

SECOND DIVISION

[G.R. No. 212302, September 02, 2020]

**KARL WILLIAM YUTA MAGNO SUZUKI A.K.A. YUTA HAYASHI,
PETITIONER, VS. OFFICE OF THE SOLICITOR GENERAL,
RESPONDENT.**

DECISION

INTING, J.:

This resolves the Petition^[1] for Judicial Recognition of Foreign Adoption Decree seeking to reverse and set aside the Order^[2] dated November 21, 2013 of Branch 192, Regional Trial Court (RTC), Marikina City in JDRC Case No. 2013-2279-MK. The assailed RTC Order dismissed the Petition^[3] for Judicial Recognition of Foreign Adoption Decree filed by Karl William Yuta Magno Suzuki a.k.a. Yuta Hayashi (petitioner).

The Antecedents

Petitioner was born on April 4, 1988 in Manila to Mr. Sadao Kumai Suzuki, a Japanese national, and Ms. Lorlie. Lopez Magno (Lorlie), a Filipino citizen.^[4] Petitioner's parents were married on December 29, 1987.^[5] Based on Identification Certificate No. 08-19540,^[6] issued by the Bureau of Immigration on March 31, 2008, petitioner is a Filipino citizen.

On June 12, 1997, petitioner's parents divorced.^[7] On December 6, 2002, Lorlie married another Japanese national, Mr. Hikaru Hayashi (Hayashi), in San Juan City, Metro Manila.^[8]

On November 9, 2004, petitioner, then 16 years old, was adopted by Hayashi based on Japanese law. This was reflected in Hayashi's Koseki or Family Register.^[9] The *Koseki* and its English translation were both authenticated at the Philippine Consulate General on May 15, 2007.^[10]

At 24 years old, petitioner sought to be recognized in the Philippines his adoption by Hayashi under Japanese law. Thus, on May 24, 2013, he filed a Petition^[11] for Judicial Recognition of Foreign Adoption Decree before the RTC of Marikina City.

On June 4, 2013, the RTC issued an Order^[12] requiring the Office of the Solicitor General (OSG) to file its comment on the petition. In its Comment/Opposition^[13] dated November 4, 2013, the OSG alleged that the present legislation shows a strong intent

to regulate adoption by aliens.^[14] It contended that Executive Order No. (EO) 91^[15] provides certain conditions before an alien may adopt Filipino citizens. Likewise, it argued that the Family Code provides limits on who are allowed to adopt Filipino citizens.^[16] Moreover, it claimed that an adoption is only valid if made within the legal framework on adoption as enunciated in Republic Act No. (RA) 8043 known as the Inter-Country Adoption Act of 1995, and RA 8552 known as the Domestic Adoption Act of 1998. The OSG concluded that petitioner's adoption is not in accordance with the laws, and thus, should not be allowed.

On November 21, 2013, the RTC issued the assailed Order^[17] dismissing the petition for being contrary to law and public policy. The RTC was of the view that the judicial recognition sought would render nugatory the local laws on adoption. The dispositive portion of the RTC Order reads:

WHEREFORE, the Motion for further Proceedings is hereby DENIED, for lack of merit. The instant petition is hereby DISMISSED, for being contrary to law and public policy.

SO ORDERED.^[18]

Petitioner filed a Motion for Reconsideration,^[19] which the RTC denied in its Order^[20] dated April 23, 2014. The RTC was convinced that RA 8043 (Inter-Country Adoption Act of 1995) and RA 8552 (Domestic Adoption Act of 1998) govern all adoptions of Filipino citizens.^[21]

Furthermore, the RTC ruled that even assuming that the adoption of petitioner is valid under the Japanese law, Philippine courts are not automatically obliged to recognize its validity. The RTC stated that under Section 48, Rule 39 of the Rules of Court, there must be a "judgment or final order of a tribunal of a foreign country." The RTC noted that the petition merely alleges the fact of registration of petitioner's adoption in the Family Register of Hayashi and fails to present any judgment or final order issued by a Japanese tribunal.^[22]

Aggrieved, petitioner, on pure questions of law, directly filed before the Court the present petition for review on *certiorari* under Rule 45.

On August 7, 2017, the Court issued a Resolution^[23] requiring the parties to submit their respective memoranda within 30 days from notice.

In his Memorandum,^[24] petitioner claimed that: (1) the National Statistics Office^[25] Memorandum Circular No. 2007-008^[26] dated September 24, 2007 which establishes the guidelines for the registration in the civil registry of foreign judgments/orders, includes adoption in its coverage; (2) Rule 53 of Administrative Order No. 1, Series of 1993,^[27] issued by the Office of the Civil Registrar-General (OCRG), states that a decree of adoption issued by a foreign court is acceptable for registration in the Philippines and can be issued only in the Office of the Civil Registrar of Manila; (3) Rule 9 of Circular No. 90-2^[28] dated March 28, 1990, also issued by the OCRG, allows a

decree of adoption issued by a foreign court to be accepted for registration in the Philippines; and (4) that the modern trend is to encourage adoption and that every reasonable intendment should be sustained to promote such objective.

On the other hand, the OSG in its Memorandum^[29] reiterated that: (1) petitioner's adoption is subject to the Philippine laws; (2) the Philippine laws manifest a strong legislative intent to regulate adoption; (3) an adoption is valid only if made within the framework enunciated in RA 8043 and RA 8552; (4) petitioner's adoption was not performed under RA 8043; and (5) the adoption was not made pursuant to RA 8552.
^[30]

The present petition relies upon the following ground:

THE RTC ERRED IN RULING THAT UNDER PHILIPPINE-JURISDICTION A JUDICIAL RECOGNITION OF A FOREIGN DECREE OF ADOPTION IS NOT ALLOWED.^[31]

Our Ruling

The petition is meritorious.

The RTC erroneously ruled that a foreign judgment of adoption of a Filipino citizen cannot be judicially recognized based on the view that such recognition would render nugatory the Philippine laws on adoption. It bears to emphasize that there are two parties involved in an adoption process: the adopter and the adoptee. The RTC in this case failed to consider that Hayashi, the adopter, is a Japanese citizen.

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.*" Owing to this nationality principle, the Philippine laws on adoption are thus binding on petitioner. However, with respect to the case of Hayashi, who is a Japanese citizen, it bears stressing that the Philippine courts are: precluded from deciding on his "family rights and duties, or on [his] status, condition and legal capacity" concerning the foreign judgment to which he is a party.
^[32] Thus, as to the foreign judgment of adoption obtained by Hayashi, if it is proven as a fact, the Philippine courts are limited to the determination of whether to extend its effect to petitioner, the Filipino party.

By definition, adoption is "the process of making a child, whether related or not to the adopter, possess in general, the rights accorded to a legitimate child."^[33] It is a juridical act, a proceeding *in rem* which creates a relationship that is similar to that which results from legitimate paternity and filiation.^[34] The process of adoption therefore fixes a status, *viz.*, that of parent and child.^[35] More technically, it is an act by which relations of paternity and affiliation are recognized as legally existing between persons not so related by nature.^[36]

Adoption has also been defined as the taking into one's family of the child of another as son or daughter and heir and conferring on it a title to the rights and privileges of such.

The purpose of the proceeding for adoption is to effect this new status of relationship between the child and its adoptive parents, the change of name which frequently accompanies adoption being more an incident than the object of the proceeding.^[37]

Adoption creates a status that is closely assimilated to legitimate paternity and filiation with corresponding rights and duties that necessarily flow from it, including, but not necessarily limited to, the exercise of parental authority, use of surname of the adopter by the adopted, as well as support and successional rights.^[38]

Indeed, matters relating to adoption are subject to regulation by the State.^[39] In the Philippines, the general provisions on adoption are found in Articles 133 to 193, Title VII of EO 209, Series of 1987, entitled "The Family Code of the Philippines" (Family Code). Under the Family Code, not all persons are qualified to adopt. Articles 183 and 184 provide limitations, *viz.*:

Art. 183. A person of age and in possession of full civil capacity and legal rights may adopt, provided he is in a position to support and care for his children, legitimate or illegitimate, in keeping with the means of the family.

x x x x

In addition, the adopter must be at least sixteen years older than the person to be adopted, unless the adopter is the parent by nature of the adopted, or is the spouse of the legitimate parent of the person to be adopted.

Art. 184. The following persons may not adopt:

- (1) The guardian with respect to the ward prior to the approval of the final accounts rendered upon the termination of their guardianship relation;
- (2) Any person who has been convicted of a crime involving moral turpitude;
- (3) An alien, except:
 - (a) A former Filipino citizen who seeks to adopt a relative by consanguinity;
 - (b) *One who seeks to adopt the legitimate child of his or her Filipino spouse;*
or
 - (c) One who is married to a Filipino citizen and seeks to adopt jointly with his or her spouse a relative by consanguinity of the latter.

Aliens not included in the foregoing exceptions may adopt Filipino children in accordance with the rules on inter-country adoptions as may be provided by law. (Italics supplied.)

Based on Article 184 of the Family Code, Hayashi falls under exception (b) of item (3). He is a Japanese citizen married to Lorlie, a Filipino. Under the Philippine law, it is therefore valid and legal for Hayashi to adopt petitioner, the legitimate child of Lorlie. Further, the rules on inter-country adoptions of Filipino children as mentioned in the

last paragraph of Article 184 do not apply to him.

Special laws on adoption have been passed by Congress subsequent to the promulgation of the Family Code. In 1995, RA 8043^[40] was enacted to establish the rules governing inter-country adoptions of Filipino children. The Inter-Country Adoption Board (ICAB) was created to serve as the central authority in matters relating to inter-country adoptions.^[41] Meanwhile, in 1998, RA 8552^[42] was passed to set out the rules and policies on domestic adoption.

As already mentioned, the rules on inter-country adoption are not applicable in the case of Hayashi pursuant to Article 184(3)(b) of the Family Code. Specifically, the provisions of RA 8043 do not apply to him. Besides, as provided in Section 8 thereof, "only a legally free child may be the subject of inter-country adoption." By definition, a "legally-free child" means a child who has been voluntarily or involuntarily committed to the Department of Social Welfare and Development, in accordance with the Child and Youth Welfare Code.^[43] Petitioner is not a "legally-free child" within the contemplation of the law; hence, he may not be the subject of inter-country adoption.

On the other hand, the rules on domestic adoption under RA 8552 have the following pertinent provisions with respect to eligibility:

ARTICLE III

Eligibility

SECTION 7. *Who May Adopt.* — The following may adopt:

- (a) Any Filipino citizen of legal age, in possession of full civil, capacity and legal rights, of good moral character, has not been convicted of any crime involving moral turpitude, emotionally and psychologically capable of caring for children, at least sixteen (16) years older than the adoptee, and who is in a position to support and care for his/her children in keeping with the means of the family. The requirement of sixteen (16) year difference between the age of the adopter and adoptee may be waived when the adopter is the biological parent of the adoptee, or is the spouse of the adoptee's parent;
- (b) *Any alien possessing the same qualifications as above stated for Filipino nationals: Provided, That his/her country has diplomatic relations with the Republic of the Philippines, that he/she has been living in the Philippines for at least three (3) continuous years prior to the filing of the application for adoption and maintains such residence until the adoption decree is entered, that he/she has been certified by his/her diplomatic or consular office or any appropriate government agency that he/she has the legal capacity to adopt in his/her country, and that his/her government allows the adoptee to enter his/her country as his/her adopted son/daughter: Provided, Further, That the*

requirements on residency and certification of the alien's qualification to adopt in his/her country may be waived for the following:

- (i) a former Filipino citizen who seeks to adopt a relative within the fourth (4th) degree of consanguinity or affinity; or
 - (ii) *one who seeks to adopt the legitimate son/daughter of his/her Filipino spouse; or*
 - (iii) one who is married to a Filipino citizen and seeks to adopt jointly with his/her spouse a relative within the fourth (4th) degree of consanguinity or affinity of the Filipino spouse; or
- (c) The guardian with respect to the ward after the termination of the guardianship and clearance of his/her financial accountabilities.

Husband and wife shall jointly adopt, except in the following cases:

- (i) if one spouse seeks to adopt the legitimate son/daughter of the other; or
- (ii) if one spouse seeks to adopt his/her own illegitimate son/daughter: Provided, However, that the other spouse has signified his/her consent thereto; or
- (iii) if the spouses are legally separated from each other.

In case husband and wife jointly adopt, or one spouse adopts the illegitimate son/daughter of the other, joint parental authority shall be exercised by the spouses.

SECTION 8. *Who May Be Adopted.* — The following may be adopted:

- (a) Any person below eighteen (18) years of age who has been administratively or judicially declared available for adoption;
- (b) *The legitimate son/daughter of one spouse by the other spouse;*
- (c) An illegitimate son/daughter by a qualified adopter to improve his/her status to that of legitimacy;
- (d) A person of legal age if, prior to the adoption, said person has been consistently considered and treated by the adopter(s) as his/her own child since minority;
- (e) A child whose adoption has been previously rescinded; or
- (f) A child whose biological or adoptive parent(s) has died: *Provided,*

That no proceedings shall be initiated within six (6) months from the time of death of said parent(s). (Italics supplied.)

Apparently, the adoption of petitioner by Hayashi may be validly effected in accordance with the provisions of RA 8552. However, the Court disagrees with the RTC's view that adoption decrees involving Filipino citizens obtained abroad cannot be judicially recognized in the Philippines for being contrary to law and public policy.

As emphasized by Associate Justice Edgardo L. Delos Santos (Justice Delos Santos), the availability of RA 8552 as a means to adopt petitioner should not automatically foreclose proceedings to recognize his adoption decree obtained under Japanese law. Justice Delos Santos reminds that the principle behind the recognition and enforcement of a foreign judgment derives its force not only from our Rules of Court but from the fact that such act of recognition is considered part of what is considered as the "generally accepted principles of international law."^[44] It is characterized as such because aside from the widespread practice among States accepting in principle the need for such recognition and enforcement, the procedure for recognition and enforcement is embodied in the rules of law, whether statutory or jurisprudential, in various foreign jurisdictions.^[45]

As already established, the adoption by an alien of the legitimate child of his/her Filipino spouse is valid and legal based on Article 184(3) (b) of the Family Code and Section 7(b)(i), Article III of RA 8552. Thus, contrary to the RTC's sweeping conclusion against foreign adoption decrees, the Court finds that the adoption of petitioner by Hayashi, if proven as a fact, can be judicially recognized in the Philippines. Justice Delos Santos aptly propounds that the rules on domestic adoption should not be pitted against the recognition of a foreign adoption decree; instead, the better course of action is to reconcile them and give effect to their respective purposes.

Judicial recognition of a foreign judgment is allowed under Section 48, Rule 39 of the Rules of Court, *viz.*:

SEC. 48. Effect of Foreign Judgments or Final Orders. — The effect of a judgment or final order of a tribunal of a foreign country, having jurisdiction to render the judgment or final order is as follows:

(a) In case of a judgment or final order upon a specific thing, the judgment or final order is conclusive upon the title to the thing; and

(b) *In case of a judgment or final order against a person, the judgment or final order is presumptive evidence of a right as between the parties and their successors in interest by a subsequent title.*

In either case, the judgment or final order may be repelled by evidence of a want of jurisdiction, want of notice to the party, collusion, fraud, or clear mistake of law or fact. (Italics supplied.)

To emphasize, the rule states that the foreign judgment against a person is already "presumptive evidence of a right as between the parties." Upon judicial recognition of

the foreign judgment, the right becomes conclusive and the judgment serves as the basis for the correction or cancellation of entry in the civil registry.^[46]

In *Mijares v. Hon. Rañada*,^[47] the Court extensively discussed the underlying principles for the recognition and enforcement of foreign judgments in the Philippine jurisdiction:

There is no obligatory rule derived from treaties or conventions that requires the Philippines to recognize foreign judgments, or allow a procedure for the enforcement thereof. *However, generally accepted principles of international law, by virtue of the incorporation clause of the Constitution, form part of the laws of the land even if they do not derive from treaty obligations.* The classical formulation in international law sees those customary rules accepted as binding result from the combination two elements: the established, widespread, and consistent practice on the part of States; and a psychological element known as the *opinion juris sive necessitates* (opinion as to law or necessity). Implicit in the latter element is a belief that the practice in question is rendered obligatory by the existence of a rule of law requiring it.

While the definite conceptual parameters of the recognition and enforcement of foreign judgments have not been authoritatively established, the Court can assert with certainty that, such an undertaking is among those generally accepted principles of international law. As earlier demonstrated, there is a widespread practice among states accepting in principle the need for such recognition and enforcement, albeit subject to limitations of varying degrees. The fact that there is no binding universal treaty governing the practice is not indicative of a widespread rejection of the principle, but only a disagreement as to the imposable specific rules governing the procedure for recognition and enforcement.

Aside from the widespread practice, it is indubitable that the procedure for recognition and enforcement is embodied in the rules of law, whether statutory or jurisprudential, adopted in various foreign jurisdictions. *In the Philippines, this is evidenced primarily by Section 48, Rule 39 of the Rules of Court which has existed in its current form since the early 1900s. Certainly, the Philippine legal system has long ago accepted into its jurisprudence and procedural rules the viability of an action for enforcement of foreign judgment, as well as the requisites for such valid enforcement, as derived from internationally accepted doctrines.* Again, there may be distinctions as to the rules adopted by each, particular state, but they all prescind from the premise that there is a rule of law obliging states to allow for, however generally, the recognition and enforcement of a foreign judgment. The bare principle, to our mind, has attained the status of *opinio juris* in international practice.

This is a significant proposition, as it acknowledges that the procedure and requisites outlined in Section 48, Rule 39 derive their efficacy not merely from the procedural rule, but by virtue of the incorporation clause of the

Constitution. Rules of procedure are promulgated by the Supreme Court, and could very well be abrogated or revised by the high court itself. Yet the Supreme Court is obliged, as are all State Components, to obey the laws of the land, including generally accepted principles of international law which form part thereof, such as those ensuring the qualified recognition and enforcement of foreign judgments.

Thus, relative to the enforcement of foreign judgments in the Philippines, it emerges that there is a general right recognized within our body of laws, and affirmed by the Constitution, to seek recognition and enforcement of foreign judgments, as well as a right to defend against such enforcement on the grounds of want of jurisdiction, want of notice to the party, collusion, fraud, or clear mistake of law or fact.^[48] (Italics supplied.)

It is an established international legal principle that final judgments of foreign courts of competent jurisdiction are reciprocally respected and rendered efficacious subject to certain conditions that vary in different countries.^[49] *"In the recognition of foreign judgments, Philippine courts and incompetent to substitute their judgment on how a case was decided under foreign, law."*^[50] They are limited to the question of whether to extend the effect of the foreign judgment in the Philippines.^[51] Thus, in a foreign judgment relating to the status of adoption involving a citizen of a foreign country, Philippine courts will only decide whether to extend its effect to the Filipino party.

For this purpose, Philippine courts will only determine: (1) whether the foreign judgment is contrary to an overriding public policy in the Philippines; and (2) whether any alleging party is able to prove an extrinsic ground to repel the foreign judgment, *i.e.*, want of jurisdiction, want of notice to the party, collusion, fraud, or clear mistake of law or fact.^[52] Absent any inconsistency with public policy or adequate proof to repel the judgment, Philippine courts should, by default, recognize the foreign judgment as part of the comity of nations.^[53]

For Philippine courts to judicially recognize a foreign judgment relating to the status of an adoption where one of the parties is a citizen of a foreign country, the petitioner only needs to prove the foreign judgment as a fact under the Rules of Court. Thus, as held in *Fujiki v. Marinay, et al.*:^[54]

x x x To be more specific, a copy of the foreign judgment may be admitted in evidence and proven as a fact under Rule 132, Sections 24 and 25, in relation to Rule 39, Section 48(b) of the Rules of Court. Petitioner may prove the Japanese Family Court judgment through (1) an official publication or (2) a certification or copy attested by the officer who has custody of the judgment. If the office which has custody is in a foreign country such as Japan, the certification may be made by the proper diplomatic or consular officci1 of the Philippine foreign service in Japan and authenticated by the seal of office.^[55]

Accordingly, the Court deems it proper to remand the case to Branch 192, RTC, Marikina City for further proceedings. To emphasize, recognition and enforcement of a

foreign judgment or final order require only proof of fact of such foreign judgment or final order. Furthermore, the recognition of the foreign judgment of adoption is a subsequent event that establishes a new status, right, and fact affecting petitioner. If duly proven, the foreign judgment needs to be reflected in the Philippine civil registry.

WHEREFORE, the petition is **GRANTED**. The Orders dated November 21, 2013 and April 23, 2014 of Branch 192, Regional Trial Court, Marikina City in JDRC Case No. 2013-2279-MK are **REVERSED** and **SET ASIDE**. The Regional Trial Court is **ORDERED** to **REINSTATE** the petition for further proceedings in accordance with this Decision.

SO ORDERED.

Perlas-Bernabe, Senior Associate Justice, (Chairperson), Hernando, and Delos Santos, JJ., concur.

Baltazar-Padilla, J., on leave.

[1] *Rollo*, pp. 10-19.

[2] *Id.* at 21-22; penned by Judge Geraldine C. Fiel-Macaraig.

[3] *Id.* at 31-33.

[4] See petitioner's Certificate of Live Birth, *id.* at 35.

[5] See Marriage Contract dated December 29, 1987, *id.* at 37.

[6] *Id.* at 36.

[7] See Certificate of Acceptance of Notification of Divorce (Report of Divorce) dated June 29, 2001, *id.* at 38.

[8] See Certificate of Marriage dated December 26, 2002, *id.* at 39.

[9] *Id.* at 41-42, 43-45.

[10] *Id.* at 40.

[11] *Id.* at 31-33.

[12] *Id.* at 46.

[13] *Id.* at 50-63.

[14] *Id.* at 53-55.

- [15] Amending Articles 27, 28, 29, 31, 33, and 35 of Presidential Decree No. 603, Otherwise Known as the "Child and Youth Welfare Code."
- [16] *Rollo*, p. 54.
- [17] *Id.* at 21-22.
- [18] *Id.* at 22.
- [19] *Id.* at 23-26.
- [20] *Id.* at 28-30.
- [21] *Id.* at 29.
- [22] *Id.* at 29-30.
- [23] *Id.* at 108-109.
- [24] *Id.* at 110-117.
- [25] Now Philippine Statistics Authority.
- [26] Guidelines in the Annotation of Civil Registry Documents Involving Foreign Judgments/Orders.
- [27] Implementing Rules and Regulations Act No. 3753 and Other Laws on Civil Registration; Volume 89, Number 2, Official Gazette, January 11, 1993.
- [28] Registration, of Adoption and the Rescission or Revocation of Adoption.
- [29] *Rollo*, pp. 136-150.
- [30] *Id.* at 137-138.
- [31] *Id.* at 11.
- [32] *Fujiki v. Marinay, et al.*, 712 Phil. 524, 556-557 (2013).
- [33] In the Matter of the Adoption of Stephanie Nathay Astorga Garcia, 494 Phil. 515, 525 (2005), citing Paras, *Civil Code of the Philippines Annotated, Vol. I, Fifteenth Edition*, 2002, p. 685.
- [34] *Id.*, citing Pineda, *The family Code of the Philippines Annotated*, 1989 Edition, pp. 272-273, citing 4 Valverde, 473.

[35] *Rep. of the Phils. v. Court of Appeals*, 284-A Phil. 643, 658 (1992).

[36] *Id.*

[37] *Id.*, citing 1 AM. Jur., Adoption of Children 621-622.

[38] *Republic of the Phils. v. Court of Appeals*, 298 Phil. 172, 176 (1993).

[39] *Lahom v. Sibulo*, 453 Phil. 987, 998 (2003). Citation omitted.

[40] Entitled "An Act Establishing the Rules to Govern Inter-Country Adoption of Filipino Children, and For Other Purposes," approved on June 7, 1995.

[41] See Article II, RA 8043.

[42] Entitled "An Act Establishing the Rules and Policies on the Domestic Adoption of Filipino Children and For Other Purposes," approved on February 25, 1998.

[43] See Section 3, Article I, RA 8043.

[44] See *Bank of the Philippine Islands Securities Corp. v. Guevara*, 755 Phil. 434, 454 (2015), citing *Mijares v. Hon. Rañada*, 495 Phil. 372, 393 (2005).

[45] *Id.* at 455.

[46] *Fujiki v. Marinay, et al., supra* note 32 at 557.

[47] 495 Phil. 372 (2005).

[48] *Id.* at 395-397. Citations omitted.

[49] *Bank of the Philippine Islands Securities Corp. v. Guevara*, 755 Phil. 434, 455-456 (2015), citing *St. Aviation Services Co., Pte., Ltd. v. Grand Int'l. Airways, Inc.*, 535 Phil. 757, 762 (2006).

[50] *Fujiki v. Marinay, et al., supra* note 32 at 556.

[51] *Id.* at 557.

[52] *Id.*; see also Section 48, Rule 39, Rules of Court.

[53] *Id.*

[54] 712 Phil. 524 (2013).

[55] *Id.* at 544-545.



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