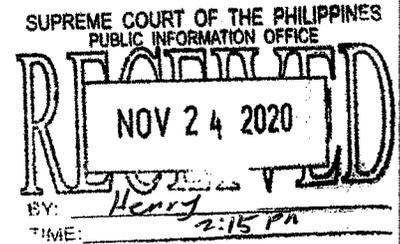




Republic of the Philippines
Supreme Court
Manila
THIRD DIVISION



NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **July 8, 2020**, which reads as follows:*

“G.R. No. 234487 – (REPUBLIC OF THE PHILIPPINES, *petitioner* v. VIRGINIA PARREÑO MIMORI, *respondent*). – The case is a petition for review under Rule 45 of the Rules of Court seeking the reversal of the Decision¹ dated May 31, 2017 and Resolution² dated September 27, 2017 issued by the Court of Appeals (CA) in CA-G.R. CV No. 107623 which affirmed the Order³ dated April 28, 2015 of Branch 89 of the Regional Trial Court (RTC) of Bacoor City recognizing the divorce obtained by herein respondent, Virginia Parreño, and her husband Koji Mimori.

Respondent and Koji Mimori, a Japanese national, was married on November 8, 2005 in Noveleta, Cavite. They were together for seven years and were blessed with one child. On February 27, 2013, respondent and her husband obtained divorce by agreement under Japanese Law.⁴

On November 3, 2014, respondent then filed a petition for judicial recognition of foreign divorce before the RTC.⁵ On April 28, 2015, the RTC granted the petition, to wit:

ACCORDINGLY, the Divorce Certificate No. IB14-07269-14 is recognized as valid and effective under Philippine Laws. The National Statistics Office is ordered to annotate the said Divorce Certificate in the marriage certificate of petitioner Virginia Ambing Parreño and Koji Mimori solemnized on 08 November 2005 at Noveleta, Cavite, and other pertinent records, upon payment of the corresponding legal fees.

Petitioner Virginia Ambing Parreño-Mimori is declared to have the capacity to remarry pursuant to Article 26 of the Family Code.

¹ *Rollo*, pp. 29-37; penned by Associate Justice Magdangal M. De Leon with the concurrence of Associate Justices Elihu A. Ybañez and Carmelita Salandanan Manahan.

² *Id.* at 39-40.

³ *Id.* at 44-45.

⁴ *Id.* at 30.

⁵ *Id.* at 12.

SO ORDERED.⁶

The Republic through the Office of the Solicitor General (OSG) filed a Motion for Reconsideration assailing the above order. However, the same was denied in the Order⁷ dated January 14, 2016, to wit:

ACCORDINGLY, the Motion for Reconsideration filed by the Office of the Solicitor General is denied.

SO ORDERED.⁸

The OSG appealed the same before the CA. In its appeal, petitioner raised that respondent failed to prove the Japanese Law on divorce, as well as the Report of Divorce under Sections 24 and 25, Rule 132 of the Rules of Court. In its Decision dated May 31, 2017, the CA denied the appeal for lack of merit. CA ruled that the matter of the alleged failure of the respondent to comply with the requirements set forth by the rules was only raised for the first time on appeal. It was not even raised in their motion for reconsideration before the RTC.⁹ However, the CA still ruled that respondent complied with the rules as records of the case showed that respondent was able to present an Authentication issued by the Vice Consul Andrea B. Leycano validating the authenticity of the Report of Divorce and Certificate of all Matters relative to her divorce with Koji Mimori.¹⁰

Unsatisfied with the decision of the CA, petitioner filed a Motion for Reconsideration. However, the same was also denied for lack of merit.

Hence, the present petition.

Issue

In the present petition for review, the petitioner raises the issue of whether paragraph 2,¹¹ Article 26 of the Family Code is applicable to a case of consensual divorce and that such can be recognized in our jurisdiction.¹²

Petitioner also questions the decision of the CA affirming the RTC's decision which orders the annotation of the divorce certificate in the marriage certificate of the respondent sans the appropriate special proceeding under

⁶ Id. at 45.

⁷ Id. at 52-55.

⁸ Id. at 55.

⁹ Id. at 34-35.

¹⁰ Id. at 35.

¹¹ 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.

¹² *Rollo*, pp. 14-19.

Rule 108 of the Rules of Court.¹³

Discussion:

The issue on the recognition of divorce in our jurisdiction was already settled in the recent decisions of this Court. To reiterate the present rulings, foreign divorce by mutual consent or by agreement of the parties is not violative of the national law of the Filipino spouse.

In the case of *Moraña v. Republic*¹⁴ citing *Republic v. Manalo*,¹⁵ this Court held that a divorce decree initiated and obtained by a Filipino may be recognized in the Philippines. A clear reading of paragraph 2, Article 26 of the Family Code, which capacitates the foreign spouse to remarry, only requires that there be a divorce validly obtained abroad. The letter of the law does not demand that the alien spouse should be the one who initiated the proceeding wherein the divorce decree was granted. It does not distinguish whether the Filipino spouse is the petitioner or the respondent in the foreign divorce proceeding. **The intent of paragraph 2 of Article 26 is to avoid the absurd situation where the Filipino spouse remains married to the alien spouse who, after a foreign divorce decree that is effective in the country where it was rendered, is no longer married to the Filipino spouse. The provision is a corrective measure to address an anomaly where the Filipino spouse is tied to the marriage while the foreign spouse is free to marry under the laws of his or her country.**

Anent the second issue, it must be noted that this issue was only raised during this time. This issue was not even raised in the motion for reconsideration before the CA. It is axiomatic that issues raised for the first time on appeal will not be entertained because to do so would be anathema to the rudiments of fairness and due process.¹⁶ Points of law, theories, issues, and arguments not brought to the attention of the trial court ought not to be considered by a reviewing court, as these cannot be raised for the first time on appeal. To consider the alleged facts and arguments belatedly raised would amount to trampling on the basic principles of fair play, justice, and due process.¹⁷ Nonetheless, petitioner's contention is misplaced. Respondent's petition in the trial court below was clearly for the recognition of divorce and not for cancellation or correction of entry in the civil registrar. The intention was clear and that is to recognize the divorce they have obtained abroad. Thus, the trial court did not err in ordering the annotation of the recognized foreign divorce as such is an incident of the recognition.

¹³ Id. at 14.

¹⁴ G.R. No. 227605, December 5, 2019.

¹⁵ G.R. No. 221029, April 24, 2018, 862 SCRA 580.

¹⁶ *S.C. Megaworld Construction and Development Corporation v. Engr. Parada*, 717 Phil. 753, 760 (2013).

¹⁷ *Ayala Land, Inc., et al. v. Castillo, et al.*, 667 Phil. 274, 297 (2011).

WHEREFORE, in view of the foregoing, the present petition is hereby **DENIED** for lack of merit. The Decision dated May 31, 2017 and Resolution dated September 27, 2017 issued by the Court of Appeals in CA-G.R. CV No. 107623 is **AFFIRMED**.

SO ORDERED.”

By authority of the Court:

Mis-DCBatt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court

GER
11/4/20

OFFICE OF THE SOLICITOR GENERAL
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