Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

ROSARY KRISTINE I. ANIDO, Petitioner,	**G.R. No. 253527**
	Present:
- *versus* -	CAGUIOA, *J.*, *Chairperson*, INTING, GAERLAN, DIMAAMPAO, and SINGH, *JJ.*
REPUBLIC OF THE PHILIPPINES, Respondent.	Promulgated: OCT 21 2024

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D E C I S I O N

INTING, *J.*:

Before the Court is a Petition for Review[1] on *Certiorari* (Petition) under Rule 45 of the Rules of Court assailing the Decision[2] dated September 8, 2020, of the Court of Appeals (CA) in CA-G.R. CV No. 111303. The CA reversed the Order[3] dated February 14, 2018, issued by Branch 92, Regional Trial Court (RTC), Quezon City in R-QZN-17-01806-CV and held that the Petition for Enforcement of a Foreign Decree of Divorce and Correction of Record in the Civil Registry[4] (Petition for Enforcement) filed by petitioner Rosary Kristine I. Anido (Anido) must be dismissed for failure to prove the foreign law allowing the divorce.

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1 *Rollo*, pp. 11–33.

2 *Id.* at 34–47. Penned by Associate Justice Ronaldo Roberto B. Martin and concurred in by Associate Justices Manuel M. Barrios and Tita Marilyn B. Payoyo-Villordon of the Thirteenth Division, Court of Appeals, Manila.

3 *Id.* at 48–50. Penned by Presiding Judge Eleuterio L. Bathan.

4 *Id.* at 57–61.

The Antecedents

Anido, a Filipino, met Enrique Martin Gomez Pomar[5] (Enrique), a Peruvian citizen,[6] in New Jersey, United States of America (USA), sometime in 2010.[7] At that time, they were medical doctors both training in pediatrics.[8]

On May 17, 2012, Anido and Enrique got married at Parsippany, New Jersey, USA.[9]

After graduating from their training program in 2013, Anido and Enrique transferred their residence to Kentucky, USA. According to Anido, her marriage to Enrique turned sour after she failed to conceive despite counseling and fertility therapy.[10]

Subsequently, Enrique filed for divorce before the Fayette County Circuit Court of Kentucky, USA (Kentucky Court), which was docketed as 15-CI-3743.[11]

On November 18, 2015, the Kentucky Court granted a decree of absolute divorce to Anido and Enrique.[12]

Thereafter, on February 6, 2017, Anido filed the Petition for Enforcement with the RTC, which docketed the Petition as R-QZN-17-01806-CV.[13]

On March 3, 2017, the Office of the Solicitor General (OSG) filed its Notice of Appearance and deputized the Office of the City Prosecutor of Quezon City (OCP) to represent the State in the proceedings.[14]

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5 In the body of the Petition for Enforcement, Enrique was named as a respondent. However, a copy of the Petition was not furnished to Enrique, who did not appear to have participated in the proceedings in the RTC. Enrique was also named as private respondent in the present Petition. Considering Enrique's lack of participation in the RTC proceedings, only the Republic of the Philippines is retained as respondent in the present Petition.

6 *Rollo*, pp. 11, 13 and 64, respectively.

7 *Id.* at 13.

8 *Id.* at 59.

9 *Id.*

10 *Id.*

11 *Id.* at 35 and 67, respectively.

12 *Id.* at 14.

13 *Id.* at 57–61.

14 *Id.* at 113.

The RTC then scheduled hearings for the presentation of Anido's evidence. Particularly, the RTC issued its Notice of Hearing dated October 18, 2017, informing all parties, including the OSG, that a hearing will be held on January 30, 2018, for the presentation of Anido's evidence.[15]

During the hearing held on January 30, 2018, Anido testified, followed by her oral offer of evidence.[16] The State was represented by the OCP during the proceedings.[17]

As culled from the records, Anido's evidence relative to her marriage to Enrique and the foreign law allowing the divorce consisted of the following:

Exhibits	Purpose
"H"[18] – Certificate of Marriage dated June 5, 2012 issued by the New Jersey Department of Health	To prove the marriage between Anido and Enrique
"I" [19] – Report of Marriage Contracted Abroad dated June 13, 2012 issued by the Consul General of the Philippines in New York, USA	
"J"[20] – Report of Marriage issued by the Philippine Statistics Authority	
"K"[21] – Divorce Certificate dated August 1, 2016 issued by Paul F. Royce, State Registrar of the Office of Vital Statistics of the Commonwealth of Kentucky, stating that Anido and Enrique obtained a decree of absolute divorce from the Kentucky Court in 15-CI-3743	To prove that Enrique obtained a divorce decree dissolving the marriage between him and Anido
"L"[22] – Certificate of Authentication dated December 9, 2016 issued by Darell Ann R. Artates, Vice Consul of the Philippines in Washington D.C., certifying that Alison Lundergan Grimes was the Secretary of the State of Kentucky at the time of the issuance of the Certificate of Authentication dated November 28, 2016	To prove that the Certificate of Divorce was duly authenticated by the Philippine Embassy of Washington D.C., USA

15 *Id.* at 176.
16 *Id.*
17 *Id.*
18 *Id.* at 13 and 63, respectively.
19 *Id.* at 13 and 64, respectively.
20 *Id.* at 13 and 65-66, respectively.
21 *Id.* at 15 and 67, respectively.
22 *Id.* at 15 and 68, respectively.

"L-1"[23] – Certificate of Authentication dated November 28, 2016 issued by Alison Lundergan Grimes, Secretary of the State of Kentucky, certifying that Paul F. Royce is the State Registrar of the Office of Vital Statistics of the Commonwealth of Kentucky	To prove that the Certificate of Divorce was duly authenticated by the Commonwealth of Kentucky, USA
"M" to "M-3" [24] – Peru Civil Code (in Spanish)	To prove Enrique's personal law and that Anido's marriage to Enrique and its subsequent divorce are in accordance with the laws of Peru and the State of Kentucky, USA
"M-4"[25] – Certificate of Translation	
"M-5" to "M-7"[26] – English Translation of Peru Civil Code	
"N" and "N-1" to "N-26"[27] – Copy of the Law of Kentucky, USA on Divorce, Marriages and Separation with attestation by Anido stating that the "pages titled Kentucky Legislature printing the laws governing divorce in this state had not been altered"	
"N-27" to "N-30"[28] – English Translation of Peru Civil Code (signed by Enrique Gray and Philip Heath Justice)	

The Ruling of the RTC

Following Anido's oral offer of evidence, the RTC issued its Order[29] dated February 14, 2018, granting the Petition for Enforcement:

> Wherefore, foregoing premises considered, the petition is GRANTED. The divorce decree obtained by Enrique Martin Gomez Pomar in Kentucky, USA is hereby RECOGNIZED in the Philippines, in that terminating their matrimonial relationship or dissolving their marriage solemnized on May 17, 2012.
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> The Local Civil Registrar of Quezon City, Metro Manila and the Philippine Statistics Authority and Civil Registrar General is (*sic*) DIRECTED TO ACCEPT, FILE, RECORD AND ANNOTATE THIS ORDER RECOGNIZING THE FOREIGN DIVORCE ON THE CERTIFICATE OF MARRIAGE OF PETITIONER Rosary Kristine I. Anido and Enrique Martin Gomez Pomar on file with the said office.
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> SO ORDERED.[30]

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23 *Id.* at 15 and 69, respectively.
24 *Id.* at 38 and 71–73, respectively.
25 *Id.* at 38 and 74, respectively.
26 *Id.* at 38 and 75–78, respectively.
27 *Id.* at 15 and 79–104, respectively.
28 *Id.* at 38 and 107–109, respectively.
29 *Id.* at 48–50.
30 *Id.* at 50.

The OSG sought a reconsideration[31] of the RTC Order, but the RTC denied it in its Order dated April 27, 2018.[32]

The OSG filed with the CA an appeal from the RTC Orders dated February 14, 2018, and April 27, 2018, which was docketed as CA-G.R. CV No. 111303.[33]

Before the CA, the OSG did not impute errors to the RTC in finding that a divorce decree was obtained by Enrique. Instead, in its Appellant's Brief,[34] the OSG raised as sole issue the insufficiency of Anido's evidence proving the foreign law that allows Enrique to obtain a divorce decree and subsequently remarry.

The Ruling of the CA

After due proceedings, the CA rendered the Decision[35] dated September 8, 2020, that reversed and set aside the RTC order dated February 14, 2018. The CA clarified that the OSG did not question the divorce decree between Anido and Enrique. Hence, its appellate jurisdiction pertained only to the sufficiency of Anido's evidence on Enrique's personal law allowing divorce and capacitating him to remarry.

The CA determined that Anido failed to prove that the subject divorce decree was granted in accordance with the laws of Kentucky and that Enrique was allowed to remarry in accordance with the laws of Peru. It pointed out that the copies presented by Anido on the Kentucky and Peruvian laws were unauthenticated and mere printouts. Further, the translation of the Peruvian law submitted by Anido is dubious as it was made by an entity based in the USA and not Peru. It stressed Anido's failure to provide any provision of the Peruvian laws capacitating Enrique to remarry as a result of the divorce decree, or to present any expert witness to testify thereon.[36]

With the foregoing considerations, the CA dismissed the Petition for Enforcement for failure to prove the foreign law in the manner required by the Rules of Court:

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31 *Id.* at 16.
32 *Id.*
33 *Id.*
34 *Id.* at 112–127.
35 *Id.* at 34–47.
36 *Id.* at 41–45.

> Accordingly, this Court is constrained to dismiss the Petition for failure to prove the foreign law in the manner required by our Rules of Court.
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> WHEREFORE, the instant appeal is GRANTED. The assailed Order dated 14 February 2018 issued by the Regional Trial Court, Branch 92, Quezon City is REVERSED and SET ASIDE.
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> SO ORDERED.[37]

Hence, the present Petition.

Arguments

Anido faults the CA and argues that (1) she was able to present an authenticated copy of the applicable foreign law, particularly, the Peru Civil Code and the relevant marriage laws of Kentucky, USA, as they were accompanied by self-authenticating notarized attestations concerning their accuracy and authenticity;[38] (2) she pointed out specific provisions of the said foreign laws which capacitate Enrique to remarry following the divorce decree issued by the Kentucky Court;[39] and (3) there is nothing in the rules of procedure that requires her to present an expert witness to prove the specific provision of the Peruvian and Kentucky laws allowing Enrique to validly obtain a divorce decree and to remarry thereafter.[40]

In its Comment,[41] the Republic, through the OSG, seeks the denial of the Petition and argues that the CA correctly ordered the dismissal of the Petition for Enforcement because Anido failed to present competent proof of Enrique's foreign law allowing divorce and capacitating him to remarry thereafter. The OSG also emphasizes that it was deprived of the opportunity to object to Anido's evidence because it did not receive a copy of the report thereon and the RTC Order admitting such evidence.

In her Reply,[42] Anido insists that the OSG was never deprived of due process because it received notice of the RTC hearing held on January 30, 2018, and it was during that hearing when Anido testified and orally offered her evidence. Thus, the OSG cannot decry any supposed deprivation of due process because it failed to appear in the hearing despite

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37 *Id.* at 46–47.
38 *Id.* at 18–21.
39 *Id.* at 21–24.
40 *Id.* at 24–28.
41 *Id.* at 153–168.
42 *Id.* at 176–180.

notice. Anido further argues that, in any case, the State was not deprived of representation because the OCP, as the officer duly deputized by the OSG, was present during the hearing.

The Issue

The issue before the Court is whether the CA committed reversible error in ruling that the Petition for Enforcement should be dismissed for failure of Anido to prove, in accordance with the Rules of Court, the applicable foreign law allowing Enrique to validly obtain a divorce decree from the Kentucky Court and to remarry thereafter.

The Ruling of the Court

The Petition is partly meritorious. The CA correctly ruled that Anido's evidence is insufficient to prove the foreign law allowing Enrique to obtain a divorce decree and to remarry thereafter. Consequently, on the basis of the submitted evidence, the divorce decree from the Kentucky Court cannot be recognized and enforced. Nonetheless, in the interest of substantial justice, the Court resolves to *remand* the present case to the CA for reception of evidence on the Kentucky laws on marriage, as the personal law of the alien spouse, Enrique, allowing him to obtain a divorce decree from the Kentucky Court and to remarry thereafter.

Anido had the burden to prove the foreign law allowing Enrique to obtain a divorce decree and to remarry thereafter

Article 15 of the Civil Code, which embodies the nationality principle, 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." Following the nationality principle, the Philippine laws on marriage which, among others, do not allow divorce, are binding on Anido.

However, when it comes to marriages between a Filipino and an alien spouse, Article 26,[43] (2) of the Family Code creates an exception[44] to the nationality principle by providing that if "a divorce is thereafter validly obtained abroad by the alien spouse capacitating him or her to remarry, the Filipino spouse shall have capacity to remarry under Philippine law."[45] The law provides that a divorce between a foreigner and a Filipino may be recognized in the Philippines if it was validly obtained in accordance with the personal law of the foreign spouse.[46] The purpose of the provision is to avoid the absurd situation where, on one hand, the Filipino spouse remains married to the alien spouse, but on the other, the alien spouse is no longer married to the Filipino spouse after a foreign divorce decree that is effective in the country where it was rendered.[47]

In this regard, the Court has repeatedly held that the starting point in any recognition of a foreign divorce judgment is the acknowledgment that *our courts do not take judicial notice of foreign judgments and laws*.[48] Thus, in actions for the recognition of a foreign divorce judgment, the petitioner must prove not only the foreign judgment granting the divorce but also the foreign law allowing it.[49] The presentation solely of the divorce decree is insufficient; both the divorce decree and the governing personal law of the alien spouse that allows divorce and remarriage must be proven like any other fact.[50]

The applicable foreign law that must be proven by Anido pertains to the law of the country or state that issued the divorce decree

The records bear that Enrique is a Peruvian citizen, and he and Anido were residing in Kentucky, USA, at the time the divorce decree was issued by the Kentucky Court.[51] Notably, the OSG did *not* dispute the authenticity of the divorce decree in issue. It also did not question

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43 ARTICLE 26. All marriages solemnized outside the Philippines in accordance with the laws in force in the country where they were solemnized, and valid there as such, shall also be valid in this country, except those prohibited under Articles 35(1), (4), (5) and (6), 36, 37 and 38.
Where a marriage between a Filipino citizen and a foreigner is validly celebrated and a divorce is thereafter validly obtained abroad by the alien spouse capacitating him or her to remarry, the Filipino spouse shall have capacity to remarry under Philippine law. (Emphasis supplied)

44 *Republic v. Manalo*, 831 Phil. 33, 59 (2018).

45 FAMILY CODE, art. 26.

46 *Racho v. Tanaka*, 834 Phil. 21, 29 (2018).

47 *Republic v. Manalo*, *supra* at 58–59 (2018).

48 *Juego-Sakai v. Republic*, 836 Phil. 810, 817 (2018). (Italics supplied)

49 *Arreza v. Toyo*, 855 Phil. 522, 530 (2019).

50 *Ando v. Department of Foreign Affairs*, 742 Phil. 37 (2014).

51 *Rollo*, pp. 63–64.

Enrique's Peruvian citizenship and the legal residence of the spouses in Kentucky at the time of the divorce decree's issuance.

Pertinently, the fact that Enrique was a *citizen* of Peru *residing* in Kentucky, USA, was considered by the CA when it resolved to dismiss Anido's Petition for Enforcement. It held that Anido failed to prove (1) that the divorce decree was granted in accordance with the laws of Kentucky; and (2) that as a result of the divorce judgment, Enrique was capacitated to remarry in accordance with the laws of Peru.[52]

The Court does not agree with the CA. Insofar as the present Petition for Enforcement is concerned, Anido only has to prove the pertinent marriage laws of Kentucky, the foreign state that issued the divorce decree in issue.

First, a textual analysis of Article 26(2) of the Family Code, requires a divorce "validly obtained abroad" that capacitates the alien spouse to remarry, to wit:

> Art. 26. All marriages solemnized outside the Philippines, in accordance with the laws in force in the country where they were solemnized, and valid there as such, shall also be valid in this country, except those prohibited under Articles 35 (1), (4), (5) and (6), 36, 37 and 38.
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> Where a marriage between a Filipino citizen and a foreigner is validly celebrated and *a divorce is thereafter validly obtained abroad* by the alien spouse *capacitating him or her to remarry*, the Filipino spouse shall have capacity to remarry under Philippine law. (Emphasis supplied)

From the language of the above provision, the divorce decree must be validly obtained abroad. Necessarily, then, the foreign law that must be proven by the applicant in a petition for recognition of a foreign divorce decree must be *the law of the foreign country or state that issued the divorce decree*.

The Court's conclusion finds support in the rule that for a judgment to be valid, the court rendering it must not only have jurisdiction over the parties but must also have the authority to take cognizance of the subject matter of the litigation and to grant the relief sought, in accordance with the applicable laws.[53] The foreign law of the country or state that issued

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[52] *Id.* at 38.

[53] *Francisco v. Jason*, 60 Phil. 442 (1934).

the divorce decree is material because its court, office, or tribunal may grant a valid divorce decree only if it has obtained *jurisdiction* over the alien spouse and the subject matter of litigation, i.e., the marriage between the parties and its dissolution through divorce.[54] Hence, to be granted relief under Article 26(2) of the Family Code, it must be shown that the dissolution of marriage by divorce "was legally founded on and authorized by the *applicable law of that foreign jurisdiction*" from which the divorce decree originated.[55]

Second, Article 26(2) of the Family Code, is founded on the principle of *comity of nations*.[56] Under the said principle, the legislative, executive, or judicial acts of another nation may be recognized in the Philippines,[57] such that the judicial records of a foreign court would have the same force in our country *as in the place where the judgment was obtained*.[58] A foreign judgment is presumed to be *valid and binding in the country from which it comes*,[59] and the foreign court that issued the judgment is presumed to have acted in the lawful exercise of its jurisdiction.[60] The goal of the principle of the comity of nations is to produce a *friendly intercourse with the sovereignty that rendered the foreign decree or judgment*.[61]

Hence, the foreign law that must be proven by a party who seeks the recognition of a divorce decree or judgment must be the law of the country or state that issued it. The applicant must prove the law of the foreign court, office, or tribunal to show that it had competence or jurisdiction to issue the foreign decree or judgment, and that the latter is valid and binding in the country or state from which it originates.

Third, the principle of comity of nations is *not* limited to decrees, judgments, or orders by a foreign court, office, or tribunal over its *citizens*, but also extends to *other persons who are under the protection of the laws of the foreign state*, as explained in *J. A. Sison v. Board of Accountancy*,[62] to wit:

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54 *See Van Dorn v. Romillo, Jr.*, 223 Phil. 357, 361–362 (1985).

55 *Pilapil v. Ibay-Somera*, 256 Phil. 407 (1989). (Emphasis supplied)

56 *See Morisono v. Morisono*, 834 Phil. 823 (2018); *Republic v. Manalo*, *supra* note 44; *Fujiki v. Marinay*, 712 Phil. 524 (2013); *Vda. de Catalan v. Catalan-Lee*, 681 Phil. 493 (2012). (Emphasis supplied)

57 *J. A. Sison v. Board of Accountancy*, 85 Phil. 276, 282 (1949).

58 *Gorayeb v. Hashim*, 50 Phil. 22 (1927). (Emphasis supplied)

59 *Id. See also Fujiki v. Marinay*, *supra*. (Emphasis supplied)

60 *Asiavest Merchant Bankers (M) Berhad v. Court of Appeals*, 414 Phil. 13 (2001). (Emphasis supplied)

61 *J. A. Sison v. Board of Accountancy*, *supra*. (Emphasis supplied)

62 *Id.*

> In the case at bar, while the profession of certified public accountant is not controlled or regulated by the Government of Great Britain, the country of origin of respondent Robert Orr Ferguson, according to the record, said respondent had been admitted in this country to the practice of his profession as certified public accountant on the strength of his membership of the Institute of Accountants and Actuaries in Glasgow (England), incorporated by Royal Charter, 1855. The question of his entitlement to admission to the practice of his profession in this jurisdiction, does not, therefore, come under reciprocity, as this principle is known in International Law, but is included in the meaning of *comity*, as expressed in the alternative condition of the proviso of the above[-]quoted section 12 which says: *such country or state does not restrict the right of Filipino certified public accountants to practice therein.*
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> > "*Mutuality, reciprocity, and comity as bases or elements.* — International Law is founded largely upon mutuality, reciprocity, and the principle of comity of nations. Comity, in this connection, is neither a matter of absolute obligation on the one hand, nor of mere courtesy and good will on the other; *it is the recognition which one nation allows within its territory to the acts of foreign governments and their tribunals, having due regard both to international duty and convenience and to the rights of its own citizens or of other persons who are under the protection of its laws.* The fact of reciprocity does not necessarily influence the application of the doctrine of comity, although it may do so and has been given consideration in some instances." (citations omitted)
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> In Hilton *vs.* Guyot (*supra*), the highest court of the United States said that comity "*is the recognition which one nation allows within its territory to the legislative, executive, or judicial acts of another nation, having due regard both to international duty and convenience, and to the rights of its own citizens or of other persons who are under the protection of its laws*[.]"[63] (Emphasis in the original)

Otherwise said, a foreign decree, judgment, or order may be recognized in the Philippines even if the parties in the case are *not citizens* of the issuing state, *provided* that the parties are persons who are *under the protection* of the laws of the foreign state. Verily, as early as 1913, the Court has recognized that a divorce decree may be issued by a court that has jurisdiction over the place where the parties have their *domicile*, even though the parties are citizens or nationals of another state.[64]

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63 *Id.* at 281–282.

64 *Barnuevo v. Fuster*, 29 Phil. 606, 613 (1913).

The principle is particularly true when it comes to a divorce decree issued by a state belonging to the USA, where jurisdiction over the subject matter in actions for divorce depends upon *domicile*, and without such domicile there would be no authority to decree a divorce.[65] The Court has long recognized the general principle of American law that the *domiciliary law* of a party governs in most matters or rights.[66] In earlier cases[67] decided by the Court, it was even held that to give a court jurisdiction over the matrimonial status of a person and the authority to issue a divorce decree, the plaintiff must be *domiciled in good faith* in the US State where he or she applied for divorce. It is *not the citizenship* of the plaintiff that confers jurisdiction upon a court to issue a divorce decree but the plaintiff's *legal residence* within the US State where the divorce proceedings were instituted.[68]

Fourth, the CA ruled that Anido should have presented proof that under the laws of Peru, Enrique was allowed to remarry. However, by the wording of Article 26(2) of the Family Code, it is the *divorce decree* validly obtained abroad that must capacitate the alien spouse to *remarry*. The provision recognizes that even when a foreign court dissolves a marriage by way of divorce, it may *prohibit* remarriage based on the pertinent foreign statute.[69] Consequently, in a petition for the recognition of a divorce decree, the petitioner must prove that *the divorce decree itself or the applicable foreign law which granted the divorce allows remarriage*.[70]

To illustrate, in *Garcia v. Recio*,[71] the Court remanded the case for further proceedings because the divorce decree in issue *contained* a restriction on remarriage. Likewise, in *Sarto v. People*,[72] the divorce asserted by therein petitioner was not recognized by the Court because neither the divorce decree nor the appropriate foreign law satisfactorily demonstrated the type of divorce allegedly secured by his spouse – whether an *absolute* divorce, which terminates the marriage, or a *limited* divorce, which merely suspended it. On the other hand, in *Racho v. Tanaka*,[73] the Court determined that the former spouses were capacitated to remarry because the pertinent laws of Japan, the state that issued the divorce decree, as well as the certificate of acceptance of the report of

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65 *Harding v. Harding*, 198 U.S. 317, 324, 25 S. Ct. 679, 679 (1905). (Emphasis supplied)
66 *Aznar v. Garcia*, 117 Phil. 96 (1963). (Emphasis supplied)
67 *In re: Ramirez v. Gmur*, 42 Phil. 855 (1918); *Gorayeb v. Hashim*, *supra* note 58; *Hix v. Fluemer*, 55 Phil. 851 (1931); *Arca v. Javier*, 95 Phil. 579 (1954).
68 *Arca v. Javier*, *id.* (Emphasis supplied)
69 *In re Recto v. De Harden*, 100 Phil. 427 (1956). (Emphasis supplied)
70 *Amor-Catalan v. Court of Appeals*, 543 Phil. 568 (2007). (Emphasis supplied)
71 418 Phil. 723 (2001).
72 826 Phil. 745 (2018).
73 *Supra* note 46.

divorce, did not state any qualifications that would restrict the remarriage of any of the parties.

Fifth, even if the citizenship of Enrique was a material matter in the divorce between the spouses, the Kentucky Court would have taken into account the laws of Peru *in relation to Kentucky's rules as to conflict of laws*.[74] It follows that the decision of the Kentucky Court to grant the divorce decree in issue would be based on its own appreciation and interpretation of Kentucky's rules on conflict of laws and its marriage statutes. Consequently, to look at the national law of Enrique and to apply it to the subject divorce decree would be tantamount to a *relitigation* or *review of the merits* of the foreign divorce decree, which cannot be done by the Court in a petition for the recognition of a foreign judgment.[75]

Certainly, in petitions for the recognition of a foreign judgment, as in the present case, the courts must adopt a policy of *limited* review and refrain from delving into the merits of the foreign judgment in question.[76] The Philippine courts cannot decide on the "family rights and duties, or on the status, condition and legal capacity" of the alien who is a party to the foreign judgment;[77] nor may they substitute their own interpretation of any provision of the law or rules of procedure of another country.[78] Instead, the Philippine courts will only determine (1) whether the foreign judgment is inconsistent with 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.[79] If there is neither inconsistency with public policy nor adequate proof to repel the judgment, Philippine courts should, by default, recognize the foreign judgment as part of the comity of nations.[80]

In view of the foregoing, insofar as the recognition of the subject divorce decree is concerned, the Peruvian citizenship of Enrique and the governing marriage laws of Peru are *immaterial*. Considering that Kentucky was Enrique's legal residence or domicile, and the subject divorce decree was issued by the Kentucky Court, it is ultimately the Kentucky laws that are determinative of the question of whether the

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74 *See Aznar v. Garcia*, *supra* note 66.

75 *See Bankruptcy Estate of Mitich v. Mercantile Insurance Co., Inc.*, 919 Phil. 904 (2022); *Suzuki v. Office of the Solicitor General*, 881 Phil. 90, 110–111 (2020); *Bank of the Philippine Islands Securities Corp. v. Guevara*, 755 Phil. 434 (2015); *Fujiki v. Marinay*, *supra* note 56.

76 *Bankruptcy Estate of Mitich v. Mercantile Insurance Co., Inc.*, *id.*

77 *Fujiki v. Marinay*, *supra* note 56.

78 *Bank of the Philippine Islands Securities Corp. v. Guevara*, *supra*.

79 *Suzuki v. Office of the Solicitor General*, *supra*.

80 *Id.*; *Fujiki v. Marinay*, *supra* note 56.

divorce is *effective in the country where it was rendered*,[81] and whether it must be recognized in the Philippines pursuant to the principle of comity. Otherwise said, to support her Petition for Enforcement and to prove that the divorce decree was validly obtained and capacitated Enrique to remarry, Anido need *not* prove the marriage laws of Peru; instead, she only needs to prove the pertinent laws of Kentucky as the state that issued the divorce decree.

Besides, even assuming that the Kentucky Court improperly applied its rules on conflict of laws in relation to Enrique's Peruvian citizenship and the laws of Peru, the *mistake* would only constitute an *error of judgment* in the exercise of its legitimate jurisdiction over Enrique as its *domiciliary*, which should have been corrected through a timely motion for reconsideration or appeal.[82] Significantly, the US Supreme Court has ruled that if a court has jurisdiction over the parties and the subject matter of the case, any error or mistake in its conclusions or judgment cannot be reviewed in a *collateral* proceeding but may only be corrected by a *direct* review, either in the same court that rendered the judgment or by appeal to the appellate courts.[83] The judgment, though erroneous, constitutes *res judicata* and is valid and binding until it is reversed.[84]

Relevantly, in *Bank of the Philippine Islands Securities Corp. v. Guevara,*[85] a foreign judgment was recognized over the objections of therein petitioner because it raised mere errors of judgment against the foreign decree, which should have been corrected through a timely appeal. For the same reason, the Court cannot decline the recognition of the subject divorce decree based on any error in judgment committed by the Kentucky Court in applying its marriage laws to Enrique, for such error may only be corrected through a direct proceeding and not through a collateral attack. A contrary ruling would *not* serve *public policy* as it would result in an absurd situation where the divorce decree is not recognized in the Philippines and in favor of the Filipino, yet the same divorce decree, though erroneous, would be considered as valid and binding upon Enrique in Kentucky and its sister states, which is precisely the evil sought to be avoided by Article 26(2) of the Family Code.

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81 *See Republic v. Manalo*, *supra* note 44; *Fujiki v. Marinay*, *supra* note 56. (Emphasis supplied)

82 *See Bank of the Philippine Islands Securities Corp. v. Guevara*, *supra* 75. (Emphasis supplied)

83 *Thompson v. Tolmie*, 27 U.S. 157, 168-69 (1829); *Voorhees v. Jackson*, 35 U.S. 449, 477 (1836); *Federated Dep't Stores v. Moitie*, 452 U.S. 394, 398–99, 101 S. Ct. 2424, 2428 (1981).

84 *In re Sawyer*, 124 U.S. 200, 220-21. 8 S. Ct. 482, 493 (1888); *In re Bonner*, 151 U.S. 242, 254, 14 S. Ct. 323, 324 (1894).

85 *Bank of the Philippine Islands Securities Corp. v. Guevara*, *supra* note 75.

The Court is aware that in several cases,[86] we referred to the *national* law of the foreign spouse to determine whether a divorce decree was validly obtained under Article 26(2) of the Family Code. The earlier decisions of the Court may make it appear that because Enrique was Peruvian, then it is the laws of Peru, as his national law, that must be proven to show that the divorce decree in issue was validly obtained and that he was capacitated to remarry thereafter.

The Court's prior rulings must be taken in their proper context. In those cases where the Court looked at the national law of the alien spouse to determine whether the divorce was validly obtained, the decree or judgment of divorce originated from the *same* country in which the alien spouse was a citizen or a national. There was *no variance* between the citizenship or nationality of the alien spouse, on the one hand, and the country or state from which the divorce decree or judgment was issued, on the other.

In contrast, the case at bench presents a peculiar situation where Enrique, a citizen of another country, i.e., Peru, obtained a divorce decree from another country in which he was domiciled, i.e., Kentucky, USA. The governing personal law[87] of Enrique allowing him to dissolve his marriage to Anido could therefore be the marriage laws of Peru, his national law, *or* the marriage laws of Kentucky, his domicile law. As between the two, and in accordance with the principle of comity espoused in Article 26(2) of the Family Code, it is the marriage laws of Kentucky, USA, that must be proven by Anido, given that Enrique chose to institute the divorce proceedings in Kentucky and the divorce decree was issued by the Kentucky Court.

Anido failed to prove the proper foreign law with an official publication or a duly attested copy in accordance with Rule 132, Sections 24 and 25 of the Rules of Court

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86 *Basa-Egami v. Bersales*, 925 Phil. 391 (2022); *Republic v. Kikuchi*, 923 Phil. 711 (2022); *Rivera v. Woo Namsun*, 916 Phil. 296 (2021); *Kondo v. Civil Registrar General*, 872 Phil. 251 (2020); *Moraña v. Republic*, 867 Phil. 578 (2019); *Juego-Sakai v. Republic*, *supra* note 48; *Morisono v. Morisono*, *supra* note 56; *Racho v. Tanaka*, *supra* note 46; *Republic v. Manalo*, *supra* note 44; *Sarto v. People*, *supra* note 72; *Medina v. Koike*, 791 Phil. 645 (2016); *Ando v. Department of Foreign Affairs*, *supra* note 50; *Vda. de Catalan v. Catalan-Lee*, *supra* note 56; *Corpuz v. Sto. Tomas*, 642 Phil. 420 (2010); *Garcia v. Recio*, *supra* note 71; *Van Dorn v. Romillo, Jr.*, *supra* note 54.

87 *Medina v. Koike*, *id.* 84; *Ando v. Department of Foreign Affairs*, *supra* note 50; *Garcia v. Recio*, *supra* note 71.

The marriage laws of Kentucky, as an official act of a sovereign authority, may be proven in accordance with Rule 132, Sections 24 and 25[88] of the Rules of Court.[89] That is, the Kentucky marriage laws must be established either (1) by an official publication or (2) by a copy thereof, accompanied by an attestation issued by the officer having legal custody of the document under the official seal of his or her office, stating that it is a correct copy of the original or any specific part thereof.[90] In addition, considering that the foreign law is not kept in the Philippines, the copy of the official records must also be accompanied by a certificate that meets the following requirements: (1) it must be issued by the proper diplomatic or consular officer in the Philippine foreign service stationed in the foreign country in which the record is kept; (2) it must be authenticated by the seal of the office of the aforementioned diplomatic or consular officer; and (3) it must state that the attesting officer has custody of the documents,[91] or that he or she is duly authorized to legalize official documents, or other statements to the same effect.[92]

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88 In R-QZN-17-01806-CV, petitioner presented her evidence in 2018. At that time, A.M. No. 19-08-05-SC or the 2019 Proposed Amendments to the Revised Rules on Evidence was not yet in effect. Thus, the cited provisions of Rule 132 of the Rules of Court are based on the 1997 Rules of Court. Thus, at the time material to the present case, Sections 24 and 25 of the Rules of Court provided:

SECTION 24. *Proof of official record.* — The record of public documents referred to in paragraph (a) of Section 19, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his deputy, and accompanied, if the record is not kept in the Philippines, with a certificate that such officer has the custody. If the office in which the record is kept is in foreign country, the certificate may be made by a secretary of the embassy or legation, consul general, consul, vice consul, or consular agent or by any officer in the foreign service of the Philippines stationed in the foreign country in which the record is kept, and authenticated by the seal of his office.

SECTION 25. *What attestation of copy must state.* — Whenever a copy of a document or record is attested for the purpose of evidence, the attestation must state, in substance, that the copy is a correct copy of the original, or a specific part thereof, as the case may be. The attestation must be under the official seal of the attesting officer, if there be any, or if he be the clerk of a court having a seal, under the seal of such court.

89 *See Rivera v. Woo Namsun*, *supra* note 86.

90 *Juego-Sakai v. Republic*, *supra* note 48.

91 *Id.*

92 *See Makati Shangri-La Hotel and Resort, Inc. v. Harper*, 693 Phil. 596, 611 (2012), where the Court held that the Certificate issued by the appropriate diplomatic or consular officer, stating that the attesting officer in the foreign stated was duly authorized to legalize official documents, was compliant with the requirements of Rule 132, Sections 24 and 25 of the Rules of Court, viz.:

The official participation in the authentication process of Tanja Sorlie of the Royal Ministry of Foreign Affairs of Norway and the attachment of the official seal of that office on each authentication indicated that Exhibit Q, Exhibit R, Exhibit Q-1 and Exhibit R-1 were documents of a public nature in Norway, not merely private documents. It cannot be denied that based on Philippine Consul Tirol's official authentication, Tanja Sorlie was "on the date of signing, duly authorized to legalize *official documents* for the Royal Ministry of Foreign Affairs of Norway." Without a showing to the contrary by petitioner, Exhibit Q, Exhibit R, Exhibit Q-1 and Exhibit R-1 should be presumed to be themselves official documents under Norwegian law, and admissible as *prima facie* evidence of the truth of their contents under Philippine law. (Emphasis in the Original.)

In the case at bench, to prove that Enrique was allowed to divorce and remarry under the marriage laws of Kentucky, Anido offered in evidence her Exhibits "N-1" to "N-26,"[93] pertaining to a supposed copy of the Kentucky marriage laws. She also presented the Attestation[94] for the purported copy of the Kentucky marriage laws.

A simple perusal of the foregoing readily reveals that they are manifestly inadequate to prove the marriage laws of Kentucky.

First, it was only Anido herself who prepared and printed out the purported copy of the Kentucky laws, not the legal custodian thereof, contrary to the requirements of Rule 132, Sections 24 and 25 of the Rules of Court. As pointed out by the CA, the document is a *mere printout*. This is apparent on the face of Anido's own evidence, particularly the Attestation for the said printout:

> To Whom it may Concern,
>
> I certify that the pages titled Kentucky Legislature printing the laws governing divorce in this state had not been altered.
>
> (signed)
> Rosary Kristine Anido
>
> The foregoing instrument was acknowledged before me by Rosary Kristine Anido 11/23/16
>
> (signed)
> AMY F. GRISBY
> Notary Public, State at Large, KY
> My commission expires June 8, 2019
> Notary ID# 535592[95]

Second, the Kentucky laws presented by Anido did not have the accompanying certificate by the proper diplomatic or consular officer of the Philippines required by Rule 132, Section 24 of the Rules of Court. Although Anido offered in evidence her Exhibit "L,"[96] referring to the Certificate of Authentication issued by the Vice Consul of the Philippines in Washington, D.C., the authentication pertained to the divorce decree obtained by Enrique, *not* the Kentucky laws presented by Anido.

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93 *Rollo*, pp. 81–103.
94 *Id.* at 80.
95 *Id.*
96 *Id.* at 15 and 68, respectively.

The Attestation, though admissible as a notarized document, is not proof of the facts therein stated

Anido would impress upon the Court that because she presented documents that were *notarized* and acknowledged, respectively, before a notary public, then they are self-authenticating and require no further authentication to be presented as evidence in court.[97] She insists that the notarized documents, including the Attestation for the printouts of the Kentucky laws, should have been considered as proof of the foreign law.

Anido is wrong. She is confusing the admissibility of notarized public documents with their probative value.

It is true that Rule 132, Sections 24 and 25 of the Rules of Court apply only to documents falling under Section 19(a)[98] of the same rule, i.e., written official acts or records of a sovereign authority, official bodies and tribunals, and public officers. They *do not apply* to documents under Section 19(b) of the same rule, i.e., documents acknowledged before notaries public.[99] Otherwise stated, documents notarized abroad need not comply with the authentication requirements laid down in Rule 132, Sections 24 and 25 of the Rules of Court.[100]

It is also correct that notarized documents subscribed to or acknowledged before a notary public are admissible in evidence because they are self-authenticating.[101] Indeed, as provided in Rule 132,

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97 *Id.* at 21.

98 SECTION 19. *Classes of documents.* — For the purpose of their presentation in evidence, documents are either public or private.

Public documents are:

(a) The written official acts, or records of the sovereign authority, official bodies and tribunals, and public officers, whether of the Philippines, or of a foreign country;
(b) Documents acknowledged before a notary public except last wills and testaments;
(c) Documents that are considered public documents under treaties and conventions which are in force between the Philippines and the country of source; and
(d) Public records, kept in the Philippines, of private documents required by law to be entered therein.

All other writings are private.

99 *See Heirs of Spouses Arcilla v. Teodoro*, 583 Phil. 540, 557–558 (2008). *See also Tujan-Militante v. Nustad*, 811 Phil. 192, 199–200 (2017).

100 It must be clarified, however, that the Philippines is a state-party to the Convention Abolishing the Requirement of Legalization for Foreign Public Documents (Apostille Convention), which took effect on May 14, 2019. Under Article 1(c) of the Apostille Convention, notarial acts are deemed public documents covered by the Convention. Thus, pursuant to Articles 3 and 4 of the Convention, a document notarized abroad may be legalized, produced, and used in the Philippines when the required Apostille Certificate executed by a competent authority duly designated by the country of origin in accordance with Article 6 of the Convention, is placed on the document itself or firmly attached thereto. The Apostille Certificate certifies the authenticity of the signature appearing on the public document, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which the document bears.

101 *See Arias v. People*, 853 Phil. 407, 442 (2019) and *Patula v. People*, 685 Phil. 376 (2012).

Section 30[102] of the Rules of Court, a notarized document need not be authenticated in court; the certificate of acknowledgment before the notary, which is "*prima facie evidence of the execution of the instrument or document*," will suffice for its admissibility.[103] The presentation of a notarized document *dispenses* with the need to *authenticate* a document with proof of its due execution and authenticity,[104] which is otherwise required for private documents under Rule 132, Section 20[105] of the Rules of Court.[106]

Thus, Anido is correct in that a notarized document, such as the Attestation, is self-authenticating. It is admissible in evidence because its due execution and authenticity are already presumed.[107]

Nevertheless, while a notarized document is *admissible* in evidence without need for authentication, its *probative value* is another matter. When a document is admitted in evidence, it only means that the court receives it as such; on the other hand, its probative value depends on whether the document *proves* a fact in issue.[108]

The probative value of a public document, as defined in Rule 132, Section 19 of the Rules of Court, is ordinarily derived from its status as *prima facie* evidence of the facts stated therein under Rule 132, Section 23[109] of the Rules of Court.[110] However, not all public documents

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[102] SECTION 30. *Proof of notarial documents.* — Every instrument duly acknowledged or proved and certified as provided by law, may be presented in evidence without further proof, the certificate of acknowledgment being *prima facie* evidence of the execution of the instrument or document involved.

[103] *Spouses Salendab v. Pangilaman*, G.R. No. 229883, June 22, 2022 [Notice]. (Emphasis supplied)

[104] By "authenticity and due execution" of the document, means that it will be admitted in evidence because the notarized document is *prima facie* proof that is not spurious, counterfeit, or of different import on its face from the one executed by the parties, and the signatures appearing thereon are not forgeries. [*Go Tong Electrical Supply Co., Inc. v. BPI Family Savings Bank, Inc.*, 762 Phil. 89 (2015); *People v. Guanson*, 423 Phil. 452 (2001)] (Emphasis supplied)

[105] SECTION 20. *Proof of private documents.* — Before any private document offered as authentic is received in evidence, its due execution and authenticity must be proved by any of the following means:

(a) By anyone who saw the document executed or written;

(b) By evidence of the genuineness of the signature or handwriting of the maker; or

(c) By other evidence showing its due execution and authenticity.

Any other private document need only be identified as that which it is claimed to be.

[106] *Teoco v. Metropolitan Bank and Trust Co.*, 595 Phil. 691, 707 (2008).

[107] *Heirs of Jose Marcial K. Ochoa v. G & S Transport Corp.*, 691 Phil. 35, 40 (2012).

[108] *People v. Sandiganbayan [Fifth Division]*, G.R. No. 214297, January 12, 2021 [Notice]. *See also Republic v. Sps. Gimenez*, 776 Phil. 233, 284 (2016). (Emphasis supplied)

[109] SECTION 23. *Public documents as evidence.* — Documents consisting of entries in public records made in the performance of a duty by a public officer are *prima facie* evidence of the facts therein stated. All other public documents are evidence, even against a third person, of the fact which gave rise to their execution and of the date of the latter.

[110] *See Dupilas v. Cabacungan*, 36 Phil. 254 (1917), which relevantly states:

are *prima facie* evidence of their contents.

Under Rule 132, Sections 23 and 30 of the Rules of Court, a notarized public document, as a general rule, is *prima facie* evidence only of its execution but *not* of the facts stated therein.[111] The reason for the rule pertains to the presumption of regularity in the performance of official functions by a public officer. In notarized documents, only the jurat or acknowledgment is accomplished by a public officer, i.e., the notary public. Hence, only the statements in the jurat and acknowledgment of a notarized document enjoy the presumption of regularity and considered to be *prima facie* true, as explained in *Philippine Trust Co. v. Court of Appeals*:[112]

> Public records made in the performance of a duty by a public officer" include those specified as public documents under Section 19 (a), Rule 132 of the Rules of Court and the *acknowledgement, affirmation or oath, or jurat* portion of public documents under Section 19 (c). Hence, under Section 23, notarized documents are merely proof of the fact which gave rise to their execution (e.g., the notarized Answer to Interrogatories in the case at bar is proof that Philtrust had been served with Written Interrogatories), and of the date of the latter (e.g., the notarized Answer to Interrogatories is proof that the same was executed on October 12, 1992, the date stated thereon), but is not *prima facie* evidence of the facts therein stated. Additionally, under Section 30 of the same Rule, the acknowledgement in notarized documents is *prima facie* evidence of the execution of the instrument or document involved (e.g., the notarized Answer to Interrogatories is *prima facie* proof that petitioner executed the same).
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> The reason for the distinction lies with the respective official duties attending the execution of the different kinds of public

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Art. 1215 and 1219 have no special application to the question under consideration. Article 1218 establishes a rule of evidence with reference to the probative force of public documents. This rule is not absolute in the sense that the contents of a public document in conclusive evidence against the contracting parties as to the truthfulness of the statements made therein. The supreme court of Spain, in its decision of July 10, 1896, said:

. . . .

Manresa, in commenting upon article 1218, says in volume 8 at page 465, that —

> "It having been determined who are to be considered as third persons, the provisions of article 1218 leave no room for doubt; public instruments, public documents in general, are perfect evidence, even against third persons, if the act which the officer witnessed and certified to or the date written by him in the document are not shown to be false; *but they are not perfect evidence with respect to the truthfulness of the statements made therein by the interested parties*." (Italics supplied)

[111] *See Teoco v. Metropolitan Bank and Trust Co.*, 595. Phil. 691, 706 (2008); *Philippine Trust Company v. Court of Appeals*, 650 Phil. 54, 69 (2010); *Republic v. Sps. Gimenez*, *supra* note 107, at 272–273.

[112] *Id.*

> instruments. Official duties are disputably presumed to have been regularly performed. As regards affidavits, including Answers to Interrogatories which are required to be sworn to by the person making them, the only portion thereof executed by the person authorized to take oaths is the *jurat*. The presumption that official duty has been regularly performed therefore applies only to the latter portion, wherein the notary public merely attests that the affidavit was subscribed and sworn to before him or her, on the date mentioned thereon. Thus, even though affidavits are notarized documents, we have ruled that affidavits, being self-serving, must be received with caution.[113] (Italics in the original; citations omitted)

Certainly, the fact of notarization, *per se*, is not a guarantee of the *validity* of the contents of a document because it is not the function of the notary public to validate the statements contained therein.[114] While the notary public is required to administer an oath to the affiant and the person acknowledging a document before him or her, the mere fact of notarization is not a confirmation of the truthfulness or veracity of the statements contained in the instrument.[115]

Thus, as a rule, notarized documents are prima facie evidence only of their due execution and authenticity, but not the truth of their contents. Such *prima facie* evidence refers only to the *official acts* of the notary public bearing on the same document. That is, only those statements made by the notary public in the notarial certificate in relation to the notarial acts enumerated in Rule II[116] of A.M. No. 02-8-13-SC or the 2004 Rules on Notarial Practice,[117] including the date of the notarial act appearing thereon, are presumed to be correct.

Consequently, the Court cannot lend credence to Anido's argument that the Attestation, being a notarized document, may be considered as sufficient proof that the printouts accurately reflect the marriage laws of Kentucky.

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113 *Id.* at 68–70.

114 *Mayor v. Belen*, 474 Phil. 630, 640 (2004), *citing Suntay v. Court of Appeals*, 321 Phil. 809 (1995).

115 *See Rosario v. Manila Railroad Co.*, 22 Phil. 140, 149 (1912), which relevantly states:
SECTION 348 of the Code of Civil Procedure, defining affidavits and depositions, says that an affidavit is a written declaration under oath, made without notice to the adverse party and the section enumerates the instances in which such documents may properly be used. The law only concedes them the character of *prima facie* evidence of the facts stated therein, but such evidence is susceptible of impeachment, since, according to the doctrine established in the decision of the supreme court of Spain, of July 13, 1899, as a general rule, *all documents attest the facts that are the origin of and the date of their execution, but do not attest the veracity of the statements therein made.* (Emphasis supplied)

116 These pertain to, among others, acknowledgment, affirmation or oath, copy certification, and signature witnessing, respectively defined in Sections 1, 2, 4, and 14, Rule II of the 2004 Rules on Notarial Practice.

117 Presently, notarial practice in the Philippines is governed by the 2004 Rules on Notarial Practice. *See Heirs of Alilano v. Examen*, 756 Phil. 608 (2015).

A. A public instrument is evidence of the fact which gave rise to its execution when it consists of voluntary written acts or deeds duly acknowledged before the notary public

The Court is aware of its pronouncement in earlier cases, where it held that notarized documents, being public in nature, are *prima facie* evidence of the *facts* stated therein.[118] To avoid confusion, it is proper for the Court to clarify and discuss the matter.

While, on account of the presumption of regularity, *all* notarial documents may be taken as *prima facie* evidence of their due execution and authenticity, *not all* notarized public documents are *prima facie* evidence of the facts stated therein.

The Court's prior disquisition on the *prima facie* evidence of the facts stated in a notarized document is based on Rule 132, Section 23 of the Rules of Court, which states that "[a]ll other public documents are evidence, even against a third person, *of the fact which gave rise to their execution and of the date of the latter*."[119] Significantly, this rule originated from Article 1218[120] of the Civil Code of 1889 (Spanish Civil Code). In *Reilly v. Steinhart*,[121] it was explained that Article 1218 of the Spanish Civil Code embodies the Spanish civil law system of "protocolizing" *a contract or agreement* where the parties appear before a notary public to disclose and execute their contract before the said officer, who, in turn, keeps the first draft of the executed agreement as evidence of the *rights* conferred by the parties and their correlative *obligations* under their agreement. Unsurprisingly, the rule is related to acts, deeds, or contracts, which create, cede, transmit, waive, or extinguish rights, or confer powers to another, especially those which are required by law to appear in public instruments,[122] such as those enumerated in Article

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118 *See*, among other cases, *Bacala v. Heirs of Poliño*, 896 Phil. 854 (2021); *Lozano v. Fernandez*, 847 Phil. 219 (2019); *Heirs of Spouses Liwagon v. Heirs of Spouses Liwagon*, 748 Phil. 675 (2014); *Spouses Caoili v. Court of Appeals*, 373 Phil. 122 (1999); *Yturralde v. Azurin*, 138 Phil. 432 (1969).

119 *See Realubit v. Spouses Jaso*, 673 Phil. 618, 625 (2011), *citing Spouses Caoili v. Court of Appeals*, *id.*

120 ARTICLE 1218. Public instruments are evidence, even against a third person, of the fact which gave rise to their execution and of the date thereof.
They shall also be evidence against the contracting parties and their successors in interest with respect to any declarations the former may have made therein.

121 161 A.D. 242, 246-47 (N.Y. App. Div. 1914), *citing Downing v. Diaz*, 80 Tex. 436, 451–52 (Tex. 1891), where Article 1218 of the Spanish Civil Code was in issue.

122 *Id.*

1358[123] of the Civil Code.

Thus, in *Bough v. Cantiveros*,[124] it was held that Article 1218 of the Spanish Civil Code refers to *deeds or instruments evidencing an agreement* and must always be read in conjunction with the Parol Evidence Rule in Rule 130, Section 10[125] of the Rules of Court,[126] where the instrument will be regarded as the only repository and memorial of the truth,[127] and is therefore the "*best proof*" of the certainty of the obligations incurred by the parties thereto.[128] Article 1218 of the Spanish Civil Code was likewise related to admissions against interest,[129] as well as principles of estoppel, where parties who *voluntarily* enter into an agreement and execute an instrument therefor are not allowed to later on deny their assent

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123 ARTICLE 1358. The following must appear in a public document:
(1) Acts and contracts which have for their object the creation, transmission, modification or extinguishment of real rights over immovable property; sales of real property or of an interest therein are governed by articles 1403, No. 2, and 1405;
(2) The cession, repudiation or renunciation of hereditary rights or of those of the conjugal partnership of gains;
(3) The power to administer property, or any other power which has for its object an act appearing or which should appear in a public document, or should prejudice a third person;
(4) The cession of actions or rights proceeding from an act appearing in a public document.
All other contracts where the amount involved exceeds five hundred pesos must appear in writing, even a private one. But sales of goods, chattels or things in action are governed by articles, 1403, No. 2 and 1405.

124 40 Phil. 209 (1919), which relevantly states:
Counsel relies on the provisions of article 1218 of the Civil Code, which provides that "Public instruments are evidence, even against a third person, of the fact which gave rise to their execution and of the date of the latter." The effect of this article has been announced in numerous decisions of the Supreme Court of Spain and of this Court. *But in conjunction with article 1218 of the Civil Code, there should always be read section 285 of the Code of Civil Procedure* which provides that:
> "When the terms of an agreement have been reduced to writing by the parties, it is to be considered as containing all those terms, and therefore there can be, between the parties and their representatives or successors in interest, no evidence of the terms of agreement other than the contents of the writing . . . (Italics supplied; citations omitted)

125 SECTION 10. Evidence of written agreements. — When the terms of an agreement have been reduced to writing, it is considered as containing all the terms agreed upon and there can be, as between the parties and their successors in interest, no evidence of such terms other than the contents of the written agreement.
However, a party may present evidence to modify, explain or add to the terms of the written agreement if he or she puts in issue in a verified pleading:
> (a) An intrinsic ambiguity, mistake or imperfection in the written agreement;
> (b) The failure of the written agreement to express the true intent and agreement of the parties thereto;
> (c) The validity of the written agreement; or
> (d) The existence of other terms agreed to by the parties or their successors in interest after the execution of the written agreement.

The term "agreement" includes wills.

126 While the Parol Evidence Rule states that the term "agreement" includes wills, last wills and testaments are excluded from the class of notarized public documents under Section 19(b), Rule 132 of the Rules of Court. Hence, the presumptions in Section 23, Rule 132 of the Rules of Court will not apply to last wills and testaments.

127 *See Carenan v. Court of Appeals*, 255 Phil. 695, 699 (1989); *Ortañez v. Court of Appeals*, 334 Phil. 514, 518 (1997).

128 *Hijos de I. De la Rama v. Robles*, 8 Phil. 712, 715 (1911); *Bough v. Cantiveros, supra* note 124, at 214–215.

129 *Amancio v. Pardo*, 20 Phil. 313, 318–319 (1911).

to its terms, contradict their own acts reflected therein, and impugn the very same document for the purpose of deceiving themselves or to deceive others.[130]

It is for the foregoing reason that documents duly acknowledged before a notary public are considered as evidence of the facts which gave rise to their execution. Thus, when appearing in a public instrument, an acknowledged Deed of Sale and a Contract of Lease are evidence of the sale of the property and lease constituted thereon, respectively;[131] a Deed of Donation is evidence of the intent of the original owner to donate the property and not to merely confer powers of administration to the donee;[132] and a Promissory Note and Deed of Mortgage are evidence of credit[133] and indebtedness.[134]

In sum, Rule 132, Section 23 of the Rules of Court applies to an *acknowledged written act, deed, or instrument*, executed *voluntarily* by a party, to embody an undertaking, obligation, or the concurrent rights and obligations with a counterparty, which affect his or her interest. It covers acts that are reduced in writing, which have for their object the creation, transmission, modification, or extinguishment of rights, or the conferment of powers to another, where estoppel and the rule against parol evidence may be applied.

The Attestation presented by Anido clearly does not fall into the category of a public document that may be considered as evidence of the facts that gave rise to its execution. Nothing therein involves the creation, transmission, modification, or extinguishment of rights, or the conferment of powers to another person. Consequently, it cannot be

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130 Under the principle of estoppel, a party is precluded from denying the validity of the transaction it had earlier freely and voluntarily entered into. [*South Pachem Development Corp. v. Court of Appeals*, 488 Phil. 87, 94 (2004)] There are three kinds of estoppels, to wit: (1) estoppel *in pais*; (2) estoppel by deed; and (3) estoppel by laches. Under the first kind, a person is considered in estoppel if by his conduct, representations, admissions or silence when he ought to speak out, whether intentionally or through culpable negligence, "causes another to believe certain facts to exist and such other rightfully relies and acts on such belief, as a consequence of which he would be prejudiced if the former is permitted to deny the existence of such facts." Under estoppel by deed, a party to a deed and his privies are precluded from denying any material fact stated in the deed as against the other party and his privies. Under estoppel by laches, an equitable estoppel, a person who has failed or neglected to assert a right for an unreasonable and unexplained length of time is presumed to have abandoned or otherwise declined to assert such right and cannot later on seek to enforce the same, to the prejudice of the other party, who has no notice or knowledge that the former would assert such rights and whose condition has so changed that the latter cannot, without injury or prejudice, be restored to his former state. [*Go v. Bangko Sentral ng Pilipinas*, 763 Phil. 480, 489–490 (2015)]

131 *Mendiola v. CA*, 193 Phil. 326, 335–336 (1981).

132 *See Yturralde v. Azurin*, *supra* note 118.

133 *McMicking v. Kimura*, 12 Phil. 98, 104–105 (1908).

134 *Hijos de I. De la Rama v. Robles*, *supra* note 128.

considered as proof of the facts stated therein, i.e., that the printout refers to and accurately reflects the marriage laws of Kentucky.

The fact that Anido *acknowledged* the Attestation before a notary public in Kentucky cannot be taken as sufficient compliance with the requirements of Rule 132, Sections 24 and 25 of the Rules of Court. Anido is obviously not the legal custodian of Kentucky laws; hence, her "attestation" that the printout is an accurate or faithful reproduction of the foreign law is not worthy of credence. Plainly, it is absurd for Anido to simply print out a copy of the Kentucky laws on divorce and insist that the courts must accept it as adequate proof of the relevant foreign law, when her evidence manifestly contravenes well-established rules on evidence and proof of written official acts of a foreign sovereignty.

Further, the Attestation's acknowledgment before a notary public does nothing more than show that Anido voluntarily prepared and signed it, but it may not be taken as proof of its contents, i.e., that the printout refers to the Kentucky laws governing divorce and that it had not been altered. Nor may the Attestation be considered as among the recognized documents in *Reilly* and *Bough*, which may be considered as *prima facie* evidence of their contents.

To be clear, the discourse in the case at bar seeks only to clarify the application of Rule 132, Section 23 of the Rules of Court to notarized documents. It must not be confused with the duty of courts to assign weight and credibility to evidence submitted before it, in accordance with common sense or ordinary human experience.[135] Hence, it remains true that for sworn statements, the affiant is discouraged from lying or making any falsehood as it would make him or her criminally liable for perjury;[136] as such, it may be reasonably expected that sworn statements have a ring of truth to them.[137] It is for this reason that several documents required in judicial proceedings, such as verified pleadings and motions, or quasi-judicial proceedings, such as position papers in labor cases, are required to be under oath.[138] Thus, when there are conflicting statements on record, and one was made under oath while the other was not, the former must prevail.[139]

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[135] *Garma v. People*, 921 Phil. 217 (2022).
[136] *See People v. Sergio*, 864 Phil. 1189 (2019); *Naranjo v. Biomedica Health Care, Inc.*, 695 Phil. 551, 571–572 (2012); and *Tolentino v. Atty. Mendoza*, 483 Phil. 546, 553–555 (2004).
[137] *People v. Toledo*, 51 Phil. 825, 834 (1928).
[138] *Id.*
[139] *Tolentino v. Atty. Mendoza*, *supra* note 136.

Other means of proof of a foreign law

Generally, the best evidence of a written law is the law itself; hence, as a rule, a foreign law must be proven in accordance with Sections 24 and 25, Rule 132 of the Rules of Court, and oral testimony will be excluded for being parol.[140] Nonetheless, case law provides exceptions to the foregoing rule. Indeed, the Court has recognized alternative means of proving a foreign law apart from Sections 24 and 25, Rule 132 of the Rules of Court.

First, it is well-established that the testimony of an *expert* witness may be presented to prove the existence of a written foreign law, provided that the competence and qualification of the witness to testify thereon are duly established.[141] Thus, in *Collector of Internal Revenue v. Fisher*[142] and *Willamette Iron & Steel Works v. Muzzal*,[143] the Court held that the foreign law was duly established by the testimony of an attorney-at-law, who cited or quoted verbatim the applicable law in the foreign state where he or she was practicing his or her profession.[144] Similarly, in *Asiavest Limited v. Court of Appeals*,[145] the foreign law was sufficiently established by the testimony of an expert on the law, without any objection on the part of the adverse party as to the qualification of the witness as an expert on the matter.

Second, a copy of a foreign law may be considered as competent proof thereof if it has been authenticated or certified as correct by the appropriate consular officer of the foreign state stationed in the Philippines. Thus, in *In re: Go v. Anti-Chinese League of the Philippines*,[146] a copy of a Chinese law on citizenship certified to be correct by the Chinese General Consul in Manila served as evidence of the said foreign law. The ruling was reiterated in *Pardo v. Republic*,[147] where the authentication or certification of Spain's nationality laws by the Consul General of Spain in the Philippines was deemed as competent proof of the said Spanish laws. In these cases, the copy of the foreign law was admitted in evidence because "in the light of all the circumstances,

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140 *Wildvalley Shipping Co., Ltd. v. Court of Appeals*, 396 Phil. 383, 395–396 (2000).

141 *Asiavest Limited v. Court of Appeals*, 357 Phil. 536, 551 (1998); *Coll. of Internal Revenue v. Fisher and Court of Tax Appeals*, 110 Phil. 686, 700–701 (1961); *Willamette Iron & Steel Works v. Muzzal*, 61 Phil. 471, 475 (1935).

142 110 Phil. 686, 700–701 (1961).

143 *Supra.*

144 *Coll. of Internal Revenue v. Fisher and Court of Tax Appeals*, *supra*; *Willamette Iron & Steel Works v. Muzzal*, *id.*

145 *Supra.*

146 84 Phil. 468 (1949).

147 85 Phil. 323 (1950).

the court [was] satisfied of the authenticity of the written proof offered."[148]

Third, a translation of a foreign law was accepted as sufficient proof of the foreign law because it was prepared upon the authorization or instruction of the proper officer of the said foreign state. In *Racho v. Tanaka,*[149] the Court deemed as admissible an English translation of the Japanese laws on divorce because it was prepared upon the authorization of the Ministry of Justice and the Code of Translation Committee of Japan.[150]

None of the foregoing alternative means of proving a foreign law was availed of by Anido. As pointed out by the CA, Anido failed to present any qualified witness who is competent to testify on the relevant marriage laws of Kentucky. Further, Anido did *not* present any copy of the Kentucky laws that has been certified as correct and accurate by the appropriate officer of the US Consulate in the Philippines, similar to *In re: Go* and *Pardo*.

The Court is aware that in Office of the Court Administrator (OCA) Circular No. 157-2022,[151] the OCA advised the Family Courts to take notice of the compilation of the laws of foreign countries on marriage and divorce from the Department of Foreign Affairs (DFA) that were uploaded on the website[152] of the Court. One of the body of laws from the DFA that has been uploaded in the Court's website[153] pertains to the Kentucky Code on family laws and domestic relations, which includes provisions on marriage,[154] its dissolution,[155] and the authority to remarry after a decree of dissolution of marriage.[156] However, the copy of the Kentucky Code from the DFA, *by itself*, cannot be considered as sufficient proof of the said foreign law.

In the recent case of *Republic v. Ng*,[157] the Court held that the "OCA's compilation is helpful in enabling courts to have a *preliminary reference* of laws of foreign countries on marriage and divorce," but "it

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148 *Id.* at 330.
149 *Racho v. Tanaka*, *supra* note 46.
150 *Id.* at 31.
151 Later on superseded by OCA Circular No. 157-2022-A issued on July 7, 2022. [*Republic v. Ng*, G.R. No. 249238, February 27, 2024]
152 Foreign Divorce Laws. Supreme Court website. Available at https://sc.judiciary.gov.ph/foreign-divorce-laws/ [Last accessed on August 10, 2024.]
153 Available at https://sc.judiciary.gov.ph/wp-content/uploads/2022/12/US-KENTUCKY.pdf [Last accessed on August 10, 2024.]
154 *Id.* at 6, § 402.005; p. 10, § 402.040.
155 *Id.* at 70, § 403.140; p. 74, § 403.170.
156 *Id.* at 45, § 403.010; p. 57, § 403.050.
157 *Supra* note 151.

does not, in any manner, dispense with the requirement of parties to comply with Rule 132, Sections 24 and 25 of the Revised Rules on Evidence." The Court took notice of the "genuine possibility that a foreign jurisdiction would repeal or amend its laws regarding marriage and divorce, rendering the said compilation outdated and inaccurate." Similarly, in *Basa-Egami v. Bersales*,[158] the Court *refused* to take *judicial notice* of the divorce laws of Japan, even though a copy thereof has been previously recognized in *Racho v. Tanaka*.[159] It was explained that "[l]aws are dynamic and evolving so much so that the Court must take caution in taking judicial notice of the Japanese law pleaded by petitioner."

Given that questions relating to the law of other countries are essentially factual in nature, the better rule is for Anido to plead and prove the Kentucky marriage laws as any other fact.

At any rate, the copy of the Kentucky Code appears to have been provided to the Philippine Consul in the USA by the Kentucky Department for Libraries and Archives, which stated that the copy of the law "*will not be certified*" but was given only for reference. The same copy was thereafter forwarded by the DFA to the OCA. As such, the Kentucky Code from the DFA still has to be authenticated and certified in accordance with Rule 132, Sections 24 and 25 of the Rules of Court.

In fine, the CA correctly ruled that Anido failed to provide competent proof of the foreign law allowing Enrique to validly obtain a divorce from the Kentucky Court and to remarry thereafter.

The case must be remanded for the reception of evidence on the personal law of Enrique

It bears stressing that the procedural rules on evidence must be *faithfully followed* except *only* for the most *persuasive* reasons.[160] Certainly, procedural law has its own rationale in the orderly administration of justice, and its enforcement is *not antithetical* to the substantive rights of litigants.[161] Instead, the policy of the courts is to give effect to both procedural and substantive laws, as *complementing* each other, in the just and speedy resolution of cases.[162] Indeed, *evidence* is the means sanctioned by the Rules of Court of ascertaining in a judicial

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158 *Supra* note 86.
159 *Supra* note 46.
160 *Jan-Dec Construction Corp. v. Court of Appeals*, 517 Phil. 96 (2006). (Emphasis supplied)
161 *Balindong v. Court of Appeals*, 488 Phil. 203, 216 (2004); *Sebastian v. Morales*, 445 Phil. 595 (2003). (Emphasis supplied)
162 *Id.*

substantive rights of litigants.[161] Instead, the policy of the courts is to give effect to both procedural and substantive laws, as *complementing* each other, in the just and speedy resolution of cases.[162] Indeed, *evidence* is the means sanctioned by the Rules of Court of ascertaining in a judicial proceeding the truth respecting a matter of *fact*.[163] When the evidence of the parties is *incomplete*, then the material and relevant facts cannot be reasonably ascertained, and consequently, the courts *cannot* properly perform their duty to dispense or render objective justice.[164]

Significantly, the requirement for parties to prove a foreign law as a matter of fact has long been established. As early as 2001, the issue on the recognition of a divorce decree and the proof required for the action has been settled in *Garcia v. Recio*.[165] Further, Rule 132, Sections 24 and 25 of the Rules of Court on proof of an official record, including foreign laws, have been in effect as early as 1989.

The Court is therefore confounded why there are still several cases for the recognition of a divorce decree where the petitioners, such as Anido, failed to present competent proof of the foreign law concerning the divorce decree in question. Worse, in the case at hand, the evidence presented by Anido to prove the relevant foreign law was *manifestly incompetent*, as she merely printed out a copy of the Kentucky laws on marriage without even attempting to secure an authenticated copy pursuant to Sections 24 and 25 of Rule 132 or at the very least, a certified copy from the pertinent officer of the US Consulate in the Philippines, similar to *In re: Go* and *Pardo*.

Ordinarily, Anido's blunder should result in the *dismissal* of her Petition for Enforcement for lack of evidence, without prejudice to the refiling thereof, as held by the CA. Still, the records show that Anido has already sufficiently proven the divorce decree by the Kentucky Court, warranting a relaxation of the procedural rules in the interest of justice.[166] The Court must maintain its policy of liberality in cases involving the recognition of foreign decrees involving Filipinos in mixed marriages, especially in cases where the divorce has been proven as a fact, such that the Filipino spouse appears to be the only remaining party in the dissolved

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[161] *Balindong v. Court of Appeals*, 488 Phil. 203, 216 (2004); *Sebastian v. Morales*, 445 Phil. 595 (2003). (Emphasis supplied)

[162] *Id.*

[163] Revised Rules on Evidence, rule 128, sec. 1.

[164] *Gios-Samar, Inc. v. Department of Transportation and Communications*, 849 Phil. 120 (2019).

[165] *Supra* note 71.

[166] *Basa-Egami v. Bersales*, *supra* note 86; *Kondo v. Civil Registrar General*, *supra* note 86; *Moraña v. Republic*, *supra* note 86.

marriage.[167] Thus, in the higher interest of substantial justice, the Court deems it proper to remand the case *to the CA* for the reception of evidence on the marriage laws of Kentucky allowing Enrique to obtain the divorce decree in question and to remarry thereafter.[168]

Indeed, in the proceedings *a quo*, the Republic, through the OSG, no longer raised any issue on the existence of the absolute divorce decree obtained by Enrique. The OSG likewise did not assail the jurisdiction of the Kentucky Court to grant the absolute divorce decree. It also did not challenge the validity of the divorce proceedings before the Kentucky Court on the ground of collusion, fraud, or clear mistake of law or fact, despite the opportunity to do so.

The absolute divorce decree is therefore already an established fact, and the only remaining question is whether the divorce decree was validly obtained under the personal law of Enrique, i.e., the marriage laws of Kentucky.

Given the circumstances, the Court applies established rulings[169] allowing the relaxation of rules of procedure in the higher interest of substantial justice and *remands* the case to the CA for reception of evidence on the personal law of Anido's alien spouse, Enrique. Remand is proper, considering (1) that Anido has provided a duly attested copy of the Divorce Certificate together with the certificate by a proper consular officer of the Philippines, in accordance with Rule 132, Sections 24 and 25 of the Rules of Court;[170] (2) the fact that a decree of absolute divorce was rendered by the Kentucky Court is not in issue nor is it being assailed by the OSG;[171] (3) that affirming the dismissal of the present case would require Anido to refile the same pleading and present anew her evidence on the divorce decree, which will only cause further delay and waste the resources not only of Anido but also of the courts;[172] and (4) that with the divorce decree being established, justice dictates that Anido be given the opportunity to properly prove the appropriate foreign law so that she may be freed from a marriage where she is the only remaining party.[173]

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[167] *Republic v. Kikuchi*, *supra* note 86.
[168] *See Medina v. Koike*, *supra* note 86.
[169] *See Republic v. Manalo*, *supra* note 44. *Nullada v. Hon. Civil Registrar of Manila*, 846 Phil. 96 (2019); *Moraña v. Republic*, *supra* note 84; *Kondo v. Civil Registrar General*, *supra* note 86.
[170] *Republic v. Manalo*, *id.* at 75; *Moraña v. Republic*, *id.* at 593–594; *Kondo v. Civil Registrar General*, *id.*
[171] *Id.*
[172] *Kondo v. Civil Registrar General*, *supra* note 86.
[173] *Moraña v. Republic*, *supra* note 84 at 596.

The CA possesses the authority to review findings of fact and is capacitated to receive evidence on such factual matters.[174] Hence, upon remand, the CA must receive and evaluate evidence on the relevant laws of Kentucky allowing Enrique to obtain from the Kentucky Court the divorce decree in question and capacitating him to remarry thereafter, in accordance with this Decision. The Court reminds the CA that in matters pertaining to petitions for the recognition of a foreign divorce under the Article 26 (2) of the Family Code, courts should endeavor to give all the leeway to the petitioner to prove the matter of divorce, even going to lengths to instruct and use every provision of the rules for the petitioner to obtain a favorable ruling or at least provide a relaxation of rules.[175]

WHEREFORE, the Petition for Review on *Certiorari* is **PARTLY GRANTED**. The Decision dated September 8, 2020, issued by the Court of Appeals in CA-G.R. CV No. 111303, is **AFFIRMED with MODIFICATION** in that the Petition for Enforcement of a Foreign Decree of Divorce and Correction of Record in the Civil Registry filed before Branch 92, Regional Trial Court, Quezon City, docketed as R-QZN-17-01806-CV, is ordered **REINSTATED**.

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

SO ORDERED.

HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

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[174] *Manotok IV v. Heirs of Barque*, 595 Phil. 87 (2008).
[175] *Tsutsumi v. Republic*, G.R. No. 258130, April 17, 2023.

SAMUEL H. GAERLAN
Associate Justice

JABAR B. DIMAAMPAO
Associate Justice

MARIA FILOMENA D. SINGH
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ALEXANDER G. GESMUNDO
Chief Justice