husband, *whether at her behest or acquiescence*, may be recognized as valid in this jurisdiction."[27]

Altogether, these cases uniformly embody the current jurisprudential rule that foreign divorce by mutual agreement is within the ambit of Article 26, paragraph 2 of the Family Code, and as such, may be judicially recognized in the Philippines. In my view, this jurisprudential rule need not be reversed.

Article 26, paragraph 2 of the Family Code only requires the divorce to be obtained validly abroad, without regard to the mode of proceedings

During the deliberations on this present Petition, a view has been expressed that the term "divorce" in Article 26, paragraph 2 of the Family Code should be construed to mean a foreign divorce obtained in *judicial* proceedings. Thus, only those rendered by "a foreign court of competent jurisdiction" should be given recognition. This proposition would effectively reverse the abovementioned jurisprudential pronouncements granting recognition to foreign divorce obtained by mutual agreement of the parties. The proponents of this view posit that extending recognition to foreign divorce decrees obtained by mutual agreement violates the Constitution, the public policy against absolute divorce, and the public policy against collusion to dissolve a marriage. They submit that ruling otherwise would encourage Filipinos to circumvent our laws which prohibit annulment of marriages through collusion.

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[26] *Id.* at 8–9. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

[27] *Id.* at 10. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

To my mind, such position fails to persuade.

First, the text of the statutory provision does not support a construction to limit recognition of foreign divorce decrees to those issued in *judicial* proceedings. A plain reading of Article 26, paragraph 2 of the Family Code reveals that it only requires that the "divorce" be "validly obtained abroad."[28] The validity of the divorce is examined from the lens of the foreign law. There is nothing in Article 26, paragraph 2 which requires that the divorce decree be acquired through a judicial proceeding in a foreign country.

Case law further explains that the statute authorizes domestic 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"[29] based on our laws. As such, what needs to be proven before our domestic courts in a judicial recognition case is that the national law of the foreign spouse allows absolute divorce, and based thereon, a foreign divorce decree was obtained.[30] The statutory text does not direct our courts to ascertain whether the procedure availed of in the foreign jurisdiction is judicial or administrative, before granting the Filipino spouse with the capacity to remarry. Again, the text merely requires that the foreign divorce be validly obtained.

Moreover, a statute must be read according to its intent. Courts ought not to interpret and should not accept an interpretation that would defeat the intent of the law and its legislators.[31] It bears reiterating that the legislative spirit animating Article 26, paragraph 2 of the Family Code is to correct the anomalous situation where the foreign spouse is free to contract a subsequent marriage while the Filipino spouse cannot. The statutory provision looks forward and focuses on the *effect* of the foreign divorce on the Filipino spouse. Laws have ends to achieve, and statutes should be so construed as not to defeat, but to carry out such ends and purposes.[32]

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28 *Abel v. Rule*, G.R. No. 234457, May 12, 2021 [Per J. Leonen, Third Division] at 10 (this pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website); *Republic v. Manalo*, 831 Phil. 33, 57 (2018) [Per J. Peralta, *En Banc*].

29 *Medina v. Michiyuki Koike*, 791 Phil. 645, 651(2016) [Per J. Perlas-Bernabe, First Division].

30 *See Racho v. Seiichi Tanaka*, 834 Phil. 21, 24 (2018) [Per J. Leonen, Third Division].

31 *League of Cities of the Philippines v. Commission on Elections*, 623 Phil. 531, 548 (2009) [Per J. Velasco, Jr., *En Banc*].

32 *Galapon v. Republic*, 869 Phil. 351, 363 (2020) [Per J. Caguioa, First Division].

Prescinding from these premises, it is my view that the proposition to limit recognition of foreign divorce decrees only to those obtained via judicial proceedings in a foreign jurisdiction runs counter to the text of Article 26, paragraph 2 of the Family Code.

Second, it would aid the Court to put in context the two public policies advanced to support the proposition: (1) the prohibition on absolute divorce; and (2) the prohibition against collusion.

As regards absolute divorce, case law acknowledges that the following rules exist in this jurisdiction:

> 1. Philippine law does not provide for absolute divorce; hence, our courts cannot grant it.
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> 2. Consistent with Articles 15 and 17 of the New Civil Code, the marital bond between two Filipinos cannot be dissolved even by an absolute divorce obtained abroad.
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> 3. 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.
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> 4. 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 [capacitating the alien spouse] to remarry.[33]

Indubitably, the prohibition against absolute divorce is maintained in this jurisdiction. Philippine courts still cannot grant absolute divorce. The applicability of this prohibition has been clarified as early as the 1985 case of *Van Dorn v. Romillo, Jr.*,[34] where the Court pronounced that:

> [O]wing to the nationality principle embodied in Article 15 of the Civil Code, *only Philippine nationals are covered by the policy against absolute divorces* the same being considered contrary to our concept of public policy and morality. However, *aliens may obtain divorces abroad*, which may be recognized in the Philippines, provided they are *valid according to their national law.*[35] (Emphasis supplied)

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33 *Republic v. Manalo*, 831 Phil. 33, 48–49 (2018) [Per J. Peralta, *En Banc*].
34 223 Phil. 357 (1985) [Per J. Melencio-Herrera, First Division].
35 *Id.* at 362.

Consistent with the nationality rule, a marriage *between two Filipinos* cannot be dissolved by absolute divorce even if the decree is obtained abroad. The rationale for this policy is that under the prevailing legal framework in the Philippines, absolute divorce is "considered contrary to our concept of public policy and morality."[36]

However, this policy finds no application in marriages involving *a foreign couple* whose national laws allow absolute divorce and who, in fact, obtained such divorce abroad.

Anent *mixed marriages* involving a Filipino and a foreigner, it must be emphasized that it is not the prohibition on absolute divorce between Filipino nationals that governs, but Article 26, paragraph 2 of the Family Code. To underscore, Article 26, paragraph 2 of the Family Code was crafted precisely to be an exception to the nationality principle[37] on the matter of divorce. *Hence, the prohibition on absolute divorce should not be used to withhold recognition of a divorce decree that is validly obtained abroad* between a Filipino spouse and a foreigner. Besides, none of the other provisions of the Family Code require judicial proceedings to be conducted in a foreign country in order for the divorce decree to be considered "validly obtained" in this jurisdiction.

As regards the policy against collusion, Article 48 of the Family Code prohibits it specifically in marriage annulment and nullity cases:

> Article 48. In all cases of annulment or declaration of absolute nullity of marriage, the Court shall order the prosecuting attorney or fiscal assigned to it to appear on behalf of the State to take steps to prevent collusion between the parties and to take care that evidence is not fabricated or suppressed.
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> In the cases referred to in the preceding paragraph, no judgment shall be based upon a stipulation of facts or confession of judgment.

It must be underscored that this provision requiring the prosecuting attorney to appear on behalf of the State to take steps to prevent collusion, which requires a judicial proceeding in a domestic court, is only applicable in cases involving annulment or declaration of absolute nullity of marriage. It neither mentions nor contemplates divorce decrees that are validly

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36 *Republic v. Manalo*, 831 Phil. 33, 54 (2018) [Per J. Peralta, *En Banc*].

37 *See* J. Caguioa, Dissenting Opinion in *Republic v. Manalo*, 831 Phil. 33, 89 (2018) [Per J. Peralta, *En Banc*].

obtained abroad by foreigners or those in mixed marriages. Thus, this provision cannot be used to justify that a divorce decree obtained in a foreign jurisdiction be secured exclusively through a judicial proceeding.

Case law explains that the *grant of* annulment of marriage *by default* is fraught with the danger of collusion.[38] Collusion has been defined as an agreement "between the husband and wife for one of them to commit, or to appear to commit, or to be represented in court as having committed, a matrimonial offense, or to suppress evidence of a valid defense, for the purpose of enabling the other to obtain" an annulment. Collusion would be present "if the parties had arranged to make it appear that a matrimonial offense had been committed *although it was not*[.]"[39] It seemingly contemplates a wrongdoing on the part of the parties to the proceedings before the courts. Hence, to avoid collusion between the husband and the wife in marriage annulment or nullity cases, the prosecuting attorney or fiscal is directed to "appear on behalf of the [S]tate for the purpose of preventing any collusion between the parties and to take care that their evidence is not fabricated or suppressed."[40] The purpose of the prosecutor's intervention on the State's behalf is "to preserve the integrity and sanctity of the marital bonds."[41]

Emphasis must be made that the legal safeguard against collusion arises in *cases involving annulment or declaration of absolute nullity* before Philippine courts where the marriage has not yet been dissolved. Such safeguard against collusion does not apply in *cases seeking judicial recognition* of foreign divorce pursuant to Article 26, paragraph 2 of the Family Code, as in the present case. Here, the marriage had already been dissolved and the foreign spouse is already recapacitated to remarry. What is left for the Filipino spouse to prove is that the foreign divorce decree was validly obtained abroad. Again, courts in judicial recognition proceedings are called to ascertain whether the effects of the foreign divorce should be extended to the Filipino spouse. Hence, the prohibition against collusion does not play a role in preventing the dissolution of the marriage in a foreign jurisdiction.

To highlight the distinction between the two proceedings, the parties in a marriage nullity or annulment case are the husband and the wife, while the party in a judicial recognition case is often the Filipino spouse. The

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38 *Tuason v. Court of Appeals*, 326 Phil. 169, 180 (1996) [Per J. Puno, Second Division].
39 *De Ocampo v. Florenciano*, 107 Phil. 35, 39 (1960) [Per J. Bengzon, *En Banc*].
40 *Tuason v. Court of Appeals*, 326 Phil. 169, 180 (1996) [Per J. Puno, Second Division].
41 *Tolentino v. Villanueva*, 155 Phil. 1, 5 (1974) [Per J. Makasiar, First Division].

foreign spouse is usually no longer a participant in the judicial recognition case.

To stress further, courts in cases involving judicial recognition of foreign divorce pursuant to Article 26, paragraph 2 of the Family Code do not look at the circumstances in which the divorce decree was obtained under a foreign law, as long as the divorce decree is valid under such law. Philippine courts do not dwell on the *validity* of the *ground* for divorce (i.e., with fault or no fault of one party), the type of proceeding (i.e., judicial or administrative), and consistent with the *Manalo* ruling, the identity of who initiated the divorce proceeding (i.e., the foreign spouse, the Filipino spouse, or both of them jointly). These matters are ascertained based on the foreign law involved. Verily, the type of proceeding by which a divorce is obtained in a foreign jurisdiction is beyond the purview of the Philippine courts. The amicable manner by which the divorce decree may be obtained, as allowed under the foreign divorce law, should be respected.

Based on the foregoing, I respectfully cannot subscribe to the view that the judicial recognition of foreign divorce decrees should be limited to those obtained in foreign *judicial* proceedings, which are usually adversarial in nature.

To strictly require a judicial proceeding in a foreign jurisdiction, even though it is not required by the foreign law, would result in an absurd scenario. Consider a situation wherein the couple in a mixed marriage already obtained a foreign divorce decree by mutual agreement. A directive for the Filipino spouse to institute a judicial proceeding in a foreign court would be a meaningless ritual that unduly burdens the latter in terms of time and finances. The Filipino spouse must continue to be in or regularly visit the foreign jurisdiction until the judicial proceeding is concluded because the divorce decree cannot be granted in the Philippines. There is also no incentive for the foreign spouse to take part in such judicial proceeding because from the latter's perspective, the marriage has already been dissolved. Meanwhile, the foreign spouse benefits from the legal effects of the termination of marriage, but the Filipino spouse remains married to the former.

Taking all these into account, it is my considered view that the jurisprudential pronouncements allowing foreign divorce by mutual agreement, even without a foreign judicial proceeding, should be maintained, as long as the foreign law allowing the divorce decree is likewise proven in the domestic court. This position is more consistent with

both the text and the purpose behind Article 26, paragraph 2 of the Family Code.

I deem it necessary to add that within the realm of private international law, recognition and enforcement are extended to foreign sovereign acts pursuant to international comity or the comity of nations. The concept of "*comity of nations*" has been succinctly defined as the recognition that one nation allows within its territory to another nation's sovereign acts, *whether in legislative, executive, or judicial* form, having due regard both to international duty and convenience, and to the rights of its own citizens or of other persons who are under the protection of its laws.[42] This concept was elucidated by the U.S. Supreme Court in *Hilton v. Guyot*,[43] viz.:

> No law has any effect, of its own force, beyond the limits of the sovereignty from which its authority is derived. The extent to which the law of one nation, as put in force within its territory, whether by executive order, *by legislative act, or by judicial decree* shall be allowed to operate within the dominion of another nation depends upon what our greatest jurists have been content to call "*the comity of nations.*" Although the phrase has been often criticized, no satisfactory substitute has been suggested.
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> "Comity," in the legal sense, is neither a matter of absolute obligation, on the one hand, nor of mere courtesy and goodwill, upon the other. But it is *the recognition which one nation allows within its territory to the legislative, executive, or judicial acts of another nation*, having due regard both to international duty and convenience and to the rights of its own citizens or of other persons [who] are under the protection of its laws.[44] (Emphasis supplied)

Hence, recognition of sovereign acts may be extended not only to foreign judgments, but also to the foreign countries' *nonjudicial actions*, such as the issuance of a divorce decree without court intervention, as in this case.

In another case,[45] comity was further illuminated, thus:

> [C]omity is not a rule of law, but it is a rule of "practice, convenience[,] and expediency. It is something more than mere courtesy, which implies

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42 *See Sison v. Board of Accountancy*, 85 Phil. 276, 282 (1949) [Per J. Torres, *En Banc*], *citing Hilton v. Guyot*, 159 U.S. 113 (1895).

43 *Id.*

44 *Id.* at 163–164.

45 *See* JOVITO R. SALONGA, PRIVATE INTERNATIONAL LAW, 69 (1995 ed.), *citing Johnston v. Compagnie Generale Transatlantique*, 242 N.Y. 381 (1926).

> only deference to the opinion of others, since it has *a substantial value in securing uniformity of decision and discouraging repeated litigation of the same question.*" . . . It, therefore, rests, not on the basis of reciprocity, but rather upon the persuasiveness of the foreign judgment.[46] (Emphasis supplied, citation omitted)

For this reason, the Court has held that a petition to recognize a foreign divorce should not entail "relitigation under a Philippine court of the case as if it were a new petition for declaration of nullity of marriage."[47] The courts' review in a foreign divorce decree recognition case is limited to ascertaining the fact of divorce and the applicable foreign divorce law.[48]

Adherence to international comity allows courts to recognize divorces obtained abroad in marriages between two foreigners or between a Filipino citizen and a foreigner.[49] One author accurately stated that "[w]hile there is no provision of law requiring Philippine courts to recognize a foreign divorce decree between non-Filipinos[,] such will be recognized under the principle of international comity, provided that it does not violate a strongly held policy of the Philippines."[50] As discussed earlier, the policies against absolute divorce and collusion are inapplicable to justify the denial of recognition of the foreign divorce. The burden of proving that a foreign divorce is offensive to public policy falls on the party claiming it, which was not shown in this case. Hence, the general rule prevails – that is, the dissolution of marriage which is validly obtained abroad shall be recognized in this jurisdiction.

At this point, the relevant question is this: when is the divorce considered "*validly obtained*" abroad to be granted recognition in the Philippines pursuant to Article 26, paragraph 2 of the Family Code? Alternatively stated, which foreign law should govern the *grounds* and *process* of the divorce?

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46 *Johnston v. Compagnie Generale Transatlantique*, *id.* at 387.

47 *Minoru Fujiki v. Marinay*, 712 Phil. 524, 546 (2013) [Per J. Carpio, Second Division].

48 *Id.* Indeed, "[Philippine courts] cannot substitute their judgment on the status, condition and legal capacity of the foreign citizen who is under the jurisdiction of another state."

49 *Republic v. Manalo*, 831 Phil. 33, 50 (2018) [Per J. Peralta, *En Banc*]. "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."

50 JORGE R. COQUIA and ELIZABETH A. PANGALANGAN, CONFLICT OF LAWS: CASES, MATERIALS AND COMMENTS 287 (2000 ed.); *see* Article 15 of the of the Civil Code which applies only to Filipino citizens: "[l]aws 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.*" (Emphasis supplied)

It has been stated that "most countries exercise divorce jurisdictions on the basis of domicile of one of the parties or matrimonial domicile,"[51] although some countries follow the nationality principle.[52] Whichever rule is applied, if the foreign country has jurisdiction over the domicile or nationality of the couple, "*the grounds of divorce and the method of procedure recognized at that place will control.*"[53] Hence, if that foreign country allows divorce through a *nonjudicial proceeding*, such shall be controlling and respected in Philippine courts by virtue of international comity.

Illustrative is the case of *Kapigian v. Der Minassian*[54] where a U.S. court recognized a foreign divorce *without the necessity of judicial proceedings*, as allowed under Turkish law. The case involved the dissolution of a marriage between Turkish nationals who were domiciled in Turkey. In that case:

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51 COQUIA and PANGALANGAN, *id.* at 275.

Most countries exercise divorce jurisdiction on the *basis of domicile of one of the parties or matrimonial domicile.* The rationale for this is that divorce, being a matter of concern of the state, should be controlled by the "law of the place with which the person is *most intimately concerned, the place where he dwelleth and hath his home.*" Likewise, due process requires that the forum court have a substantive contact with the relationship which by its laws it will decide whether or not to dissolve. (Emphasis supplied, citation omitted)

See also ARTHUR K. KUHN, COMPARATIVE COMMENTARIES ON PRIVATE INTERNATIONAL LAW OR CONFLICTS OF LAW, 159–160 (1937).

. . . We have seen that marriage is regarded as a status as well as a mode of life. Therefore, it seems *reasonable to accord to the state in which this mode of life is centralized, namely, the state of [domicile], the power to dissolve it.* It has been said: "*The process of divorce* is provided for because the lawmaking body deems it for the best interest of the parties and the state that, under certain conditions, which it sets out as *grounds* for divorce, individuals should no longer be compelled to maintain the relations of husband and wife." It is in the nature of marriage that, though entered into under the local law of a particular country, it may be modified or *dissolved by the sovereign power of any country where the parties may be domiciled.*

Although originating in contract, marriage is a domestic relation in which the state has an immediate interest, and each state to which the parties remove has a similar interest; "and as every nation and state has an exclusive sovereignty and jurisdiction within its own territory, so it *has exclusively the right to determine the domestic and social condition of the persons domiciled within that territory.*" The place of the contract, therefore, should give way to the place where the relationship subsists, if the parties have removed from the former.

52 *See* SALONGA, *supra* note 45, at 285. "Aliens may obtain divorces abroad which may be recognized in the Philippines, provided they are valid according to their national law."

Note: While there have been attempts to codify through international agreements common standards for the recognition and enforcement of divorce, separate from the recognition and enforcement of foreign judgments, such efforts are still in its early stages. One of the prominent efforts on this front, with only 20 contracting parties to date, is the *Convention on the Recognition of Divorces and Legal Separations (1970 HCCH Divorce Convention)*, Article 2 of which acknowledges jurisdiction over the divorce in the State where either of the parties are nationals or domiciliaries. (Convention of 1 June 1970 on the Recognition of Divorces and Legal Separations, Entry into force: 24-VIII-1975, "*Number of Contracting Parties to this Convention: 20*," *available at* https://www.hcch.net/en/instruments/conventions/status-table/?cid=80 (last accessed on February 20, 2024).

53 KUHN, *supra* note 51, at 167.

54 212 Mass. 412 (1912).

> The husband came to the United States without his wife, intending to return to her later. The wife afterwards renounced the Christian religion and married a Mohammedan which, *under the law of Turkey, constitutes a divorce without the necessity of legal proceedings*. The husband thereupon married again in the United States. Later the second wife sought to annul the marriage on the ground of a previous subsisting marriage. It was decided that as the parties to the first marriage were domiciled in Turkey at the time of the act constituting a divorce, it would be *recognized as valid in Massachusetts.* The court said: "under the law of Turkey, a public and notorious fact, which constitutes a ground for divorce in most if not in all civilized countries allowing any divorce, is treated as of itself severing the marriage relation. There is nothing in this law so revolting to the moral sense of a Christian nation as to prevent recognition and enforcement by its courts."[55] (Emphasis supplied)

Aside from Turkey, nonjudicial or administrative divorce is also allowed in several other foreign jurisdictions and takes various forms, viz.:

> In Russia and Japan, divorce with mutual consent is relatively a simple procedure, not requiring judicial approval or intervention for its validity. Jewish law requires the sending of a letter of repudiation with the cooperation of several rabbis. Ireland, Quebec[,] and New Zealand admit divorce by special Act of Parliament. Denmark and Norway admit a divorce issued by the King or some administrative body. In Germany, a court may grant divorce on either of two grounds: marriage breakdown or mutual agreement.[56]

In the Philippine context, the Court, in *Moraña v. Republic*,[57] recognized a divorce obtained by the parties through a *nonjudicial process* pursuant to the foreign law of Japan. That case involved a Filipino woman and a Japanese man who were married in the Philippines, moved to live in Japan, and later obtained a divorce by agreement. The lower courts declined to consider the Divorce Report as proof of the fact of foreign divorce. In reversing the lower courts' ruling, the Court held, thus:

> Records show that the Divorce Report is what the Government of Japan issued to petitioner and her husband when they applied for divorce. There was no "divorce judgment" to speak of because the divorce proceeding was not coursed through Japanese courts but through the Office of the Mayor of Fukuyama City in Hiroshima Prefecture, Japan. In any event, since the Divorce Report was issued by the Office of the Mayor of Fukuyama City, the same is *deemed an act of an official body in Japan.*

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55 KUHN, *supra* note 51, at 167.
56 SALONGA, *supra* note 45, at 285–286.
57 867 Phil. 578 (2019) [Per J. Lazaro-Javier, First Division].

> By whatever name it is called, the Divorce Report is clearly the equivalent of the "Divorce Decree" in Japan, hence, the best evidence of the fact of divorce obtained by petitioner and her former husband.[58] (Emphasis)

With such pronouncement, the Court effectively recognized the applicability of the divorce laws of Japan, which is the country of domicile of the divorced couple and of nationality of the husband. It was shown in said case that Japan's divorce laws allow its citizens and domiciliaries to undergo a *nonjudicial divorce process*. To use the phrase in Article 26, paragraph 2 of the Family Code, the divorce was considered "*validly obtained*" in the proper foreign jurisdiction, and thus, can be recognized by Philippine courts. To my mind, this ruling is consistent with international comity.

In the present case, the factual circumstances show that the spouses involved were also domiciled in Japan and the former husband was a Japanese national. Applying either the domicile of both parties or the nationality of the foreign spouse, the laws of Japan govern the divorce between them. As such, the grounds of divorce and the method of procedure in Japan is controlling in this case. Therefore, the divorce by mutual agreement between the parties shall be recognized in Philippine courts.

The case must be remanded to the trial court for reception of evidence on the pertinent Japanese law on divorce

As stated earlier, in the process of judicial recognition of a foreign divorce decree, the party pleading it has the burden to plead and prove the following as facts: (1) the national law of the foreign spouse; and (2) the divorce decree.[59] The rule is that any declaration recognizing the foreign divorce decree can be made only upon petitioner's complete submission of evidence.

In the present case, Ruby was able to prove the fact of divorce when she submitted into evidence the following documents as detailed in the *ponencia*:

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58 *Id.* at 593.

59 *See Republic v. Bayog-Saito*, G.R. No. 247297, August 17, 2022 [Per J. Inting, Third Division] at 11 (this pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website); *Basa-Egami v. Bersales*, G.R. No. 249410, July 6, 2022 [Per J. Zalameda, First Division] at 11 (this pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website); *Racho v. Seiichi Tanaka*, 834 Phil. 21, 24 (2018) [Per J. Leonen, Third Division].

> (1) An authenticated Divorce Certificate issued by the Embassy of Japan in the Philippines; (2) Certificate of Acceptance of Notification of Divorce; (3) Certification by the City Civil Registry Office of Manila acknowledging that a Divorce Certificate has been filed and recorded in their office; and (4) An original copy of the Family Registry of Japan issued by the Mayor of Nakano-Ku, Tokyo, Japan with its English translation, *evincing that the fact of divorce was duly recorded* in the Civil Registry of Japan.[60] (Emphasis supplied)

As argued by the Republic, however, *Ruby failed to prove the divorce law* of Japan, noting that she only presented an *unauthenticated* photocopy of the pertinent portions of the Japanese law on divorce and its corresponding translation.[61]

The *ponencia* holds that, instead of dismissing the case, the proper ruling is to remand the case to the trial court for reception of evidence on the foreign law on divorce.

I agree.

To reiterate, the petitioner in a case for judicial recognition of foreign divorce has the *burden to prove* entitlement to such recognition. As the party seeking the grant of judicial recognition of the foreign divorce decree, it is incumbent upon Ruby to prove not only that a foreign divorce has been obtained, but also that the applicable foreign law has capacitated the foreign spouse to remarry. Only then can she successfully obtain the grant of judicial recognition of the foreign divorce.

Moreover, well-settled is the rule that "our courts do not take judicial notice of foreign judgments and laws," which the Court explained, thus:

> 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." 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. The recognition may be made in an action instituted specifically for the purpose or in another

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60 *Ponencia*, p. 14.
61 *Id.* at 17.

> action where a party invokes the foreign decree as an *integral aspect of his claim or defense*.[62] (Emphasis supplied)

To my mind, the stringent evidentiary requirements in a judicial recognition case should be maintained. Ruby still possesses the burden of proving the facts necessary for the grant of the recognition.

It must be noted that judicial notice dispenses with the need for proof. Case law explains that judicial notice signifies that there are certain "*facta probanda*," or propositions in a party's case, as to which such party will *not be required to offer evidence*; these will be taken as true by the tribunal *without the need of evidence*.[63] It is "based upon convenience and expediency for it would certainly be superfluous, inconvenient, and expensive both to the parties and the court to require proof, in the ordinary way, of *facts which are already known to courts*."[64]

During the deliberations on this case, it was proposed that the Court should take judicial notice of the relevant Japanese law on divorce based on its English translation as contained in the Office of the Court Administrator's (OCA) compilation of foreign divorce laws as circulated to the trial courts via OCA Circular No. 157-2022-A.[65] It was posited that the Japanese law's provision on divorce is "capable of questionable demonstration and ought to be known to the courts by virtue of their judicial functions,"[66] considering that the English translation thereof was already provided by the Japanese government itself, upon request by the OCA and the DFA.

This proposition invites us to assess the evidentiary value of the foreign divorce laws as contained in the OCA's compilation. In my view, although the OCA's compilation is helpful in enabling courts to have a preliminary reference, it does not dispense with the requirement for Ruby to comply with Rule 132, Sections 24 and 25 of the Revised Rules on Evidence, which state:

> Section 24. *Proof of official record.*— The record of public documents referred to in paragraph (a) of Section 19, when admissible for any purpose, may be evidenced by an *official publication* thereof *or by a*

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62 *Corpuz v. Sto. Tomas*, 642 Phil. 420, 432–433 (2010) [Per J. Brion, Third Division].

63 *People v. Rullepa*, 446 Phil. 745, 768 (2003) [Per J. Carpio Morales, *En Banc*].

64 *Id.*

65 Compilation of the Laws of Foreign Countries on Marriage and Divorce.

66 Rule 129, sec. 2 of the Revised Rules on Evidence provides that judicial notice is *discretionary* on "matters which are of public knowledge, or are *capable of unquestionable demonstration*, or *ought to be known to judges because of their judicial functions*." (Emphasis supplied)

> *copy attested by the officer having the legal custody of the record, or by his [or her] deputy*, and accompanied, if the record is not kept in the Philippines, with a certificate that such officer has the custody.
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> Section 25. *What attestation of copy must state.*— Whenever a copy of a document or record is attested for the purpose of evidence, the attestation must state, in substance, that the copy is a correct copy of the original, or a specific part thereof, as the case may be. The attestation must be *under the official seal of the attesting officer*, if there be any, or if he [or she] be the clerk of a court having a seal, under the seal of such court. (Emphasis supplied)

The evidentiary requirements were further explained in *Rivera v. Woo Namsun*,[67] thus:

> As the foreign divorce decree allegedly issued by the Seoul Family Court, as well as the Civil Act of South Korea *purports to be official acts of a sovereign authority*, they may be *established by complying with the requirements of Sections 24 and 25, Rule 132* of the Rules of Court, which states:
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> . . . .
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> Otherwise stated, to prove the foreign judgment and the law on which it was based, the Section *requires proof*, either by (1) *official publications*; or (2) *copies attested by the officer having legal custody of the documents*. Should the copies of official records be proven to be stored outside of the Philippines, they must be (1) 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 (2) authenticated by the seal of [their] office. If copies are offered into evidence, the attestation: (1) must state that it is a correct copy of the original, or a specific part thereof; and (2) must be under the official seal of the attesting officer, or if they be the clerk of a court having a seal, under such seal of said court.[68] (Emphasis supplied)

The OCA Circular No. 157-2022-A states the means by which the texts and/or English translation of the foreign divorce laws were secured:

> The texts of these laws, and/or their English translations, were *officially transmitted* to the Philippine Embassies and Consulates *by the Ministry of Foreign Affairs [or] other agencies of the concerned foreign governments* through Notes Verbale *or* official letters enclosing the text of these laws *or* indicating the official website or online link containing the

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67 G.R. No. 248355, November 23, 2021 [Per J. Lopez, J., First Division].

68 *Id.* at 8–9. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

> authentic copies. *In some states* within the United States of America, the text of the laws provided were *authenticated* by the Secretary of State or by other competent officials having custody of authentic copies of these laws.[69] (Emphasis supplied)

While the texts of the foreign laws were *officially transmitted* to our embassies or consulates, it appears uncertain whether the versions transmitted were compliant with the necessary proof under Rule 132 of the Revised Rules on Evidence (i.e., "official publications" or "copies attested by the officer having legal custody of the documents"). Notably, some of the texts were transmitted only by "indicating the official website or online link" where the supposed authentic copies are uploaded. It is likewise unclear whether the copies of the texts were supported by attestations "under the official seal of the attesting officer" as required under Rule 132, Section 25 of the Revised Rules on Evidence. While some of the documents were sourced from the foreign affairs ministries of the foreign governments, some documents were also obtained from their "other agencies," which may or may not be considered as having legal custody of official record. These uncertainties prevent us from granting judicial notice of the foreign laws included in the compilation.

This brings us back to the prevailing rule that *our courts do not take judicial notice of foreign laws.* Therefore, the authenticity of foreign laws involved must be proven as facts pursuant to our rules on evidence.

Again, jurisprudence instructs that before a foreign divorce decree can be recognized by our courts, "the party pleading it must prove the divorce as a fact and demonstrate its conformity to the foreign law allowing it."[70]

Considering that the evidentiary requirements to prove the pertinent provisions of the Japanese law on divorce were not established, this case should be properly remanded to the court *a quo.*

Notably, even in *Manalo*, the Court did not take judicial notice of the foreign law explaining, thus: Japanese laws on persons and family relations are *not among those matters that Filipino judges are supposed to know by reason of their judicial function.*[71] It emphasized that "the burden of proving" the pertinent Japanese law, as well as the foreign spouse's capacity

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69 OCA Circular No. 157-2022-A, Compilation of the Laws of Foreign Countries on Marriage and Divorce, pp. 1–2.

70 *Rivera v. Woo Namsun*, G.R. No. 248355, November 23, 2021 [Per J. Lopez, J., First Division] at 1. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

71 *Republic v. Manalo*, 831 Phil. 33, 77 (2018) [Per J. Peralta, *En Banc*].

to remarry, fall squarely upon therein petitioner. As a measure of liberality, it remanded the case to the court of origin for further proceedings and reception of evidence as to the relevant law on divorce.

In *Kondo v. Civil Registrar General*,[72] it was stated that 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."[73] Such liberality was expressed through the remand of the case to the court *a quo* in order to conform with the requirements under the Rules on Evidence.

Similarly, in *Morisono v. Ryoji Morisono*,[74] the Court explained that it cannot just order the grant of the petition for recognition of the foreign divorce decree, as therein petitioner has yet to prove that the divorce by agreement was obtained in Japan, and is in conformity with the Japanese laws on divorce. Considering that the trial court did not rule on these issues and that such questions require an examination of factual matters, the Court found that a remand to the court *a quo* was warranted.

In *Kondo*,[75] the case was likewise remanded to the court *a quo* for the presentation in evidence of the pertinent Japanese law on divorce, as well as the document proving that the foreign spouse was recapacitated to remarry.

ACCORDINGLY, I vote that the Petition be **GRANTED** and that this case be **REMANDED** to the court *a quo* for reception of evidence on the pertinent Japanese law on divorce.

ALEXANDER G. GESMUNDO
Chief Justice

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72 872 Phil. 251 (2020) [Per J. Lazaro-Javier, First Division].
73 *Id.* at 263.
74 834 Phil. 823 (2018) [Per J. Perlas-Bernabe, Second Division].
75 872 Phil. 251(2020) [Per J. Lazaro-Javier, First Division].