JUDICIAL DECISIONS (PIL CASES)

In partially granting this petition involving filiation and succession of nonmarital children, the Supreme Court relied, in part, in the United Nations Convention on the Rights of the Child and ruled that "should children's successional rights be at stake, then the best interest of the child should be of paramount consideration.

AMADEA ANGELA K. AQUINO vs. RODOLFO C. AQUINO and ABDULAH C. AQUINO
[G.R. No. 208912. December 7, 2021.]

RODOLFO C. AQUINO vs. AMADEA ANGELA K. AQUINO
[G.R. No. 209018. December 7, 2021.]

J. LEONEN:

FACTS:

Petitioner Angela Aquino (Angela) moved that she be included in the distribution and partition of her grandfather Miguel's estate, alleging that she is the only child of Arturo Aquino (Arturo) – one of Miguel's sons with his first wife. While her mother and father were not married, Angela claimed that they did not suffer from any impediment to marry and were planning to get married before her father died.

Before Miguel died, he provided instructions on how his properties were to be distributed through a document, of which stated that Angela was among the heirs who would receive portions of Miguel's estate. Miguel gave her a commercial lot, which allowed rental payments to be made to her. Petitioner Rodolfo Aquino (Rodolfo), Angela's paternal uncle, opposed this.

While the RTC ruled in Angela's favor, the CA later reversed this and held that there was insufficient proof of filiation. The Supreme Court's Third Division denied her Petition, causing Angela to have the case referred to the Supreme Court*, En Banc*.

RULING (Excerpts):

> ARTICLE 992. An illegitimate child has no right to inherit *ab intestato* from the legitimate children and relatives of his father or mother; nor shall children or relatives inherit in the same manner from the illegitimate child.

The Civil Code now allows all nonmarital children as defined in the Civil Code to inherit in intestate succession. But because of Article 992, all nonmarital children are barred from reciprocal intestate succession. . . .

. . . .

Article 992 carves out an exception to the general rule that persons, by operation of law, inherit intestate from their blood relatives up to a certain degree. It does so through a classification of persons based on their birth status. The classification created in Article 992 is made upon persons at their conception and birth — when they are children. Children bear the burden of this classification, despite having no hand in it and its creation dependent on matters beyond their control, and without any power to change it or even mitigate some of its most pernicious effects. . .

. . . .

In line with these, the Philippines has bound itself to abide by universal standards on children's rights embodied in the United Nations Convention on the Rights of the Child. The Convention, a human rights treaty signed by the Philippines on January 26, 1990 and ratified on August 21, 1990, contains several State obligations, including a commitment to nondiscrimination of children and the enforcement of their best interests as a primary consideration in actions concerning children. . . .

. . . .

The United Nations Convention on the Rights of the Child is operative in Philippine law. Its principles and policies have been embraced in many laws on children and social welfare. Notably, Section 2 of Republic Act No. 7610, 187 or the Special Protection of Children Against Child Abuse, Exploitation, and Discrimination Act, provides:

> SECTION 2. Declaration of State Policy and Principles. — It is hereby declared to be the policy of the State *to provide special protection to children from all forms* of abuse, neglect, cruelty, exploitation *and discrimination, and other conditions, prejudicial to their development* including child labor and its

> worst forms; provide sanctions for their commission and carry out a program for prevention and deterrence of and crisis intervention in situations of child abuse, exploitation and discrimination. The State shall intervene on behalf of the child when the parent, guardian, teacher or person having care or custody of the child fails or is unable to protect the child against abuse, exploitation and discrimination or when such acts against the child are committed by the said parent, guardian, teacher or person having care and custody of the same.
>
> It shall be the policy of the State to protect and rehabilitate children gravely threatened or endangered by circumstances which affect or will affect their survival and normal development and over which they have no control.
>
> *The best interests of children shall be the paramount consideration in all actions concerning them, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities, and legislative bodies, consistent with the principle of First Call for Children as enunciated in the United Nations Convention on the Rights of the Child. Every effort shall be exerted to promote the welfare of children and enhance their opportunities for a useful and happy life.* (Emphasis supplied)

This Court has repeatedly invoked the Convention to protect the rights and promote the welfare of children in matters of custody; filiation and paternity; adoption; crimes committed against them; and their status and nationality. As amicus curiae Professor Aguiling-Pangalangan pointed out:

> The Court has anchored several decisions on the Convention on the Rights of the Child in a long line of cases, to wit:
>
> 1. *Perez v. CA* [G.R. No. 118870, March 29, 1996] where the Court awarded the custody to the mother petitioner Nerissa Pere[z] as this was for the best interest of the child and held that: "It has long been settled that in custody cases, the foremost consideration is always the welfare and best interest of the child. In fact, no less than an

international instrument, the Convention on the Rights of the Child provides: “In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.” "

2. *In the Matter of the Adoption of Stephanie Astorga Garcia* [G.R. No. 148311, March 31, 2005] in deciding the issue of the name of an adopted child, the Court held that: "The modern trend is to consider adoption not merely as an act to establish a relationship of paternity and filiation, but also as an act which endows the child with a legitimate status. This was, indeed, confirmed in 1989, when the Philippines, as a State Party to the Convention of the Rights of the Child initiated by the United Nations, accepted the principle that adoption is impressed with social and moral responsibility, and that its underlying intent is geared to favor the adopted child. Republic Act No. 8552, otherwise known as the 'Domestic Adoption Act of 1998,' secures these rights and privileges for the adopted."

3. *Gamboa-Hirsch v. CA* [G.R. No. 174485, July 11, 2007] where the Court stated: "The Convention on the Rights of the Child provides that “in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.” The Child and Youth Welfare Code, in the same way, unequivocally provides that in all questions regarding the care and custody, among others, of the child, his/her welfare shall be the paramount consideration." The Court held that "the mother was not shown to be unsuitable or grossly incapable of caring for her minor child. All told, no compelling reason has been adduced to wrench the child from the mother's custody."

4. *Thornton v. Thornton* [G.R. No. 154598, August 16, 2004] where the Court cited the UN CRC as basis for its ruling that RA 8369 did not divest the Court of Appeals of jurisdiction despite RA 8369 explicitly stating that family courts have exclusive original jurisdiction over petitions for

> *habeas corpus*. The Court stated that ". . . a literal interpretation of the word "exclusive" will result in grave injustice and negate the policy "to protect the rights and promote the welfare of children" under the Constitution and the United Nations Convention on the Rights of the Child [. . .]."
>
> *These decisions, having referred to the CRC, are part of the legal system in accordance with Article 8 of the Civil Code [R.A. 386, Civil Code of the Philippines, 1949] that states that: "Judicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines*." (Emphasis supplied)

Clearly, our Constitution, our laws, and our voluntary commitment to our treaty obligations, when taken together, extend special protection to children, in equal measure and without any qualifications. When we affirm our international commitments that are in harmony with our constitutional provisions and have already been codified in our domestic legislation, we do nothing more than to recognize and effect what has already formed part of our legal system.

In this instance, should children's successional rights be at stake, then the best interest of the child should be of paramount consideration.

. . . .

We adopt a construction of Article 992 that makes children, regardless of the circumstances of their births, qualified to inherit from their direct ascendants — such as their grandparent — by their right of representation. Both marital and nonmarital children, whether born from a marital or nonmarital child, are blood relatives of their parents and other ascendants. Nonmarital children are removed from their parents and ascendants in the same degree as marital children. Nonmarital children of marital children are also removed from their parents and ascendants in the same degree as nonmarital children of nonmarital children.

. . . .

While not binding upon our jurisdiction, the changes in legitimacy statutes and successional rights in other countries may offer alternative

perspectives that can help foster an overdue conversation about our civil laws.

As early as 1967, the United Nations Commission on Human Rights and the United Nations Economic and Social Council appointed a special rapporteur to study discrimination against nonmarital children, then called as "persons born out of wedlock," across different member-nations, including the Philippines. One outcome of this study was a set of draft general principles submitted by the Sub-Committee on Prevention of Discrimination and Protection of Minorities "to enable all members of society, including persons born out of wedlock, to enjoy the equal and inalienable rights to which they are entitled," including inheritance rights. . . .

. . . .

More generally, the 1975 European Convention on the Legal Status of Children Born Out of Wedlock, ratified by 23 Council of Europe states, includes a provision on nondiscrimination of children in succession. . . .

. . . .

In 2013, the European Court of Human Rights observed that among its member-states, 21 countries gave children inheritance rights independent of their parents' marital status; 19 countries still retained a distinction according to the parents' marital status but the distinction did not extend to inheritance; 1 country — Malta — still made some distinctions in inheritance; and only Andorra treated nonmarital children less favorably than their marital counterparts in inheritance matters.

. . . .

All children are deserving of support, care, and attention. They are entitled to an unprejudiced and nurturing environment free from neglect, abuse, and cruelty. Regardless of the circumstances of their birth, they are all without distinction entitled to all rights and privileges due them. The principle of protecting and promoting the best interest of the child applies equally, and without distinction, to all children. . . .

. . . .

WHEREFORE, Amadea Angela K. Aquino's Motion for Reconsideration in G.R. No. 208912 is PARTIALLY GRANTED. The January 21, 2013 Decision of the Court of Appeals in CA-G.R. CV No. 01633 is REVERSED and SET ASIDE.

The cases are REMANDED to the Regional Trial Court of origin for resolution, within 90 days of receipt of this Decision, of the issues of Amadea Angela K. Aquino's filiation — including the reception of DNA evidence upon consultation and coordination with experts in the field of DNA analysis — and entitlement to a share in the estate of Miguel T. Aquino, in accordance with this Decision and the re-interpretation of Article 992 of the Civil Code.

SO ORDERED.

The Court held that Section 69 of the Omnibus Election Code does not infringe the right of suffrage by citing Article 25 of the International Covenant on Civil and Political Rights.

ANGELO CASTRO DE ALBAN vs. COMMISSION ON ELECTIONS (COMELEC), COMELEC LAW DEPARTMENT AND COMELEC EDUCATION AND INFORMATION DEPARTMENT
[G.R. No. 243968. March 22, 2022]

J. M.V. LOPEZ:

FACTS:

Angelo Castro De Alban filed his Certificate of Candidacy (CoC) for senator in the May 13, 2019 elections as an independent candidate, indicating that he is a lawyer and a teacher. The Comelec Law Department *motu proprio* filed a petition to declare De Alban a nuisance candidate alleging that he had no *bona fide* intent to run for public office. De Alban countered that he has a *bona fide* intention to run for public office given his government platforms covering education, agriculture, health, and housing programs.

The COMELEC First Division declared De Alban a nuisance candidate and ruled that De Alban failed to establish the financial capacity to wage a nationwide campaign. The COMELEC En Banc denied De Alban's motion for reconsideration.

RULING (Excerpts):

Suffice it to say that the right to seek public office is not a constitutional right but merely a privilege that may be subject to the limitations imposed by law. In one case, the Court rejected the claim that the right to run for public office is inextricably linked with the fundamental freedom of speech and expression which deserves constitutional protection. More telling is the Philippines' commitment to Article 25 of the International Covenant on Civil and Political Rights (ICCPR) which provides that *"[e]very citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: x x x (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; x x x."*

As aptly worded, the ICCPR abhors "unreasonable restrictions" but did not contemplate that the right to vote and be elected should be absolute. Indeed, *"[a]ny conditions which apply to the exercise of the rights protected by article 25 should be based on objective and reasonable criteria."* The freedom of the voters to exercise the elective franchise at a general election implies the right to freely choose from all qualified candidates for public office. The imposition of unwarranted restrictions and hindrances precluding qualified candidates from running, is, therefore, violative of the constitutional guaranty of freedom in the exercise of elective franchise. It seriously interferes with the right of the electorate to choose freely from among those eligible to office whomever they may desire. As discussed earlier, Section 69 of the OEC serves as a reasonable restriction for persons to pursue their candidacies. The barring of candidates without *bona fide* intention serves to keep the purity of elections and addresses the malpractice of scrupulous candidates to the detriment of the voters.

…

FOR THESE REASONS, the petition is partly GRANTED. The provisions of Section 69 of the Omnibus Election Code are declared NOT UNCONSTITUTIONAL on the grounds raised by the petitioner. The Commission on Elections En Banc's Resolution dated January 28, 2019 in SPA No. 18-045 (DC) (MP) which declared Angelo Castro De Alban a nuisance candidate is SET ASIDE.

The Supreme Court ruled that mothers who commit violent and abusive acts against her own child can be held criminally liable under Republic

Act (RA) No. 9262 or the Anti-Violence Against Women and Their Children Act of 2004 based on the principle that the State must "exert efforts to address violence committed against children in keeping with the fundamental freedoms guaranteed under the Constitution, the Universal Declaration of Human Rights, the Convention on the Rights of the Child, and other international human rights instruments of which the Philippines is a party."

RANDY MICHAEL KNUTSON, acting on behalf of minor RHUBY SIBAL KNUTSON vs. HON. ELISA R. SARMIENTO-FLORES, in her capacity as Acting Presiding Judge of Branch 69, Regional Trial Court, Taguig City, and ROSALINA SIBAL KNUTSON
[G.R. No. 239215, July 12, 2022]

J. M. V. LOPEZ:

FACTS:

This case stemmed from a petition under RA No. 9262 for the issuance of Temporary and Permanent Protection Orders (Orders) filed by Randy Knutson (Randy) on behalf of his daughter with Rosalina Knutson (Rosalina), Rhuby, who is a minor. Randy alleged that after he and Rosalina separated and became estranged, he found out that Rosalina has been hurting their daughter, Rhuby, by pulling her hair, slapping her face, and knocking her head. One time, Rosalina pointed a knife at Rhuby and threatened to kill her. Rosalina also texted Randy about her plan to kill Rhuby and commit suicide.

The Regional Trial Court (RTC) dismissed the Petition and held that the remedies are not available to Randy because he is not a "woman victim of violence." The Supreme Court reversed the ruling of the RTC. It held that RA No. 9262 covers a situation where the mother committed violent and abusive acts against her own child.

RULING (Excerpts):

Section 3 (a) of RA 9262 defines violence against women and their children as "*any act or a series of acts committed by any person against a woman who is his wife, former wife, or against a woman with whom the person has or had a sexual or dating relationship, or with whom he has a common child, or against her child whether legitimate or illegitimate, within or without the family abode, which result in or is likely to result in physical, sexual, psychological harm or suffering, or economic abuse including threats of such acts, battery, assault, coercion, harassment or arbitrary deprivation of liberty*." The law criminalizes acts of violence against women and their children perpetrated by women's intimate partners, i.e., husband; former husband; or any person who has or had sexual or dating relationship with the woman, or with whom the woman has a common child. However, the Court in *Garcia* [*v. Drilon*[1]] emphasized that the law does not single out the husband or father as the culprit. The statute used the gender-neutral word "*person*" as the offender which embraces any person of either sex. The offender may also include other persons who conspired to commit the violence . . .

Logically, a mother who maltreated her child resulting in physical, sexual, or psychological violence defined and penalized under RA No. 9262 is not absolved from criminal liability notwithstanding that the measure is intended to protect both women and their children. In this case, however, the RTC dismissed Randy's petition for protection orders on behalf of his minor daughter on the ground that the mother cannot be considered as an offender under the law. To restate, the policy of RA No. 9262 is to guarantee full respect for human rights. Towards this end, the State shall exert efforts to address violence committed against children in keeping with the fundamental freedoms guaranteed under the Constitution, the Universal Declaration of Human Rights, the Convention on the Rights of the Child, and other international human rights instruments of which the Philippines is a party.

Specifically, Section 3 (2), Article XV of the 1987 Constitution espoused the State to defend "*[t]he right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development; x x x*." Also, Article 25 (2) of the Universal Declaration of Human Rights advocated that "*[m]otherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social*

protection." Further, the Philippines as a state party to the Convention on the Rights of the Child has the following international commitments, to wit:

> *Preamble*
> The States Parties to the present Convention,
>
> xxx xxx xxx
>
> Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding
>
> xxx xxx xxx
>
> *Article 2*
>
> xxx xxx xxx
>
> 2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.
>
> *Article 3*
>
> 1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
> 2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.
>
> xxx xxx xxx
>
> *Article 9*

> 1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.
>
> xxx xxx xxx
>
> *Article 19*
>
> 1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
>
> xxx xxx xxx
>
> *Article 39*
>
> States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child. (Emphases supplied)

Notably, the Committee on the Rights of the Child commented that "*all forms of violence against children, however light, are unacceptable. x x x Frequency, severity of harm and intent to harm are not prerequisites for the definitions of violence*." The United Nations Children's Fund recognized "*violence against children x x x as global human rights and public health problems of critical importance.*" Also, violence against children "*takes many forms, including physical, sexual, and emotional abuse, and may involve*

neglect or deprivation. Violence occurs in many settings, including the home, school, community and over the Internet. Similarly, a wide range of perpetrators commit violence against children, such as family members, intimate partners, teachers, neighbors, strangers and other children." The World Health Organization said that *"[v]iolence against children includes all forms of violence against people under 18 years old, whether perpetrated by parents or other caregivers, peers, romantic partners, or strangers.*" Verily, mothers may be offenders in the context of RA No. 9262. The Court finds no substantial distinction between fathers and mothers who abused their children that warrants a different treatment or exemption from the law. Any violence is reprehensible and harmful to the child's dignity and development.

. . . .

FOR THESE REASONS, the Petition for *Certiorari* is GRANTED. The Orders dated January 10, 2018 and March 14, 2018 of the Regional Trial Court of Taguig City, Branch 69 in JDRC Case No. 313 are SET ASIDE. Let a PERMANENT PROTECTION ORDER be issued immediately.

SO ORDERED.

This case involves the necessary parameters and quantum of proof in the refugee status determination process in the Philippines based on the definition of the term refugee, as well as the humanitarian nature of the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol.

REHMAN SABIR vs. DEPARTMENT OF JUSTICE-REFUGEES and STATELESS PERSONS PROTECTION UNIT (DOJ-RSPPU)
[G.R. No. 249387. August 2, 2022]

J. ZALAMEDA:

FACTS:

The Applicant Rehman Sabir is a Pakistani national seeking protection as a refugee under the 1951 Convention Relating to the Status of Refugees ("1951 Refugee Convention") on account of alleged religious persecution. Sometime after Christmas in 2016, his father and stepmother (both Muslim) forced him to read the Quran. Applicant states that he refused to accept it

and, in the process, the Quran accidentally dropped. Raja said that the Applicant insulted the Quran and is (sic) that he is now dead. Raja then grabbed a knife from the kitchen, prompting the Applicant to run away. According to the Applicant, anyone who is accused of insulting the Quran in Pakistan can be criminally charged with Section 295-C of their criminal laws, a Blasphemy law, the penalty of which is death. He was later referred to a Non-Governmental Organization ("NGO") in Pakistan named "Save and Serve Christ", which helped the Applicant to get to the
Philippines for the purpose of seeking asylum. He later applied for refugee status upon arrival.

The Secretary of Justice, through the Department of Justice-Refugees and Stateless Persons Protection Unit (DOJ- RSPPU), issued a Decision denying petitioner's application, concluding that the petitioner is not a refugee within the meaning of the 1951 Refugee Convention. They state that risk of blasphemy allegations is generally not enough to make out a claim under the Refugee Convention, unless there is evidence that the charge is pursued. The Court of Appeals affirmed the decision of the DOJ-RSPPU.

RULING (Excerpts):

The 1951 Refugee Convention and the 1967 Protocol did not specify any threshold of evidence to warrant a finding that an applicant is a refugee. There is likewise no specific mention of a quantum of proof in DOJ Circular No. 058-12. In relation to Section 9, Article II, however, it is provided that a finding of refugee status is warranted where the applicant has met the definition of a refugee. The definition referred to is a substantial reproduction of the definition of a refugee under the 1951 Refugee Convention and the 1967 Protocol, thus:

> SECTION 1. Definition of Terms. — x x x
>
> d. *"Refugee" is a person who "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his or her nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence."*

On the basis of the definition of the term refugee, as well as the humanitarian nature of the Refugee Convention and the Protocol, we determine the necessary parameters and quantum of proof in the refugee status determination process in the Philippines.

The most important element of the definition is the existence of a "well-founded fear" of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion. While the definition uses the phrase "well-founded fear," this cannot be taken to mean proof beyond reasonable doubt as required in criminal cases. To require such a high threshold will be contrary to the humanitarian purpose of the convention, and the acknowledgment that there may be no other evidence available to the applicant, especially if he or she had to immediately leave the country of origin.

As such, we hold that there is a "well-founded fear of being persecuted" if the applicant can establish, to a reasonable degree, that he or she would have been persecuted had the applicant not left his or her country of origin, or would be persecuted if the applicant returns thereto. So, decision-makers would have to answer the question: "Is there a reasonable chance that the applicant would have been persecuted had he or she not departed from his or her country of origin, or wouldbe persecuted upon return to his or her country?"

…

Considering the factual issues that still need to be threshed out in light of the clarifications on the refugee status determination process, we find it prudent to remand the case back to the DOJ-RSPPU.

The DOJ-RSPPU is urged to actively discharge its burden in assisting petitioner to elucidate his claim. Reception of further evidence, conduct of additional interviews, in-depth study of country-of-origin information, and assessment of petitioner's averments to a greater extent are thus encouraged. Thereafter, the evidence should be assessed based on the reasonable degree threshold We laid down in this case.

In this regard, we provide the following guidelines for refugee status determination proceedings:

> 1. To discharge the shared and collaborative burden between the applicant and the protection officer: (a) the applicant must provide accurate, full, and credible account or proof in support of his or her claim, and submit all relevant evidence reasonably available; and (b) the protection officer must assist and aid the applicant in explaining, clarifying, and elucidating his or her claim.
>
> 2. Notwithstanding the protection officer's shared burden, it is also the duty of the protection officer to assess the credibility of the statements of the applicant and the evidence on record.
>
> 3. The facts, as ascertained, should be applied to the definition of a refugee under the 1951 Refugee Convention and the 1967 Protocol, considering the subjective and objective elements of the phrase "well-founded fear." The protection officer should determine if the applicant has established, to a reasonable degree, that he or she would have been persecuted had the applicant not left his or her country of origin or would be persecuted if the applicant returns thereto.
>
> …

WHEREFORE, the petition is hereby PARTLY GRANTED. Accordingly, the Decision dated 31 January 2019 and Resolution dated 10 September 2019 of the Court of Appeals in CA-G.R. SP No. 153799 are REVERSED and SET ASIDE. The case is remanded to the Department of Justice-Refugees and Stateless Persons Protection Unit for further proceedings in accordance with the guidelines stated in this Decision.

SO ORDERED.

The Supreme Court - by citing the influence of the World Intellectual Property Organization (WIPO), the Berne Convention, and the Trade-Related Aspects of Intellectual Property Rights (TRIPS) ruled that the act of playing radio containing sound recordings using loudspeakers amounts to an unauthorized communication of such copyrighted music to the

public, and thus, violates various subsets of intellectual property rights of the owner of the copyright.

FILIPINO SOCIETY OF COMPOSERS, AUTHORS AND PUBLISHERS (FILSCAP), INC.,
vs. ANREY, INC.
[G.R. No. 233918, August 9, 2022]

J. ZALAMEDA:

FACTS:

This case stemmed from a complaint for copyright infringement filed by FILSCAP – a non-profit society of composers, authors, and publishers that owns public performance rights over the copyrighted musical works of its members – against Anrey, Inc., a chain of restaurants in Baguio City for the unauthorized public performance of music. Anrey, Inc. contended that their establishments merely played whatever is being broadcasted on the radio they are tuned in and even if the broadcast plays copyrighted music, the radio stations have already paid the corresponding royalties. The RTC and CA found no merit in FILSCAP's complaint.

RULING (Excerpts):

The Supreme Court found merit in FILSCAP's petition stating that the act of playing radio broadcasts containing sound recordings through loudspeakers amounts to an unauthorized communication of such copyrighted music to the public, thus, violates the public performance rights of FILSCAP. This decision is in harmony with the guidance released by the World Intellectual Property Organization (WIPO) to the Berne Convention for the Protection of Literary and Artistic Works, to which the Philippines is a signatory since 1951. The Philippines is also a signatory to the Convention establishing the WIPO as well as the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement which incorporated by reference the provisions on copyright from the Berne Convention.

In their decision, the court cited the influence of international treaties to define what is a public performance and what constitutes communication to

the public which were essential to determine whether there was copyright infringement was committed by Anrey Inc.

The WIPO gave the following remarks on the situation when a broadcast is publicly communicated by loudspeaker to the public:

> When the work which has been broadcast is publicly communicated, e.g., by loudspeaker or otherwise, to the public such as in cafe's, restaurants etc., the Convention states that the relay of a broadcast by wire, creates an additional audience (paragraph (l) (ii)), so, in this case too, the work is made perceptible to listeners (and perhaps viewers) other than those contemplated by the author when his permission was given. Although, by definition, the number of people receiving a broadcast cannot be ascertained with any certainty, the author thinks of his license to broadcast as covering only the direct audience receiving the signal within the family circle. Once this reception is done in order to entertain a wider circle, often for profit, an additional section of the public is enabled to enjoy the work and it ceases merely a matter of broadcasting. The author is given control over this new public performance of his work.

The remarks discussed introduces the concept of a "new public." Typically, radio stations already secured from the copyright owner (or his/her assignee) the license to broadcast the sound recording and by the nature of broadcasting, it is necessarily implied that its reception by the public has been consented to by the copyright owners. But the author normally thinks of the license to broadcast as to "cover only the direct audience receiving the signal within the family circle." Any further communication of the reception creates, by legal fiction, a "new public" which the author never contemplated when they authorized its use in the initial communication to the public.

. . . . .

The disquisitions above show that Anrey infringed on the public performance right of FILSCAP when it played music by means of radio-over loudspeakers. It is suggested that Anrey equally violated FILSCAP's right to communicate to the public the songs from its repertoire.

The Berne Convention provides that authors of musical works shall enjoy the exclusive right of authorizing the public performance of their works including the "public performance by any means or process" and "any communication to the public of the performance of the works," under Art. 11 (1) of the Convention.

The scope of these rights was explained in the 1978 WIPO Guide to the Berne Convention stating that:

> 1. This covers performance by means of recordings; there is no difference for this purpose between a dance hall with an orchestra playing the latest tune and the next-door discotheque where the customers use coins to choose their own music. In both, public performance takes place. The inclusion is general and covers all recordings (discs, cassettes, tapes, videograms, etc.) though public performance by means of cinematographic works is separately covered — see Article 14 (1) (ii).”
> 2. The second leg of this right is the communication to the public of a performance of the work. It covers all public communication except broadcasting which is dealt with in Article 116.

Article 11 of the Berne Convention further provides for the exclusive right, among others, of authorizing the "the public communication by loudspeaker or any other analogous instrument transmitting by sign, sound or images, the broadcast of the work."

In sum, public performance right includes broadcasting of the work [music] and specifically covers the use of loudspeakers. This is the very act Anrey is complained of infringing. As to whether Anrey also infringed on FILSCAP's right to communicate to the public, given the factual scenario of the case, this should be answered in the negative.

Communication to the public is defined under Art. 8 of the WIPO Copyright Treaty which reads:

> Without prejudice to the provisions of Articles 11(1)(ii), 11bis(1)(i) and (ii), 11ter(1)(ii), 14(1)(ii) and 14bis(1) of the Berne Convention, authors of literary and artistic works shall

> enjoy the exclusive right of authorizing any communication to the public of their works, by wire or wireless means, including the making available to the public of their works in such a way that members of the public may access these works from a place and at a time individually chosen by them. (Underscoring supplied)

Apparently, the phrase "the public may access these works from a place and time individually chosen by them" refers to interactive on-demand systems like the Internet. It does not refer to other traditional forms like broadcasting and transmitting of signals where a transmitter and a receiver are required as discussed in the WIPO Guide to the Berne Convention.

> "The right of communication to the public is the right to authorize any communication to the public, by wire or wireless means, including "the making available to the public of works in a way that the members of the public may access the work from a place and at a time individually chosen by them." The quoted expression covers, in particular, on-demand, interactive communication through the Internet. (Underscoring supplied)

Prior to amendment of the IPC by RA 10372, communication to the public is defined as the making of a work available to the public by wire or wireless means in such a way that members of the public may access these works from a place and time individually chosen by them. The WIPO, on the other hand, limited this to interactive on-demand systems like the internet.

The phrase, "other communication to the public," however, still pertains to the advanced methods of communication such as the internet. The use of the word "other" is simply to segregate its application from the traditional methods of communication such as performing the radio out loud to the public or by means of loudspeakers. The IPC under RA 8293 made use of the word "other" only to distinguish it from what has been traditionally considered part of the public performance rights of the copyright owner under the Act 3134.

. . . .

Neither the Berne Convention nor the TRIPS Agreement prohibit States from the introduction of limitations or exceptions on copyright. However, such limitations or exceptions cannot exceed a *de minimis* threshold or limitations that are of minimal significance to copyright owners.

At present, the WTO employs three-step test in determining whether the limitation or exception on the rights of an owner exceed the threshold: they (1) must be confined to certain special cases, (2) cannot conflict with a normal exploitation of the work, and (3) cannot unreasonably prejudice the legitimate interests of the right holder. These conditions are to be applied on a cumulative basis; if any one step is not met, the exemption in question will fail the test and be found to violate the TRIPS Agreement.

. . . .

WHEREFORE, premises considered, the instant petition is GRANTED. The assailed Decision dated April 19, 2017 and Resolution dated August 3, 2017 promulgated by the Court of Appeals (CA) in CA-G.R. CV No. 105430, affirming the Decision dated April 15, 2015 and Order dated June 30, 2015 rendered by Branch 6, Regional Trial Court (RTC) of Baguio City, are hereby REVERSED and SET ASIDE.

SO ORDERED.

JUDICIAL DECISIONS (PRIL CASES)

In this case, the Court reiterates the rules for proving the fact of a foreign judgment, as well as the policy of limited review wherein Philippine courts cannot delve into the merits of the foreign judgment.

BANKRUPTCY ESTATE OF CHARLES B. MITICH a.k.a. CHARLIE MITICH and JAMES L. KENNEDY, TRUSTEE OF THE BANKRUPTCY ESTATE OF CHARLES B. MITICH a.k.a. CHARLIE MITICH vs. MERCANTILE INSURANCE COMPANY, INC.
[G.R. No. 238502. February 15, 2022]

LAZARO-JAVIER, J:

FACTS:

Petitioners filed before the RTC of Manila a civil case for recognition and enforcement of foreign judgment rendered by the Superior Court of the State of California awarding them damages against Mercantile, an insurance company in the Philippines. Mercantile moved to dismiss the case, alleging that the Default Judgment of the California Court was void due to invalid extraterritorial service of summons on Mercantile. They argue that this made it unenforceable in the Philippines. It argued that extraterritorial service of summons is governed by *lex fori* or the internal law of the forum, and the summons from the California Court was served on a Claims Clerk of Mercantile who was neither authorized to receive summons on its behalf nor among those authorized to receive summons for a corporation under the California Code of Civil Procedure.

The trial court ruled in favor of the petitioners. The Court of Appeals, however, affirmed the main decision but deleted the award of interest and attorney's fees, noting that the Default Judgment itself did not allegedly award these, nor did it contain the computation and legal basis for the interest imposed.

RULING (Excerpts):

Under Section 48 (b), Rule 39 of the 1997 Rules of Civil Procedure, a foreign judgment or final order against a person creates presumptive evidence of a right as between the parties involved...

….

But before the presumption may be invoked, the party seeking the enforcement of the foreign judgment must first prove it as a fact. This, in turn, demands compliance with Sections 24 and 25, Rule 132 of the Rules of Evidence prior to its amendment...

….

Verily, the fact of foreign judgment may be proved 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, the certification may be made by the proper diplomatic or consular officer of the Philippine foreign service in that country and authenticated by the seal of office.

Here, Mitich, et al., presented the Default Judgment dated July 21, 1994 before the trial court, together with a Certification dated August 3, 1994 of Kenneth E. Martone, Clerk of the San Diego Superior Court who has custody of the seal and all records pertaining to cases of that court, to the effect that the Default Judgment had been entered in his record last July 22, 1994, as attested to by James R. Milliken, Judge of the San Diego Superior Court. These documents were authenticated by Consul Antonio S. Curameng of our Philippine Consulate in Los Angeles, State of California, USA through Authentication dated August 9, 1994. Certainly, Mitich, et al., complied with Sections 24 and 25, Rule 132 of the Rules of Evidence.

…

Since Mitich, et al., have proven the existence and authenticity of the Default Judgment in accordance with Sections 24 and 25, Rule 132 of the Rules of Evidence, the Default Judgment already enjoys presumptive validity. The burden has therefore shifted to Mercantile to prove otherwise. But instead of presenting preponderant evidence against the authenticity of the Default Judgment, Mercantile simply indulged in conjectures.

At any rate, the trial court and Court of Appeals uniformly ruled that the handwritten year "1992" was a mere clerical error. Indeed, it is settled that when the factual findings of the trial court are confirmed by the Court of Appeals, said facts are final and conclusive on the Court unless the same are not supported by the evidence on record. The Court will not assess all over again the evidence adduced by the parties, particularly whereas in this case the findings of both the trial court and the Court of Appeals completely coincide.

As consistently found by the courts below, the handwritten date July 21, "1992" was a mere typographical error. Circumstances showed that the actual date of the Default Judgment was July 21, 1994: the complaint before the California Court was dated February 18, 1994 summonses on Mercantile were issued on February 18, 1994; Mitich requested for default judgment on May 24, 1994, May 27, 1994 and July 6, 1994; and the application for default judgment was heard by the California Court on July 18, 1994. The Default Judgment showed that the year "1992" was erroneously written thereon; the rest of the Default Judgment specifically pointed to 1994 as the year when it was promulgated.

…

Verily, Philippine courts cannot delve into the merits of the foreign judgment under a policy of limited review. In the recognition of foreign judgments, Philippine courts are incompetent to substitute their judgment on how a case was decided under foreign law. Thus, we cannot simply impose post judgment interest here unless it was specifically and categorically awarded by the California Court. In other words, the foreign court itself should have fixed the amount of legal interest taking all necessary factors into account, but did not. For sure, the Court cannot now assume this task. We cannot substitute the discretion which should have been exercised by the California Court with our own.

In any case, it is a conflict of law policy that foreign law ordinarily applicable will not be applied if to do so would violate domestic public policy. In other words, the normal operation of foreign law is subject to a public policy limitation. When a judge rejects the application of foreign law on public policy grounds, it is not that the foreign law does not seem so reasonable to the judge as his or her own good homemade precedent, only that it violates some fundamental principle of justice, good morals, or some deep-rooted tradition of society. Relief may be refused at the forum state because of disapproval of a particular cause of action on grounds of policy.

…

ACCORDINGLY, the Decision dated November 27, 2017 and Resolution dated March 12, 2018 of the Court of Appeals in CA-G.R. CV No. 104238 are AFFIRMED with MODIFICATION.

MERCANTILE INSURANCE COMPANY, INC. is also REQUIRED to pay the ESTATE OF CHARLES B. MITICH a.k.a. CHARLIE MITICH and JAMES L. KENNEDY, TRUSTEE OF THE BANKRUPTCY ESTATE OF CHARLES B. MITICH a.k.a. CHARLIE MITICH P500,000.00 as temperate damages and P200,000.00 as attorney's fees. This amount shall earn six percent (6%) legal interest per annum from finality of this Decision until fully paid.

SO ORDERED.

Despite the documentary evidence submitted, without an official translation of the divorce laws of the country where it was obtained, it may be considered to be insufficient to prove the fact of the foreign divorce.

REPUBLIC OF THE PHILIPPINES vs. JOCELYN ASUSANO KIKUCHI
[G.R. No. 243646, June 22, 2022]

HERNANDO, J:

FACTS:

Jocelyn filed before the trial court a Petition for judicial recognition of foreign divorce which she and her former husband (a Japanese national) jointly filed in 2007 before the City Hall of Sakado City, Saitama Prefecture. She presented the following before the Regional Trial Court: (1) the Acceptance Certificate issued by the Mayor of Sakado City; (2) an Authentication from the Vice Consul of Philippine Embassy in Tokyo, Japan; and (3) a photocopy of the Civil Code of Japan in English text. Both the trial court and the Court of Appeals ruled in Jocelyn's favor. The Republic, through the Office of the Solicitor General, filed a Petition for Review on Certiorari before the Supreme Court, arguing that arguing that Jocelyn failed to comply with the requirements of authentication and proof of documents concerning the Acceptance Certificate, and the Authentication by the Philippine Embassy in Tokyo, Japan; that the testimony of her attorney-in-fact as to the fact of divorce should have been excluded for being hearsay; and that the foreign law had not been proven.

RULING (Excerpts):

Before a foreign divorce decree can be recognized by the court, the party pleading it must first prove the fact of divorce and its conformity to the foreign law allowing it. As both of these purport to be official acts of a sovereign authority, the required proof are their official publications or copies attested by the officers having legal custody thereof, pursuant to Section 24, Rule 132 of the Rules of Court.

. . .

The Republic nevertheless argues that the Acceptance Certificate is insufficient because the accompanying Authentication issued by the Embassy

of the Philippines in Tokyo, Japan does not comply with the rules on authentication.

We disagree.

In *Racho v. Seiichi Tanaka*, which involves a similarly-worded Authentication from the Embassy of the Philippines in Japan, the Court held that the document was sufficient, viz.:

> The Certificate of Acceptance of the Report of Divorce was accompanied by an Authentication issued by Consul Bryan Dexter B. Lao of the Embassy of the Philippines in Tokyo, Japan, certifying that Kazutoyo Oyabe, Consular Service Division, Ministry of Foreign Affairs, Japan was an official in and for Japan. The Authentication further certified that he was authorized to sign the Certificate of Acceptance of the Report of Divorce and that his signature in it was genuine. Applying Rule 132, Section 24, the Certificate of Acceptance of the Report of Divorce is admissible as evidence of the fact of divorce between petitioner and respondent.

As in *Racho*, We rule that the Authentication submitted by Jocelyn is also sufficient.

. . .

To prove that the divorce was valid under Japanese laws, Jocelyn submitted a photocopy of the English translation of the Civil Code of Japan, published by Eibun-Horei-Sha, Inc. and stamped with "LIBRARY, Japan Information and Culture Center, Embassy of Japan, 2627 Roxas Boulevard, Pasay City." The Republic assails the document for being insufficient to prove the law of Japan on divorce.

We agree with the Republic. Following jurisprudence, the document is devoid of any probative value.

. . .

Not being an official translation, the document submitted by Jocelyn does not prove the existing law on divorce in Japan. Unfortunately, without such evidence, there is nothing on record to establish that the divorce

between Jocelyn and Fumio was validly obtained and is consistent with the Japanese law on divorce.

Given that Jocelyn was able to prove the fact of divorce but not the Japanese law on divorce, a remand of the case rather than its outright dismissal is proper. This is consistent with the policy of liberality that the Court has adopted in cases involving the recognition of foreign decrees to Filipinos in mixed marriages.

. . .

WHEREFORE, the Petition is GRANTED. The November 15, 2018 Decision of the Court of Appeals in CA-G.R. CV No. 110750 is REVERSED and SET ASIDE. The case is REMANDED to the court of origin for further proceedings and reception of evidence on the Japanese law on divorce.

SO ORDERED.

This case reiterates the Special ADR Rules, providing that the Philippine court may refuse the recognition and enforcement of a foreign arbitral award when it finds that its recognition and enforcement would be contrary to public policy.

PIONEER INSURANCE & SURETY CORPORATION vs. TIG INSURANCE COMPANY, successor by merger to CLEARWATER INSURANCE COMPANY
[G.R. No. 256177, June 27, 2022]

M.V. LOPEZ, J:

FACTS:

Clearwater, a foreign company organized under the laws of the State of Delaware, USA, filed a Petition for confirmation, recognition, and enforcement of a foreign arbitral award before the RTC. Clearwater initiated the arbitration proceedings in New York. The panel of arbitrators ordered Pioneer, a domestic corporation engaged in the business of selling non-life insurance, to pay Clearwater, which Pioneer failed to pay. In opposing Clearwater's Petition, Pioneer invoked Rule 13.4 of the Special Rules of Court on Alternative Dispute Resolution, A.M. No. 07-11-08- SC dated September 1, 2009 (Special ADR Rules), and Article V of the 1958 New York Convention, and argued that the arbitral award is contrary to public policy or the

Philippine Constitution because Clearwater's claim was not supported by sufficient evidence. Pioneer also maintains that public policy against non-assertion of stale claims was violated when the arbitral award was confirmed, recognized, and enforced. Since Clearwater only enforced its claims against Pioneer 16 years after Pioneer rejected Clearwater's demand, the 6-year prescription period under the New York Civil Practice Law and Rules had already set in.

RULING (Excerpts):

Rule 13.4 (b) (ii) 40 of the Special ADR Rules provides that the Philippine court may refuse the recognition and enforcement of a foreign arbitral award when it finds that its recognition and enforcement would be contrary to public policy. In *Mabuhay Holdings Corporation v. Sembcorp Logistics Limited*, the Court adopted the narrow approach in determining whether the enforcement of an arbitral award is contrary to public policy. The Court emphasized that not all violations of law may be deemed contrary to public policy. The Philippine court may only refuse to recognize or enforce a foreign arbitral award when its enforcement would be against the fundamental tenets of justice and morality, or would blatantly be injurious to the public, or the interests of the society. . .

. . .

Based on the foregoing, the party raising the ground of violation of public policy in opposing the recognition and enforcement of a foreign arbitral award must: (a) identify the State's fundamental tenets of justice and morality; (b) prove the illegality or immorality of the award; and (c) show the possible injury to the public or the interests of the society.

Pioneer's prescription and violation of public policy arguments rest on shaky ground. Pioneer identifies the State's policy against stale claims, but its evidence falls short in proving the illegality or immorality of the award. It fails to establish that Clearwater's claims have already prescribed.

Pioneer narrates that it repeatedly requested supporting documents from Clearwater after the latter's initial demand in 1995, and it was only in 2012 when Clearwater provided them with various documents. Surely, Pioneer did not reject Clearwater's demand for payment in 1995. Following Pioneer's argument, the prescriptive period should not start from

Clearwater's initial demand in 1995 because it did not reject Clearwater's claims outright. Instead, it requested a breakdown and supporting documents from Clearwater. The running of the prescriptive period is undeterminable absent any evidence showing the specific date when Pioneer rejected Clearwater's claim.

All told, the final award will significantly affect Pioneer, but it will not injure the public or compromise the society's interest. The final award's alleged violation of our policy against stale claims was not established with certainty. Thus, confirming and enforcing the final award is not contrary to public policy.

. . .

ACCORDINGLY, the Petition is DENIED. The Court of Appeals' Decision dated June 19, 2020 and Resolution dated February 24, 2021 in CAG.R. SP No. 149206 upholding the Decision dated September 21, 2016 and the Order dated December 16, 2016 of Branch 141, Regional Trial Court of Makati City are AFFIRMED. The United States Board of Arbitrator's Final Award dated April 25, 2013 is CONFIRMED, RECOGNIZED, and ENFORCED, without pronouncement as to attorney's fees and costs of suit.

SO ORDERED.

Any declaration as to the validity of the divorce can only be made upon petitioner's complete submission of evidence proving the divorce decree and the national law of her alien spouse.

MARIA TERESA DINO BASA-EGAMI vs. DR. LISA GRACE BERSALES, in her capacity as the Administrator and Civil Registrar General, et al
[G.R. No. 249410, July 6, 2022]

ZALAMEDA, J:

FACTS:

Petitioner, a Filipina previously married to a Japanese national, filed before the RTC a Petition for Recognition of Foreign Judgment/Final Order to be able to remarry. The Republic of the Philippines, through the Office of the Solicitor General (OSG), sought the dismissal of the petition, arguing in the main that a consensual or mutual divorce, such as the divorce obtained by

petitioner, is not contemplated by Article 26 (2) of the Family Code; hence, it cannot be recognized by Philippine courts. It argues that only a divorce obtained through a court judgment or adversarial proceeding can be recognized by Philippine courts, insisting that the only divorce contemplated under Article 26 (2) is the one validly obtained by the alien spouse, without the consent or acquiescence of the Filipino spouse.

RULING (Excerpts):

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 their foreigner spouse. Worse, their children in the subsequent relationship would be legally considered as illegitimate.

The myopic understanding of Article 26 (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. Fortunately, *Republic v. Manalo (Manalo)*, a landmark ruling by the Court *En Banc*, finally put an end to this iniquitous interpretation of the law as it gave due regard to the sad consequences a strict and literal construction of the law brings . . .

. . .

The OSG should now take note that *Manalo* is the prevailing jurisprudence on the matter. As it was clearly spelled out in *Manalo*, Article 26 (2) only requires that there be a divorce validly obtained abroad, without regard as to who initiated it. This felicitous ruling was echoed in yet another

seminal case of recognition of a divorce of mixed marriage. In *Racho v. Tanaka (Racho)*, rendered only a few months after *Manalo*, the Court squarely dealt with the divorce by mutual consent of a marriage involving a Filipina and a Japanese national, the same situation in the petition at bar. Therein, the Court unambiguously declared that pursuant to *Manalo*, a foreign divorce may be recognized in this jurisdiction as long as it is validly obtained, regardless of who between the spouses initiated the divorce proceedings. Since then, there have been many other iterations of *Manalo* in jurisprudence.

. . .

Even as the Court declares the evidence of petitioner to be sufficient in proving the fact of divorce, the OSG is correct in pointing out that as a settled rule, mere presentation of the divorce decree is insufficient. A divorce obtained abroad may be recognized in our jurisdiction only if the decree is valid according to the national law of the foreigner. Accordingly, both the divorce decree and the governing personal law of the alien spouse must be proven.

The CA found that the Civil Code of Japan submitted by petitioner does not comply with the attestation requirements under Sections 24 and 25 of the Revised Rules of Court. Also, the OSG argued that the Civil Code submitted by petitioner is a mere photocopy of a book published by a private company, Elbun-Horei-Sha, Inc. It is not even authenticated, and neither is a statement or proof that the library of the Japanese Embassy is an official repository or custodian of Japanese public laws and records. Petitioner, on the other hand, counters that her evidence should be considered as sufficient evidence of the national law of Japan as the Court did in *Racho*. She posits that like in *Racho*, the trial court herein duly admitted the evidence of the national law of Japan which, as stated in the RTC Decision, were excerpts from the book The Civil Code of Japan, certified as true copy and notarized by Kenji Sugimori, notary of the Osaka Legal Affairs Bureau and duly authenticated by Consul Castro of the Philippine Consulate General, Osaka, Japan.

In the face of these conflicting assertions, the Court's appropriate recourse is to peruse the subject document in order to arrive at the correct conclusion. However, petitioner shot herself in the foot by failing to attach any evidence to her petition. Accordingly, the Court is constrained to sustain

the CA's ruling on this issue. To stress anew, our courts do not take judicial notice of foreign laws and judgment; our law on evidence requires that both the divorce decree and the national law of the alien must be alleged and proven and like any other fact. Hence, any declaration as to the validity of the divorce can only be made upon petitioner's complete submission of evidence proving the divorce decree and the national law of her alien spouse.

. . .

WHEREFORE, the Petition for Certiorari under Rule 65 is GRANTED. The Decision dated 25 March 2019 and Resolution dated 22 July 2019 of the Court of Appeals in CA-G.R. CV No. 109890 are REVERSED AND SET ASIDE. The case is REMANDED to Branch 86, Regional Trial Court of Quezon City, for further proceedings and reception of evidence on the pertinent Japanese law on divorce and the document proving Hiroshi Egami is now recapacitated to marry.

This case reiterates the recognition of foreign decrees of divorce irrespective of who obtained the decree abroad. Divorces obtained abroad by a foreign spouse may be recognized in Philippine jurisdiction as long as the decree is valid based on the national law of the foreigner.

REPUBLIC OF THE PHILIPPINES V. HELEN BAYOG-SAITO, THE LOCAL CIVIL REGISTRY OF PASAY CITY AND THE NATIONAL STATISTICS OFFICE
[G.R. No. 247297. August 17, 2022]

INTING, J:

FACTS:

Helen (a Filipino citizen) and Toru (a Japanese national) were married on August 30, 1999 in Pasay City. They had no children or conjugal property, and eventually separated due to differences in culture. Their divorce notification papers were accepted by Mayor Takashi, the mayor of Minami-ku, Yokohama City and the divorce was subsequently recorded in Toru's family registry. Vice Consul Kengo of the Japanese Embassy in the Philippines issued a Divorce Certificate which was then authenticated by the DFA. She filed a Petition for Judicial Recognition of foreign divorce decrees with the RTC, seeking to sever her marriage bond and give her legal capacity to remarry. The RTC found the

petition sufficient in form and substance, granting recognition and legal capacity to remarry based on Article 26 of the Family Code.

The Office of the Solicitor General filed a Motion for Reconsideration, stating that the respondent was unable to satisfy the requirements of Article 26. The RTC denied this motion. The OSG once again filed an appeal to the CA stating that absolute divorce is against public policy and is not able to be recognized in the Philippines. The CA denied the appeal, on the basis that Helen merely accepted the divorce notification and did not initiative such. The OSG disagrees with this contention, stating that it was jointly obtained by the both of them.

RULING (Excerpts):

Article 26 of the Family Code states that where a marriage between a Filipino citizen and a foreigner is validly celebrated and a divorce is thereafter validly obtained by the alien spouse capacitating him or her to remarry, the Filipino spouse shall likewise have capacity to remarry under Philippine law.

Fujuki v. Marinay explains the nature of the second paragraph of Article 26 as a corrective measure to address the anomaly that results from a marriage between a Filipino, whose laws do not allow divorce, and a foreign citizen, whose laws allow divorce. The anomaly consists in the Filipino spouse being tied to the marriage while the foreign spouse is free to marry under the laws of his or her country. The correction is made by extending in the Philippines the effect of the foreign divorce decree, which is already effective in the country where it was rendered.

In the landmark case of the Republic of the Philippines v. Manalo, the court states that 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 Court is bound by the words of the statute; neither can We put words in the mouths of the lawmakers. The purpose 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.

Here, the divorce was initiated by Toru who asked Helen to sign the divorce notification papers; she agreed by affixing her signature on the documents. In effect, the parties are considered to have obtained divorce by agreement when they mutually agreed to the divorce, which is allowed in Japan. After the acceptance of the divorce notification, the marriage of respondent and Toru has been dissolved as far as the Japanese laws are concerned and Toru is then capacitated to remarry.

Verily, the fact of the divorce of Helen and Toru, as well as the Japanese law on divorce, had been sufficiently and satisfactorily proven by Helen. Hence, the Court finds that the CA was correct in affirming the RTC's grant of the petition for judicial recognition of foreign divorce decree of respondent and her Japanese husband. More importantly, the dissolution of their marriage under the laws of Japan, has capacitated her former husband, Toru, to remarry, and in fact, he has already remarried. Hence, the Court finds no reason to deprive Helen of her legal capacity to remarry under our national laws.

...

WHEREFORE, the instant petition is DENIED. The Decision dated February 28, 2018 and Resolution dated April 30, 2019 of the Court of Appeals in CA-G.R. CV No. 108057 are hereby AFFIRMED. The foreign divorce decree between Helen Bayog and Toru Saito is hereby judicially recognized pursuant to paragraph 2, Article 26 of the Family Code, and Helen Bayog is hereby declared capacitated to remarry. The Office of the Civil Registrar of Pasay City is hereby ordered to annotate the Divorce Certificate dated October 16, 2012 on the record of marriage of Toru Saito and Helen Bayog.

This land case establishes the doctrine that naturalized Filipino citizens who have owned local land previous to their acquisition of new citizenship continue to have ownership over such.

MARIA LUISA MORALES v. ABNER DE GUIA
[G.R. No. 247367. December 5, 2022]

INTING, J:

FACTS:

Abner bought an unregistered parcel of land with an area of 18,000 sqm from the Spouses Sabanan on Abra Street Extension, Barangay Barretto, Olongapo City. The mayor of that area asked Abner to allow the Morales family to stay on the property, and the latter executed an agreement where they acknowledged Abner's superior right and interest as owner of the property, as well as agreed to vacate the property upon reasonable notice.

Abner and his family migrated to the USA where the former became a naturalized American citizen. Unbeknownst to them, Dominador declared portions of the property under his and his children's names for taxes, in addition to constructing a bungalow on the property. This led Abner to file for an Action for Recovery of Possession and Ownership of Real Property, and Annulment of Documents and Damages against the Morales Family stating that they took advantage of his absence and fraudulently declared the land as theirs.

Dominador argues that since Abner is a naturalized American citizen and has lost his Philippine citizenship, he is disqualified from acquiring and owning lands of Philippine domain. The Regional Trial Court and the Court of Appeals ruled in favor of Abner, ordering the vacation of the property.

RULING (Excerpts):

In the case of Rep. of the Philippines v. Court of Appeals and Lapiña, the Court held that the private respondents therein were natural-born Filipino citizens at the time of the acquisition of the properties; and by virtue thereof, they acquired vested rights thereon tacking in the process, the possession in the concept of an owner and the period of time held by their predecessors-in-interest.

Similarly, in this case, Abner was a natural-born Filipino citizen when he acquired the property from its previous owners, the Spouses Sabangan. As a result, he is deemed to have acquired a vested right over the property which cannot be defeated by the mere possession and occupation of the Morales Family as caretakers thereof…

...

WHEREFORE, the Petition is DENIED. The assailed Decision dated June 18, 2018 and the Resolution dated February 13, 2019 of the Court of Appeals in CA-G.R. CV No. 103406 are AFFIRMED.

SO ORDERED.

This case clarifies the requirements of filing for a Certificate of Candidacy for Dual Citizens by Birth. The court differentiates dual citizens from birth versus those from naturalization.

MARIZ LINDSEY TAN GANA-CARAIT Y VILLEGAS, PETITIONER, VS. COMMISSION ON ELECTIONS, ROMMEL MITRA LIM, AND DOMINIC P. NUÑEZ, RESPONDENTS. [G.R. No. 256453. August 9, 2022]

INTING, J:

FACTS:

Gana-Carait filed her Certificate of Candidacy as a Member of Sangguniang Panlunsod of Binan Laguna for the 2019 National and Local Elections. Respondent Lim filed a petition for disqualification against her before the COMELEC, stating she did not renounce her foreign citizenship before applying to a local government post. She also alleges that her use of a US passport negated her claim that she was a Filipino citizen at the time she filed her COC. Nunez filed a similar petition against the petitioner stating that Gana was a dual citizen.

The COMELEC First Division found that she was a dual citizen as she was born to a Filipino father, and based on her Consular Report of Birth Abroad, she was likewise a US citizen. As she was unable to prove she renounced her foreign citizenship, she committed material misrepresentation in her CoC when she stated she was eligible to run for public office. The COMELEC En Banc affirmed the ruling.

RULING (Excerpts):

The coverage of R.A. 9225 includes only those natural-born Filipinos who acquired foreign citizenship through the process of naturalization. Similarly, the provisions of R.A. 9225 on the required oath of allegiance under Section 3, and the personal and sworn renunciation of any and all foreign citizenship