THIRD DIVISION

[G.R. No. 213198, July 01, 2019]

GENEVIEVE ROSAL ARREZA, A.K.A. "GENEVIEVE ARREZA TOYO," PETITIONER, V. TETSUSHI TOYO, LOCAL CIVIL REGISTRAR OF QUEZON CITY, AND THE ADMINISTRATOR AND CIVIL REGISTRAR GENERAL OF THE NATIONAL STATISTICS OFFICE, RESPONDENTS.

D E C I S I O N

LEONEN, J.:

Philippine courts do not take judicial notice of foreign judgments and laws. They must be proven as fact under our rules on evidence. A divorce decree obtained abroad is deemed a foreign judgment, hence the indispensable need to have it pleaded and proved before its legal effects may be extended to the Filipino spouse.[1]

This Court resolves a Petition for Review on Certiorari[2] under Rule 45 of the Rules of Court, praying that the Regional Trial Court's February 14, 2014 Judgment[3] and June 11, 2014 Resolution[4] in SP. PROC. No. Q-12-71339 be reversed and set aside. The Regional Trial Court denied Genevieve Rosal Arreza a.k.a. Genevieve Arreza Toyo's (Genevieve) Petition for judicial recognition of foreign divorce and declaration of capacity to remarry.[5]

On April 1, 1991, Genevieve, a Filipino citizen, and Tetsushi Toyo (Tetsushi), a Japanese citizen, were married in Quezon City. They bore a child whom they named Keiichi Toyo.[6]

After 19 years of marriage, the two filed a Notification of Divorce by Agreement, which the Mayor of Konohana-ku, Osaka City, Japan received on February 4, 2011. It was later recorded in Tetsushi's family register as certified by the Mayor of Toyonaka City, Osaka Fu.[7]

On May 24, 2012, Genevieve filed before the Regional Trial Court a Petition for judicial recognition of foreign divorce and declaration of capacity to remarry.[8]

In support of her Petition, Genevieve submitted a copy of their Divorce Certificate,[9] Tetsushi's Family Register,[10] the Certificate of Acceptance of the Notification of Divorce,[11] and an English translation of the Civil Code of Japan,[12] among others.[13]

After finding the Petition sufficient in form and substance, the Regional Trial Court set the case for hearing on October 16, 2012.[14]

On the day of the hearing, no one appeared to oppose the Petition. After the jurisdictional requirements were established and marked, trial on the merits ensued.[15]

On February 14, 2014, the Regional Trial Court rendered a Judgment[16] denying Genevieve's Petition. It decreed that while the pieces of evidence presented by Genevieve proved that their divorce agreement was accepted by the local government of Japan,[17] she nevertheless failed to prove the copy of Japan's law.[18]

The Regional Trial Court noted that the copy of the Civil Code of Japan and its English translation submitted by Genevieve were not duly authenticated by the Philippine Consul in Japan, the Japanese Consul in Manila, or the Department of Foreign Affairs.[19]

Aggrieved, Genevieve filed a Motion for Reconsideration, but it was denied in the Regional Trial Court's June 11, 2014 Resolution.[20]

Thus, Genevieve filed before this Court the present Petition for Review on Certiorari.[21]

Petitioner argues that the trial court erred in not treating the English translation of the Civil Code of Japan as an official publication in accordance with Rule 131, Section 3(gg) of the Rules of Court. That it is an official publication, she points out, makes it a self-authenticating evidence of Japan's law under Rule 132, Section 25 of the Rules of Court.[22]

Petitioner further contends that the trial court erred in not considering the English translation of the Japan Civil Code as a learned treatise and in refusing to take judicial notice of its authors' credentials.[23]

In its August 13, 2014 Resolution,[24] this Court required respondents to file their comment.

In their Comment,[25] respondents, through the Office of the Solicitor General, maintain that the Regional Trial Court was correct in denying the petition for petitioner's failure to prove respondent Tetsushi's national law.[26] They stress that in proving a foreign country's law, one must comply with the requirements under Rule 132, Sections 24 and 25 of the Rules of Court.[27]

Respondents similarly claim that what Rule 131, Section 3(gg) of the Rules of Court presumes is "the fact of printing and publication[,]"[28] not that it was an official publication by the government of Japan.[29]

Finally, respondents insist that before the English translation of the Japan Civil Code may be considered as a learned treatise, the trial court must first take judicial notice that the writer is recognized in his or her profession as an expert in the subject.[30]

In its March 25, 2015 Resolution,[31] this Court directed petitioner to file her reply.

In her Reply,[32] petitioner asserts that she submitted in evidence the Civil Code of Japan as an official publication printed "under authorization of the Ministry of Justice[.]" [33] She contends that because it was printed by a public authority, the Civil Code of Japan is deemed to be an official publication under Rule 131, Section 3(gg) of the Rules of Court and, therefore, is a self-authenticating document that need not be certified under Rule 132, Section 24.[34]

In its August 3, 2016 Resolution,[35] this Court resolved to dispense with the filing of respondent Tetsushi's Comment. In addition, the parties were required to file their respective memoranda.

In her Memorandum,[36] petitioner reiterates that the Regional Trial Court erred in not considering the Civil Code of Japan as an official publication and its English translation as a learned treatise.[37]

On September 23, 2016, respondents manifested that they are adopting their Comment as their memorandum.[38]

The issue for this Court's resolution is whether or not the Regional Trial Court erred in denying the petition for judicial recognition of foreign divorce and declaration of capacity to remarry filed by petitioner Genevieve Rosal Arreza a.k.a. Genevieve Arreza Toyo.

When a Filipino and an alien get married, and the alien spouse later acquires a valid divorce abroad, the Filipino spouse shall have the capacity to remarry provided that the divorce obtained by the foreign spouse enables him or her to remarry. Article 26 of the Family Code, as amended,[39] provides:

> ARTICLE 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 have capacity to remarry under Philippine law.* (Emphasis supplied)

The second paragraph was introduced as a corrective measure to resolve an absurd situation where the Filipino spouse remains married to the alien spouse even after their marital bond had been severed by the divorce decree obtained abroad.[40] Through this provision, Philippine courts are given the authority "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."[41] It bestowed upon the Filipino spouse a substantive right to have his or her marriage considered dissolved, granting him or her the capacity to remarry.[42]

Nonetheless, settled is the rule that in actions involving the recognition of a foreign divorce judgment, it is indispensable that the petitioner prove not only the foreign

judgment granting the divorce, but also the alien spouse's national law. This rule is rooted in the fundamental theory that Philippine courts do not take judicial notice of foreign judgments and laws. As explained in *Corpuz v. Sto. Tomas*:[43]

> 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 action where a party invokes the foreign decree as an integral aspect of his [or her] claim or defense.[44] (Citations omitted)

Both the foreign divorce decree and the foreign spouse's national law, purported to be official acts of a sovereign authority, can be established by complying with the mandate of Rule 132, Sections 24[45] and 25[46] of the Rules of Court:

> Under Sections 24 and 25 of Rule 132, on the other hand, a writing or document may be proven as a public or official record of a foreign country by either (1) an official publication or (2) a copy thereof attested by the officer having legal custody of the document. If the record is not kept in the Philippines, such copy 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.[47] (Citations omitted)

Here, the Regional Trial Court ruled that the documents petitioner submitted to prove the divorce decree have complied with the demands of Rule 132, Sections 24 and 25.[48] However, it found the copy of the Japan Civil Code and its English translation insufficient to prove Japan's law on divorce. It noted that these documents were not duly authenticated by the Philippine Consul in Japan, the Japanese Consul in Manila, or the Department of Foreign Affairs.[49]

Notwithstanding, petitioner argues that the English translation of the Japan Civil Code is an official publication having been published under the authorization of the Ministry of Justice[50] and, therefore, is considered a self-authenticating document.[51]

Petitioner is mistaken.

In *Patula v. People*,[52] this Court explained the nature of a self-authenticating document:

> The nature of documents as either public or private determines how the documents may be presented as evidence in court. *A public document, by virtue of its official or sovereign character, or because it has been acknowledged before a notary public (except a notarial will) or a competent*

> *public official with the formalities required by law, or because it is a public record of a private writing authorized by law, is self authenticating and requires no further authentication in order to be presented as evidence in court*. In contrast, a private document is any other writing, deed, or instrument executed by a private person without the intervention of a notary or other person legally authorized by which some disposition or agreement is proved or set forth. Lacking the official or sovereign character of a public document, or the solemnities prescribed by law, a private document requires authentication in the manner allowed by law or the Rules of Court before its acceptance as evidence in court. The requirement of authentication of a private document is excused only in four instances, specifically: (a) when the document is an ancient one within the context of Section 21, Rule 132 of the Rules of Court; (b) when the genuineness and authenticity of an actionable document have not been specifically denied under oath by the adverse party; (c) when the genuineness and authenticity of the document have been admitted; or (d) when the document is not being offered as genuine.[53] (Emphasis supplied, citations omitted)

The English translation submitted by petitioner was published by Eibun-Horei-Sha, Inc.,[54] a private company in Japan engaged in publishing English translation of Japanese laws, which came to be known as the EHS Law Bulletin Series.[55] However, these translations are "not advertised as a source of official translations of Japanese laws;"[56] rather, it is in the KANPO or the Official Gazette where all official laws and regulations are published, albeit in Japanese.[57]

Accordingly, the English translation submitted by petitioner is not an official publication exempted from the requirement of authentication.

Neither can the English translation be considered as a learned treatise. Under the Rules of Court, "[a] witness can testify only to those facts which he knows of his [or her] personal knowledge[.]"[58] The evidence is hearsay when it is "not . . . what the witness knows himself [or herself] but of what he [or she] has heard from others."[59] The rule excluding hearsay evidence is not limited to oral testimony or statements, but also covers written statements.[60]

The rule is that hearsay evidence "is devoid of probative value[.]"[61] However, a published treatise may be admitted as tending to prove the truth of its content if: (1) the court takes judicial notice; or (2) an expert witness testifies that the writer is recognized in his or her profession as an expert in the subject.[62]

Here, the Regional Trial Court did not take judicial notice of the translator's and advisors' qualifications. Nor was an expert witness presented to testify on this matter. The only evidence of the translator's and advisors' credentials is the inside cover page of the English translation of the Civil Code of Japan.[63] Hence, the Regional Trial Court was correct in not considering the English translation as a learned treatise.

Finally, settled is the rule that, generally, this Court only entertains questions of law in a Rule 45 petition.[64] Questions of fact, like the existence of Japan's law on divorce,

[65] are not within this Court's ambit to resolve.[66]

Nonetheless, in *Medina v. Koike*,[67] this Court ruled that while the Petition raised questions of fact, "substantial ends of justice warrant that the case be referred to the [Court of Appeals] for further appropriate proceedings":

> Considering that the validity of the divorce decree between Doreen and Michiyuki, as well as the existence of pertinent laws of Japan on the matter are essentially factual that calls for a re-evaluation of the evidence presented before the RTC, the issue raised in the instant appeal is obviously a question of fact that is beyond the ambit of a Rule 45 petition for review.
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> . . . .
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> Nonetheless, despite the procedural restrictions on Rule 45 appeals as above-adverted, the Court may refer the case to the [Court of Appeals] under paragraph 2, Section 6 of Rule 56 of the Rules of Court, which provides:
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> SEC. 6. Disposition of improper appeal. — ...
>
> > An appeal by certiorari taken to the Supreme Court from the Regional Trial Court submitting issues of fact may be referred to the Court of Appeals for decision or appropriate action. The determination of the Supreme Court on whether or not issues of fact are involved shall be final.
>
> This, notwithstanding the express provision under Section 5 (f) thereof that an appeal likewise "may" be dismissed when there is error in the choice or mode of appeal.
>
> Since the said Rules denote discretion on the part of the Court to either dismiss the appeal or refer the case to the [Court of Appeals], the question of fact involved in the instant appeal and substantial ends of justice warrant that the case be referred to the [Court of Appeals] for further appropriate proceedings. It bears to stress that procedural rules were intended to ensure proper administration of law and justice. The rules of procedure ought not to be applied in a very rigid, technical sense, for they are adopted to help secure, not override, substantial justice. A deviation from its rigid enforcement may thus be allowed to attain its prime objective, for after all, the dispensation of justice is the core reason for the existence of the courts.[68] (Citations omitted)

WHEREFORE, in the interest of orderly procedure and substantial justice, the case is hereby **REFERRED** to the Court of Appeals for appropriate action, including the reception of evidence, to **DETERMINE** and **RESOLVE** the pertinent factual issues in accordance with this Decision.

SO ORDERED.

Peralta (Chairperson), A. Reyes, Jr., Hernando, and *Inting, JJ*., concur.

August 5, 2019

NOTICE OF JUDGMENT

Sirs / Mesdames:

Please take notice that on **July 1, 2019** a Decision, copy attached hereto, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on August 5, 2019 at 2:49 p.m.

Very truly yours,

(SGD.) WILFREDO V. LAPITAN
Division Clerk of Court

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[1] *See Corpuz v. Sto. Tomas*, 642 Phil. 420 (2010) [Per J. Brion, Third Division] and *Republic v. Manalo*, G.R. No. 221029, April 24, 2018, < http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64093 > [Per J. Peralta, En Banc].

[2] *Rollo*, pp. 3-53.

[3] Id. at 54-59. The Judgment was penned by Judge Angelene Mary W. Quimpo-Sale of Branch 106, Regional Trial Court, Quezon City.

[4] Id. at 60-63. The Resolution was penned by Judge Angelene Mary W. Quimpo-Sale of Branch 106, Regional Trial Court, Quezon City.

[5] Id. at 66-96.

[6] Id. at 55.

[7] Id.

[8] Id. at 66-96.

[9] Id. at 100.

[10] Id. at 104.

[11] Id. at 110.

[12] Id. at 113-121.

[13] Id. at 113-117.

[14] Id. at 161.

[15] Id.

[16] Id. at 54-59.

[17] Id. at 56.

[18] Id. at 59.

[19] Id. at 57.

[20] Id. at 60-63.

[21] Id. at 3-53.

[22] Id. at 17.

[23] Id. at 28.

[24] Id. at 142.

[25] Id. at 160-172.

[26] Id. at 166.

[27] Id. at 168.

[28] Id. at 169.

[29] Id.

[30] Id. at 167.

[31] Id. at 173.

[32] Id. at 194-203.

[33] Id. at 194.

[34] Id. at 195-196.

[35] Id. at 217-219.

[36] Id. at 223-274.

[37] Id. at 233-234.

[38] Id. at 220-222.

[39] Executive Order No. 227 (1987), sec. 1.

[40] *Corpuz v. Sto. Tomas*, 642 Phil. 420 (2010) [Per J. Brion, Third Division] and *Republic v. Manalo*, G.R No. 221029, April 24, 2018, < http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64093 > [Per J. Peralta, En Banc].

[41] *Republic v. Manalo*, G.R. No. 221029, April 24, 2018 < http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64093 > [Per J. Peralta, En Banc].

[42] *See Corpuz v. Sto. Tomas*, 642 Phil. 420 (2010) [Per J. Brion, Third Division].

[43] Id.

[44] Id. at 432-433.

[45] RULES OF COURT, Rule 132, sec. 24 provides:

> 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 copy attested by the officer having the legal custody of the record, or by his deputy, and accompanied, if the record is not kept in the Philippines, with a certificate that such officer has the custody. If the office in which the record is kept is in a foreign country, the certificate may be made by a secretary of the embassy or legation, consul general, consul, vice consul, or consular agent or by any officer in the foreign service of the Philippines stationed in the foreign country in which the record is kept, and authenticated by the seal of his office.

[46] RULES OF COURT, Rule 132, sec. 25 provides:

> 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 be the clerk of a court having a seal, under the seal of such court.

[47] *Garcia v. Recio*, 418 Phil. 723, 732-733 (2001) [Per J. Panganiban, Third Division].

[48] *Rollo*, pp. 57.

[49] Id.

[50] Id. at 114.

[51] Id. at 236-237.

[52] 685 Phil. 376 [Per J. Bersamin, First Division].

[53] Id. at 397-398.

[54] *Rollo*, p. 114.

[55] Eibun-Horei-Sha, Inc., *Introduction* < https://www.eibun-horei-sha.co.jp/english/introduction > (last visited on July 1, 2019).

[56] Id.

[57] US Law Library of Congress, Japan, *Translation of National Legislation into English* < https://www.loc.gov/law/find/pdfs/2012-007612_JP_RPT.pdf > (last visited on July 1, 2019).

[58] RULES OF COURT, Rule 130, sec. 36 provides:

> SECTION 36. Testimony generally confined to personal knowledge; hearsay excluded. — A witness can testify only to those facts which he knows of his personal knowledge; that is, which are derived from his own perception, except as otherwise provided in these rules.

[59] *People v. Manhuyod, Jr.*, 352 Phil. 866, 880 (1998) [Per J. Davide, Jr., En Banc].

[60] *See D.M. Consunji, Inc. v. Court of Appeals*, 409 Phil. 275 (2001) [Per J. Kapunan, First Division].

[61] *People v. Estibal*, 748 Phil. 850, 876 (2014) [Per J. Reyes, Third Division].

[62] RULES OF COURT, Rule 130, sec. 46 provides:

> SECTION 46. Learned treatises. — A published treatise, periodical or pamphlet on a subject of history, law, science or art is admissible as tending to prove the truth of a matter stated therein if the court takes judicial notice, or a witness expert in the subject testifies, that the writer of the statement in the treatise, periodical or pamphlet is recognized in his profession or calling as expert in the subject.

[63] *Rollo*, p. 114 and 119.

[64] *Gatan v. Vinarao*, G.R. No. 205912, October 18, 2017, 842 SCRA 602, 609 [Per J. Leonardo-De Castro, First Division].

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

[66] *Racho v. Tanaka*, G.R. No. 199515, June 25, 2018, [Per J. Leonen, Third Division].

[67] 791 Phil. 645 (2016) [Per J. Perlas-Bernabe, First Division].

[68] Id. at 652-653.
