Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

MINORU FUJIKI,
Petitioner,

- versus -

MARIA PAZ GALELA MARINAY, SHINICHI MAEKARA, LOCAL CIVIL REGISTRAR OF QUEZON CITY, and THE ADMINISTRATOR AND CIVIL REGISTRAR GENERAL OF THE NATIONAL STATISTICS OFFICE,
Respondents.

G.R. No. 196049

Present:

CARPIO, *J.*, Chairperson,
BRION,
DEL CASTILLO,
PEREZ, and
PERLAS-BERNABE, *JJ.*

Promulgated:
JUN 26 2013

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DECISION

CARPIO, *J.*:

The Case

This is a direct recourse to this Court from the Regional Trial Court (RTC), Branch 107, Quezon City, through a petition for review on *certiorari* under Rule 45 of the Rules of Court on a pure question of law. The petition assails the Order[1] dated 31 January 2011 of the RTC in Civil Case No. Q-11-68582 and its Resolution dated 2 March 2011 denying petitioner's Motion for Reconsideration. The RTC dismissed the petition for "Judicial Recognition of Foreign Judgment (or Decree of Absolute Nullity of Marriage)" based on improper venue and the lack of personality of petitioner, Minoru Fujiki, to file the petition.

[1] Penned by Judge Jose L. Bautista Jr.

The Facts

Petitioner Minoru Fujiki (Fujiki) is a Japanese national who married respondent Maria Paz Galela Marinay (Marinay) in the Philippines[2] on 23 January 2004. The marriage did not sit well with petitioner's parents. Thus, Fujiki could not bring his wife to Japan where he resides. Eventually, they lost contact with each other.

In 2008, Marinay met another Japanese, Shinichi Maekara (Maekara). Without the first marriage being dissolved, Marinay and Maekara were married on 15 May 2008 in Quezon City, Philippines. Maekara brought Marinay to Japan. However, Marinay allegedly suffered physical abuse from Maekara. She left Maekara and started to contact Fujiki.[3]

Fujiki and Marinay met in Japan and they were able to reestablish their relationship. In 2010, Fujiki helped Marinay obtain a judgment from a family court in Japan which declared the marriage between Marinay and Maekara void on the ground of bigamy.[4] On 14 January 2011, Fujiki filed a petition in the RTC entitled: "Judicial Recognition of Foreign Judgment (or Decree of Absolute Nullity of Marriage)." Fujiki prayed that (1) the Japanese Family Court judgment be recognized; (2) that the bigamous marriage between Marinay and Maekara be declared void *ab initio* under Articles 35(4) and 41 of the Family Code of the Philippines;[5] and (3) for the RTC to direct the Local Civil Registrar of Quezon City to annotate the Japanese Family Court judgment on the Certificate of Marriage between Marinay and Maekara and to endorse such annotation to the Office of the Administrator and Civil Registrar General in the National Statistics Office (NSO).[6]

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2 In Pasay City, Metro Manila.

3 *See rollo*, p. 88; Trial Family Court Decree No. 15 of 2009, Decree of Absolute Nullity of Marriage between Maria Paz Galela Marinay and Shinichi Maekara dated 18 August 2010. Translated by Yoshiaki Kurisu, Kurisu Gyoseishoshi Lawyer's Office (*see rollo*, p. 89).

4 Id.

5 FAMILY CODE OF THE PHILIPPINES (E.O. No. 209 as amended):

> Art. 35. The following marriages shall be void from the beginning:
>
> x x x x
>
> (4) Those bigamous or polygamous marriages not falling under Article 41;
>
> x x x x
>
> Art. 41. A marriage contracted by any person during subsistence of a previous marriage shall be null and void, unless before the celebration of the subsequent marriage, the prior spouse had been absent for four consecutive years and the spouse present has a well-founded belief that the absent spouse was already dead. In case of disappearance where there is danger of death under the circumstances set forth in the provisions of Article 391 of the Civil Code, an absence of only two years shall be sufficient.

6 *Rollo*, pp. 79-80.

The Ruling of the Regional Trial Court

A few days after the filing of the petition, the RTC immediately issued an Order dismissing the petition and withdrawing the case from its active civil docket.[7] The RTC cited the following provisions of the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages (A.M. No. 02-11-10-SC):

> Sec. 2. Petition for declaration of absolute nullity of void marriages. –
>
> (a) *Who may file.* – A petition for declaration of absolute nullity of void marriage may be filed solely by the husband or the wife.
>
> x x x x
>
> Sec. 4. *Venue.* – The petition shall be filed in the Family Court of the province or city where the petitioner or the respondent has been residing for at least six months prior to the date of filing, or in the case of a non-resident respondent, where he may be found in the Philippines, at the election of the petitioner. x x x

The RTC ruled, without further explanation, that the petition was in "gross violation" of the above provisions. The trial court based its dismissal on Section 5(4) of A.M. No. 02-11-10-SC which provides that "[f]ailure to comply with any of the preceding requirements may be a ground for immediate dismissal of the petition."[8] Apparently, the RTC took the view

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[7] The dispositive portion stated:

> WHEREFORE, the instant case is hereby ordered DISMISSED and WITHDRAWN from the active civil docket of this Court. The RTC-OCC, Quezon City is directed to refund to the petitioner the amount of One Thousand Pesos (₱1,000) to be taken from the Sheriff's Trust Fund.

[8] *Rollo*, pp. 44-45. Section 5 of the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages (A.M. No. 02-11-10-SC) provides:

> Sec. 5. Contents and form of petition. – (1) The petition shall allege the complete facts constituting the cause of action.
>
> (2) It shall state the names and ages of the common children of the parties and specify the regime governing their property relations, as well as the properties involved.
>
> If there is no adequate provision in a written agreement between the parties, the petitioner may apply for a provisional order for spousal support, custody and support of common children, visitation rights, administration of community or conjugal property, and other matters similarly requiring urgent action.
>
> (3) It must be verified and accompanied by a certification against forum shopping. The verification and certification must be signed personally by the petitioner. No petition may be filed solely by counsel or through an attorney-in-fact.
>
> If the petitioner is in a foreign country, the verification and certification against forum shopping shall be authenticated by the duly authorized officer of the Philippine embassy or legation, consul general, consul or vice-consul or consular agent in said country.
>
> (4) It shall be filed in six copies. The petitioner shall serve a copy of the petition on the Office of the Solicitor General and the Office of the City or Provincial Prosecutor, within five days from the date

that only "the husband or the wife," in this case either Maekara or Marinay, can file the petition to declare their marriage void, and not Fujiki.

Fujiki moved that the Order be reconsidered. He argued that A.M. No. 02-11-10-SC contemplated ordinary civil actions for declaration of nullity and annulment of marriage. Thus, A.M. No. 02-11-10-SC does not apply. A petition for recognition of foreign judgment is a special proceeding, which "seeks to establish a status, a right or a particular fact,"[9] and not a civil action which is "for the enforcement or protection of a right, or the prevention or redress of a wrong."[10] In other words, the petition in the RTC sought to establish (1) the status and concomitant rights of Fujiki and Marinay as husband and wife and (2) the fact of the rendition of the Japanese Family Court judgment declaring the marriage between Marinay and Maekara as void on the ground of bigamy. The petitioner contended that the Japanese judgment was consistent with Article 35(4) of the Family Code of the Philippines[11] on bigamy and was therefore entitled to recognition by Philippine courts.[12]

In any case, it was also Fujiki's view that A.M. No. 02-11-10-SC applied only to void marriages under Article 36 of the Family Code on the ground of psychological incapacity.[13] Thus, Section 2(a) of A.M. No. 02-11-10-SC provides that "a petition for declaration of absolute nullity of void marriages may be filed solely by the husband or the wife." To apply Section 2(a) in bigamy would be absurd because only the guilty parties would be permitted to sue. In the words of Fujiki, "[i]t is not, of course, difficult to realize that the party interested in having a bigamous marriage declared a nullity would be the husband in the prior, pre-existing marriage."[14] Fujiki had material interest and therefore the personality to nullify a bigamous marriage.

Fujiki argued that Rule 108 (Cancellation or Correction of Entries in the Civil Registry) of the Rules of Court is applicable. Rule 108 is the

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of its filing and submit to the court proof of such service within the same period.

Failure to comply with any of the preceding requirements may be a ground for immediate dismissal of the petition.

9 RULES OF COURT, Rule 1, Sec. 3(c). *See rollo*, pp. 55-56 (Petitioner's Motion for Reconsideration).

10 RULES OF COURT, Rule 1, Sec. 3(a).

11 FAMILY CODE (E.O. No. 209 as amended), Art. 35. The following marriages shall be void from the beginning:

x x x x

(4) Those bigamous or polygamous marriages not falling under Article 41;

x x x x

12 *Rollo*, p. 56.

13 FAMILY CODE, Art. 36. A marriage contracted by any party who, at the time of the celebration, was psychologically incapacitated to comply with the essential marital obligations of marriage, shall likewise be void even if such incapacity becomes manifest only after its solemnization.

14 *Rollo*, p. 68.

"procedural implementation" of the Civil Register Law (Act No. 3753)[15] in relation to Article 413 of the Civil Code.[16] The Civil Register Law imposes a duty on the "successful petitioner for divorce or annulment of marriage to send a copy of the final decree of the court to the local registrar of the municipality where the dissolved or annulled marriage was solemnized."[17] Section 2 of Rule 108 provides that entries in the civil registry relating to "marriages," "judgments of annulments of marriage" and "judgments declaring marriages void from the beginning" are subject to cancellation or correction.[18] The petition in the RTC sought (among others) to annotate the judgment of the Japanese Family Court on the certificate of marriage between Marinay and Maekara.

Fujiki's motion for reconsideration in the RTC also asserted that the trial court "gravely erred" when, on its own, it dismissed the petition based on improper venue. Fujiki stated that the RTC may be confusing the concept of venue with the concept of jurisdiction, because it is lack of jurisdiction which allows a court to dismiss a case on its own. Fujiki cited *Dacoycoy v. Intermediate Appellate Court*[19] which held that the "trial court cannot pre-empt the defendant's prerogative to object to the improper laying of the venue by *motu proprio* dismissing the case."[20] Moreover, petitioner alleged that the trial court should not have "immediately dismissed" the petition under Section 5 of A.M. No. 02-11-10-SC because he substantially complied with the provision.

On 2 March 2011, the RTC resolved to deny petitioner's motion for reconsideration. In its Resolution, the RTC stated that A.M. No. 02-11-10-

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15 Enacted 26 November 1930.

16 CIVIL CODE, Art. 413. All other matters pertaining to the registration of civil status shall be governed by special laws.

17 Act No. 3753, Sec. 7. *Registration of marriage*. - All civil officers and priests or ministers authorized to solemnize marriages shall send a copy of each marriage contract solemnized by them to the local civil registrar within the time limit specified in the existing Marriage Law.

In cases of divorce and annulment of marriage, it shall be the duty of the successful petitioner for divorce or annulment of marriage to send a copy of the final decree of the court to the local civil registrar of the municipality where the dissolved or annulled marriage was solemnized.

In the marriage register there shall be entered the full name and address of each of the contracting parties, their ages, the place and date of the solemnization of the marriage, the names and addresses of the witnesses, the full name, address, and relationship of the minor contracting party or parties or the person or persons who gave their consent to the marriage, and the full name, title, and address of the person who solemnized the marriage.

In cases of divorce or annulment of marriages, there shall be recorded the names of the parties divorced or whose marriage was annulled, the date of the decree of the court, and such other details as the regulations to be issued may require.

18 RULES OF COURT, Rule 108, Sec. 2. *Entries subject to cancellation or correction.* — Upon good and valid grounds, the following entries in the civil register may be cancelled or corrected: (a) births; (b) marriages; (c) deaths; (d) legal separations; (e) judgments of annulments of marriage; (f) judgments declaring marriages void from the beginning; (g) legitimations; (h) adoptions; (i) acknowledgments of natural children; (j) naturalization; (k) election, loss or recovery of citizenship; (1) civil interdiction; (m) judicial determination of filiation; (n) voluntary emancipation of a minor; and (o) changes of name.

19 273 Phil. 1 (1991).

20 Id. at 7. *See rollo*, pp. 65 and 67.

SC applies because the petitioner, in effect, prays for a decree of absolute nullity of marriage.[21] The trial court reiterated its two grounds for dismissal, *i.e.* lack of personality to sue and improper venue under Sections 2(a) and 4 of A.M. No. 02-11-10-SC. The RTC considered Fujiki as a "third person"[22] in the proceeding because he "is not the husband in the decree of divorce issued by the Japanese Family Court, which he now seeks to be judicially recognized, x x x."[23] On the other hand, the RTC did not explain its ground of impropriety of venue. It only said that "[a]lthough the Court cited Sec. 4 (Venue) x x x as a ground for dismissal of this case[,] it should be taken together with the other ground cited by the Court x x x which is Sec. 2(a) x x x."[24]

The RTC further justified its *motu proprio* dismissal of the petition based on *Braza v. The City Civil Registrar of Himamaylan City, Negros Occidental.*[25] The Court in *Braza* ruled that "[i]n a special proceeding for correction of entry under Rule 108 (Cancellation or Correction of Entries in the Original Registry), the trial court has no jurisdiction to nullify marriages x x x."[26] *Braza* emphasized that the "validity of marriages as well as legitimacy and filiation can be questioned only in a direct action seasonably filed by the proper party, and not through a collateral attack such as [a] petition [for correction of entry] x x x."[27]

The RTC considered the petition as a collateral attack on the validity of marriage between Marinay and Maekara. The trial court held that this is a "jurisdictional ground" to dismiss the petition.[28] Moreover, the verification and certification against forum shopping of the petition was not authenticated as required under Section 5[29] of A.M. No. 02-11-10-SC.

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21 *Rollo*, p. 47.
22 Id. at 46.
23 Id. at 48.
24 Id.
25 G.R. No. 181174, 4 December 2009, 607 SCRA 638.
26 Id. at 641.
27 Id. at 643.
28 *See rollo*, p. 49.
29 Section 5 of A.M. No. 02-11-10-SC states in part:

> Contents and form of petition. – x x x
>
> x x x x
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> (3) It must be verified and accompanied by a certification against forum shopping. The verification and certification must be signed personally by the petitioner. No petition may be filed solely by counsel or through an attorney-in-fact.
>
> If the petitioner is in a foreign country, the verification and certification against forum shopping shall be authenticated by the duly authorized officer of the Philippine embassy or legation, consul general, consul or vice-consul or consular agent in said country.
>
> x x x x
>
> Failure to comply with any of the preceding requirements may be a ground for immediate dismissal of the petition.

Hence, this also warranted the "immediate dismissal" of the petition under the same provision.

The Manifestation and Motion of the Office of the Solicitor General and the Letters of Marinay and Maekara

On 30 May 2011, the Court required respondents to file their comment on the petition for review.[30] The public respondents, the Local Civil Registrar of Quezon City and the Administrator and Civil Registrar General of the NSO, participated through the Office of the Solicitor General. Instead of a comment, the Solicitor General filed a Manifestation and Motion.[31]

The Solicitor General agreed with the petition. He prayed that the RTC's "pronouncement that the petitioner failed to comply with x x x A.M. No. 02-11-10-SC x x x be set aside" and that the case be reinstated in the trial court for further proceedings.[32] The Solicitor General argued that Fujiki, as the spouse of the first marriage, is an injured party who can sue to declare the bigamous marriage between Marinay and Maekara void. The Solicitor General cited *Juliano-Llave v. Republic*[33] which held that Section 2(a) of A.M. No. 02-11-10-SC does not apply in cases of bigamy. In *Juliano-Llave*, this Court explained:

> [t]he subsequent spouse may only be expected to take action if he or she had only discovered during the connubial period that the marriage was bigamous, and especially if the conjugal bliss had already vanished. Should parties in a subsequent marriage benefit from the bigamous marriage, it would not be expected that they would file an action to declare the marriage void and thus, in such circumstance, the "injured spouse" who should be given a legal remedy is the one in a subsisting previous marriage. The latter is clearly the aggrieved party as the bigamous marriage not only threatens the financial and the property ownership aspect of the prior marriage but most of all, it causes an emotional burden to the prior spouse. The subsequent marriage will always be a reminder of the infidelity of the spouse and the disregard of the prior marriage which sanctity is protected by the Constitution.[34]

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30 Resolution dated 30 May 2011. *Rollo*, p. 105.

31 Under Solicitor General Jose Anselmo I. Cadiz.

32 *Rollo*, p. 137. The "Conclusion and Prayer" of the "Manifestation and Motion (In Lieu of Comment)" of the Solicitor General stated:

> In fine, the court a quo's pronouncement that the petitioner failed to comply with the requirements provided in A.M. No. 02-11-10-SC should accordingly be set aside. It is, thus, respectfully prayed that Civil Case No. Q-11-68582 be reinstated for further proceedings.
>
> Other reliefs, just and equitable under the premises are likewise prayed for.

33 G.R. No. 169766, 30 March 2011, 646 SCRA 637.

34 Id. at 656. Quoted in the Manifestation and Motion of the Solicitor General, pp. 8-9. *See rollo*, pp. 132-133.

The Solicitor General contended that the petition to recognize the Japanese Family Court judgment may be made in a Rule 108 proceeding.[35] In *Corpuz v. Santo Tomas*,[36] this Court held that "[t]he recognition of the foreign divorce decree may be made in a Rule 108 proceeding itself, as the object of special proceedings (such as that in Rule 108 of the Rules of Court) is precisely to establish the status or right of a party or a particular fact."[37] While *Corpuz* concerned a foreign divorce decree, in the present case the Japanese Family Court judgment also affected the civil status of the parties, especially Marinay, who is a Filipino citizen.

The Solicitor General asserted that Rule 108 of the Rules of Court is the procedure to record "[a]cts, events and judicial decrees concerning the civil status of persons" in the civil registry as required by Article 407 of the Civil Code. In other words, "[t]he law requires the entry in the civil registry of judicial decrees that produce legal consequences upon a person's legal capacity and status x x x."[38] The Japanese Family Court judgment directly bears on the civil status of a Filipino citizen and should therefore be proven as a fact in a Rule 108 proceeding.

Moreover, the Solicitor General argued that there is no jurisdictional infirmity in assailing a void marriage under Rule 108, citing *De Castro v. De Castro*[39] and *Niñal v. Bayadog*[40] which declared that "[t]he validity of a void marriage may be collaterally attacked."[41]

Marinay and Maekara individually sent letters to the Court to comply with the directive for them to comment on the petition.[42] Maekara wrote that Marinay concealed from him the fact that she was previously married to Fujiki.[43] Maekara also denied that he inflicted any form of violence on Marinay.[44] On the other hand, Marinay wrote that she had no reason to oppose the petition.[45] She would like to maintain her silence for fear that anything she say might cause misunderstanding between her and Fujiki.[46]

The Issues

Petitioner raises the following legal issues:

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35 *Rollo*, p. 133.
36 G.R. No. 186571, 11 August 2010, 628 SCRA 266.
37 Id. at 287.
38 *Rollo*, p. 133.
39 G.R. No. 160172, 13 February 2008, 545 SCRA 162.
40 384 Phil. 661 (2000).
41 *De Castro v. De Castro*, supra note 39 at 169.
42 Supra note 30.
43 *See rollo*, p. 120.
44 Id.
45 *See rollo*, p. 146.
46 Id.

(1) Whether the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages (A.M. No. 02-11-10-SC) is applicable.

(2) Whether a husband or wife of a prior marriage can file a petition to recognize a foreign judgment nullifying the subsequent marriage between his or her spouse and a foreign citizen on the ground of bigamy.

(3) Whether the Regional Trial Court can recognize the foreign judgment in a proceeding for cancellation or correction of entries in the Civil Registry under Rule 108 of the Rules of Court.

The Ruling of the Court

We grant the petition.

The Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages (A.M. No. 02-11-10-SC) does not apply in a petition to recognize a foreign judgment relating to the status of a marriage where one of the parties is a citizen of a foreign country. Moreover, in *Juliano-Llave v. Republic*,[47] this Court held that the rule in A.M. No. 02-11-10-SC that only the husband or wife can file a declaration of nullity or annulment of marriage "does not apply if the reason behind the petition is bigamy."[48]

I.

For Philippine courts to recognize a foreign judgment relating to the status of a marriage where one of the parties is a citizen of a foreign country, the petitioner only needs to prove the foreign judgment as a fact under the Rules of Court. To be more specific, a copy of the foreign judgment may be admitted in evidence and proven as a fact under Rule 132, Sections 24 and 25, in relation to Rule 39, Section 48(b) of the Rules of Court.[49] Petitioner

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[47] Supra note 33.

[48] Supra note 33 at 655.

[49] RULES OF COURT, Rule 132, Sec. 24. *Proof of official record.* — The record of public documents referred to in paragraph (a) of Section 19, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his deputy, and accompanied, if the record is not kept in the Philippines, with a certificate that such officer has the custody. If the office in which the record is kept is in a foreign country, the certificate may be made by a secretary of the embassy or legation, consul general, consul, vice consul, or consular agent or by any officer in the foreign service of the Philippines stationed in the foreign country in which the record is kept, and authenticated by the seal of his office.

Sec. 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.

may prove the Japanese Family Court judgment through (1) an official publication or (2) a certification or copy attested by the officer who has custody of the judgment. If the office which has custody is in a foreign country such as Japan, the certification may be made by the proper diplomatic or consular officer of the Philippine foreign service in Japan and authenticated by the seal of office.[50]

To hold that A.M. No. 02-11-10-SC applies to a petition for recognition of foreign judgment would mean that the trial court and the parties should follow its provisions, including the form and contents of the petition,[51] the service of summons,[52] the investigation of the public prosecutor,[53] the setting of pre-trial,[54] the trial[55] and the judgment of the trial court.[56] This is absurd because it will litigate the case anew. It will defeat the purpose of recognizing foreign judgments, which is "to limit repetitive litigation on claims and issues."[57] The interpretation of the RTC is tantamount to relitigating the case on the merits. In *Mijares v. Rañada,*[58] this Court explained that "[i]f every judgment of a foreign court were reviewable on the merits, the plaintiff would be forced back on his/her original cause of action, rendering immaterial the previously concluded litigation."[59]

A foreign judgment relating to the status of a marriage affects the civil status, condition and legal capacity of its parties. However, the effect of a foreign judgment is not automatic. To extend the effect of a foreign judgment in the Philippines, Philippine courts must determine if the foreign judgment is consistent with domestic public policy and other mandatory laws.[60] Article 15 of the Civil Code provides that "[l]aws relating to family

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Rule 39, Sec. 48. *Effect of foreign judgments or final orders.* — The effect of a judgment or final order of a tribunal of a foreign country, having jurisdiction to render the judgment or final order, is as follows:

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

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

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

50 *See* RULES OF COURT, Rule 132, Sec. 24-25. *See also Corpuz v. Santo Tomas,* supra note 36 at 282.

51 A.M. No. 02-11-10-SC, Sec. 5.

52 Id., Sec. 6.

53 Id., Sec. 9.

54 Id., Sec. 11-15.

55 Id., Sec. 17-18.

56 Id., Sec. 19 and 22-23.

57 *Mijares v. Rañada*, 495 Phil. 372, 386 (2005) citing EUGENE SCOLES & PETER HAY, CONFLICT OF LAWS 916 (2nd ed., 1982).

58 Id.

59 Id. at 386.

60 CIVIL CODE, Art. 17. x x x

x x x x

rights and duties, or to the status, condition and legal capacity of persons are binding upon citizens of the Philippines, even though living abroad." This is the rule of *lex nationalii* in private international law. Thus, the Philippine State may require, for effectivity in the Philippines, recognition by Philippine courts of a foreign judgment affecting its citizen, over whom it exercises personal jurisdiction relating to the status, condition and legal capacity of such citizen.

A petition to recognize a foreign judgment declaring a marriage void does not require relitigation under a Philippine court of the case as if it were a new petition for declaration of nullity of marriage. Philippine courts cannot presume to know the foreign laws under which the foreign judgment was rendered. They cannot substitute their judgment on the status, condition and legal capacity of the foreign citizen who is under the jurisdiction of another state. Thus, Philippine courts can only recognize the foreign judgment **as a fact** according to the rules of evidence.

Section 48(b), Rule 39 of the Rules of Court provides that a foreign judgment or final order against a person creates a "presumptive evidence of a right as between the parties and their successors in interest by a subsequent title." Moreover, Section 48 of the Rules of Court states that "the judgment or final order may be repelled by evidence of a want of jurisdiction, want of notice to the party, collusion, fraud, or clear mistake of law or fact." Thus, Philippine courts exercise limited review on foreign judgments. Courts are not allowed to delve into the merits of a foreign judgment. Once a foreign judgment is admitted and proven in a Philippine court, it can only be repelled on grounds external to its merits, *i.e.* , "want of jurisdiction, want of notice to the party, collusion, fraud, or clear mistake of law or fact." The rule on limited review embodies the policy of efficiency and the protection of party expectations,[61] as well as respecting the jurisdiction of other states.[62]

Since 1922 in *Adong v. Cheong Seng Gee,*[63] Philippine courts have recognized foreign divorce decrees between a Filipino and a foreign citizen if they are successfully proven under the rules of evidence.[64] Divorce involves the dissolution of a marriage, but the recognition of a foreign

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Prohibitive laws concerning persons, their acts or property, and those which have for their object public order, public policy and good customs shall not be rendered ineffective by laws or judgments promulgated, or by determinations or conventions agreed upon in a foreign country.

[61] *Mijares v. Rañada,* supra note 57 at 386. "Otherwise known as the policy of preclusion, it seeks to protect party expectations resulting from previous litigation, to safeguard against the harassment of defendants, to insure that the task of courts not be increased by never-ending litigation of the same disputes, and – in a larger sense – to promote what Lord Coke in the Ferrer's Case of 1599 stated to be the goal of all law: 'rest and quietness.'" (Citations omitted)

[62] *Mijares v. Rañada,* supra note 57 at 382. "The rules of comity, utility and convenience of nations have established a usage among civilized states by which final judgments of foreign courts of competent jurisdiction are reciprocally respected and rendered efficacious under certain conditions that may vary in different countries." (Citations omitted)

[63] 43 Phil. 43 (1922).

[64] *Corpuz v. Sto. Tomas,* G.R. No. 186571, 11 August 2010, 628 SCRA 266, 280; *Garcia v. Recio*, 418 Phil. 723 (2001); *Adong v. Cheong Seng Gee*, supra.

divorce decree does not involve the extended procedure under A.M. No. 02-11-10-SC or the rules of ordinary trial. While the Philippines does not have a divorce law, Philippine courts may, however, recognize a foreign divorce decree under the second paragraph of Article 26 of the Family Code, to capacitate a Filipino citizen to remarry when his or her foreign spouse obtained a divorce decree abroad.[65]

There is therefore no reason to disallow Fujiki to simply prove as a fact the Japanese Family Court judgment nullifying the marriage between Marinay and Maekara on the ground of bigamy. While the Philippines has no divorce law, the Japanese Family Court judgment is fully consistent with Philippine public policy, as bigamous marriages are declared void from the beginning under Article 35(4) of the Family Code. Bigamy is a crime under Article 349 of the Revised Penal Code. Thus, Fujiki can prove the existence of the Japanese Family Court judgment in accordance with Rule 132, Sections 24 and 25, in relation to Rule 39, Section 48(b) of the Rules of Court.

II.

Since the recognition of a foreign judgment only requires proof of fact of the judgment, it may be made in a special proceeding for cancellation or correction of entries in the civil registry under Rule 108 of the Rules of Court. Rule 1, Section 3 of the Rules of Court provides that "[a] special proceeding is a remedy by which a party seeks to establish a status, a right, or a particular fact." Rule 108 creates a remedy to rectify facts of a person's life which are recorded by the State pursuant to the Civil Register Law or Act No. 3753. These are facts of public consequence such as birth, death or marriage,[66] which the State has an interest in recording. As noted by the Solicitor General, in *Corpuz v. Sto. Tomas* this Court declared that "[t]he recognition of the foreign divorce decree may be made in a Rule 108 proceeding itself, as the object of special proceedings (such as that in Rule 108 of the Rules of Court) is precisely to establish the status or right of a

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[65] FAMILY CODE, Art. 26. x x x

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.

[66] Act No. 3753, Sec. 1. *Civil Register.* — A civil register is established for recording the civil status of persons, in which shall be entered: (a) births; (b) deaths; (c) marriages; (d) annulments of marriages; (e) divorces; (f) legitimations; (g) adoptions; (h) acknowledgment of natural children; (i) naturalization; and (j) changes of name.

Cf. RULES OF COURT, Rule 108, Sec. 2. *Entries subject to cancellation or correction.* — Upon good and valid grounds, the following entries in the civil register may be cancelled or corrected: (a) births; (b) marriages; (c) deaths; (d) legal separations; (e) judgments of annulments of marriage; (f) judgments declaring marriages void from the beginning; (g) legitimations; (h) adoptions; (i) acknowledgments of natural children; (j) naturalization; (k) election, loss or recovery of citizenship; (1) civil interdiction; (m) judicial determination of filiation; (n) voluntary emancipation of a minor; and (o) changes of name.

party or a particular fact."[67]

Rule 108, Section 1 of the Rules of Court states:

> Sec. 1. *Who may file petition.* — Any person **interested** in any **act, event, order or decree** concerning the **civil status of persons which has been recorded in the civil register,** may file a verified petition for the cancellation or correction of any entry relating thereto, with the Regional Trial Court of the province where the corresponding civil registry is located. (Emphasis supplied)

Fujiki has the personality to file a petition to recognize the Japanese Family Court judgment nullifying the marriage between Marinay and Maekara on the ground of bigamy because the judgment concerns his civil status as married to Marinay. For the same reason he has the personality to file a petition under Rule 108 to cancel the entry of marriage between Marinay and Maekara in the civil registry on the basis of the decree of the Japanese Family Court.

There is no doubt that the prior spouse has a personal and material interest in maintaining the integrity of the marriage he contracted and the property relations arising from it. There is also no doubt that he is interested in the cancellation of an entry of a bigamous marriage in the civil registry, which compromises the public record of his marriage. The interest derives from the substantive right of the spouse not only to preserve (or dissolve, in limited instances[68]) his most intimate human relation, but also to protect his property interests that arise by operation of law the moment he contracts marriage.[69] These property interests in marriage include the right to be supported "in keeping with the financial capacity of the family"[70] and preserving the property regime of the marriage.[71]

Property rights are already substantive rights protected by the Constitution,[72] but a spouse's right in a marriage extends further to relational rights recognized under Title III ("Rights and Obligations between Husband and Wife") of the Family Code.[73] A.M. No. 02-11-10-SC cannot "diminish, increase, or modify" the substantive right of the spouse to maintain the integrity of his marriage.[74] In any case, Section 2(a) of A.M. No. 02-11-10-

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67 *Corpuz v. Sto. Tomas*, supra note 36 at 287.

68 FAMILY CODE, Art. 35-67.

69 FAMILY CODE, Art. 74-148.

70 FAMILY CODE, Art. 195 in relation to Art. 194.

71 *See* supra note 69.

72 CONSTITUTION, Art. III, Sec. 1: "No person shall be deprived of life, liberty, or property without due process of law x x x."

73 FAMILY CODE, Art. 68-73.

74 CONSTITUTION, Art. VIII, Sec. 5(5). The Supreme Court shall have the following powers:

x x x x

SC preserves this substantive right by limiting the personality to sue to the husband or the wife of the union recognized by law.

Section 2(a) of A.M. No. 02-11-10-SC does not preclude a spouse of a subsisting marriage to question the validity of a subsequent marriage on the ground of bigamy. On the contrary, when Section 2(a) states that "[a] petition for declaration of absolute nullity of void marriage may be filed **solely by the husband or the wife**"[75]**—**it refers to the husband or the wife of the subsisting marriage. Under Article 35(4) of the Family Code, bigamous marriages are void from the beginning. Thus, the parties in a bigamous marriage are neither the husband nor the wife under the law. The husband or the wife of the prior subsisting marriage is the one who has the personality to file a petition for declaration of absolute nullity of void marriage under Section 2(a) of A.M. No. 02-11-10-SC.

Article 35(4) of the Family Code, which declares bigamous marriages void from the beginning, is the civil aspect of Article 349 of the Revised Penal Code,[76] which penalizes bigamy. Bigamy is a public crime. Thus, anyone can initiate prosecution for bigamy because any citizen has an interest in the prosecution and prevention of crimes.[77] If anyone can file a criminal action which leads to the declaration of nullity of a bigamous marriage,[78] there is more reason to confer personality to sue on the husband or the wife of a subsisting marriage. The prior spouse does not only share in the public interest of prosecuting and preventing crimes, he is also personally interested in the purely civil aspect of protecting his marriage.

When the right of the spouse to protect his marriage is violated, the spouse is clearly an injured party and is therefore interested in the judgment of the suit.[79] *Juliano-Llave* ruled that the prior spouse "is clearly the

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(5) Promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts, the admission to the practice of law, the integrated bar, and legal assistance to the underprivileged. Such rules shall provide a simplified and inexpensive procedure for the speedy disposition of cases, shall be uniform for all courts of the same grade, **and shall not diminish, increase, or modify substantive rights.** x x x

x x x x (Emphasis supplied)

[75] Emphasis supplied.

[76] REVISED PENAL CODE (Act No. 3815, as amended), Art. 349. *Bigamy.* - The penalty of *prisión mayor* shall be imposed upon any person who shall contract a second or subsequent marriage before the former marriage has been legally dissolved, or before the absent spouse has been declared presumptively dead by means of a judgment rendered in the proper proceedings.

[77] *See* III RAMON AQUINO, THE REVISED PENAL CODE (1997), 518.

[78] RULES OF COURT, Rule 111, Sec. 1. *Institution of criminal and civil actions.* — (a) When a criminal action is instituted, the civil action for the recovery of civil liability arising from the offense charged shall be deemed instituted with the criminal action unless the offended party waives the civil action, reserves the right to institute it separately or institutes the civil action prior to the criminal action.

x x x x

[79] *Cf.* RULES OF COURT, Rule 3, Sec. 2. *Parties in interest*. — A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest.

aggrieved party as the bigamous marriage not only threatens the financial and the property ownership aspect of the prior marriage but most of all, it causes an emotional burden to the prior spouse."[80] Being a real party in interest, the prior spouse is entitled to sue in order to declare a bigamous marriage void. For this purpose, he can petition a court to recognize a foreign judgment nullifying the bigamous marriage and judicially declare as a fact that such judgment is effective in the Philippines. Once established, there should be no more impediment to cancel the entry of the bigamous marriage in the civil registry.

III.

In *Braza v. The City Civil Registrar of Himamaylan City, Negros Occidental*, this Court held that a "trial court has no jurisdiction to nullify marriages" in a special proceeding for cancellation or correction of entry under Rule 108 of the Rules of Court.[81] Thus, the "validity of marriage[] x x x can be questioned only in a direct action" to nullify the marriage.[82] The RTC relied on *Braza* in dismissing the petition for recognition of foreign judgment as a collateral attack on the marriage between Marinay and Maekara.

Braza is not applicable because *Braza* does not involve a recognition of a foreign judgment nullifying a bigamous marriage where one of the parties is a citizen of the foreign country.

To be sure, a petition for correction or cancellation of an entry in the civil registry cannot substitute for an action to invalidate a marriage. A direct action is necessary to prevent circumvention of the substantive and procedural safeguards of marriage under the Family Code, A.M. No. 02-11-10-SC and other related laws. Among these safeguards are the requirement of proving the limited grounds for the dissolution of marriage,[83] support *pendente lite* of the spouses and children,[84] the liquidation, partition and distribution of the properties of the spouses,[85] and the investigation of the

[80] *Juliano-Llave v. Republic*, supra note 33.

[81] Supra note 25.

[82] Supra note 25.

[83] *See* supra note 68.

[84] FAMILY CODE, Art. 49. During the pendency of the action and in the absence of adequate provisions in a written agreement between the spouses, the Court shall provide for the support of the spouses and the custody and support of their common children. The Court shall give paramount consideration to the moral and material welfare of said children and their choice of the parent with whom they wish to remain as provided to in Title IX. It shall also provide for appropriate visitation rights of the other parent.

Cf. RULES OF COURT, Rule 61.

[85] FAMILY CODE, Art. 50. The effects provided for by paragraphs (2), (3), (4) and (5) of Article 43 and by Article 44 shall also apply in the proper cases to marriages which are declared *ab initio* or annulled by final judgment under Articles 40 and 45.

public prosecutor to determine collusion.[86] A direct action for declaration of nullity or annulment of marriage is also necessary to prevent circumvention of the jurisdiction of the Family Courts under the Family Courts Act of 1997 (Republic Act No. 8369), as a petition for cancellation or correction of entries in the civil registry may be filed in the Regional Trial Court "where the corresponding civil registry is located."[87] In other words, a Filipino citizen cannot dissolve his marriage by the mere expedient of changing his entry of marriage in the civil registry.

However, this does not apply in a petition for correction or cancellation of a civil registry entry based on the recognition of a foreign judgment annulling a marriage where one of the parties is a citizen of the foreign country. There is neither circumvention of the substantive and procedural safeguards of marriage under Philippine law, nor of the jurisdiction of Family Courts under R.A. No. 8369. A recognition of a foreign judgment is not an action to nullify a marriage. It is an action for Philippine courts to recognize the effectivity of a foreign judgment, **which presupposes a case which was already tried and decided under foreign law.** The procedure in A.M. No. 02-11-10-SC does not apply in a petition to recognize a foreign judgment annulling a bigamous marriage where one of

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The final judgment in such cases shall provide for the liquidation, partition and distribution of the properties of the spouses, the custody and support of the common children, and the delivery of third presumptive legitimes, unless such matters had been adjudicated in previous judicial proceedings.

All creditors of the spouses as well as of the absolute community or the conjugal partnership shall be notified of the proceedings for liquidation.

In the partition, the conjugal dwelling and the lot on which it is situated, shall be adjudicated in accordance with the provisions of Articles 102 and 129.

A.M. No. 02-11-10-SC, Sec. 19. *Decision.*— (1) If the court renders a decision granting the petition, it shall declare therein that the decree of absolute nullity or decree of annulment shall be issued by the court only after compliance with Articles 50 and 51 of the Family Code as implemented under the Rule on Liquidation, Partition and Distribution of Properties.

x x x x

[86] FAMILY CODE, Art. 48. In all cases of annulment or declaration of absolute nullity of marriage, the Court shall order the prosecuting attorney or fiscal assigned to it to appear on behalf of the State to take steps to prevent collusion between the parties and to take care that evidence is not fabricated or suppressed.

In the cases referred to in the preceding paragraph, no judgment shall be based upon a stipulation of facts or confession of judgment.

A.M. No. 02-11-10-SC, Sec. 9. *Investigation report of public prosecutor.* — (1) Within one month after receipt of the court order mentioned in paragraph (3) of Section 8 above, the public prosecutor shall submit a report to the court stating whether the parties are in collusion and serve copies thereof on the parties and their respective counsels, if any.

(2) If the public prosecutor finds that collusion exists, he shall state the basis thereof in his report. The parties shall file their respective comments on the finding of collusion within ten days from receipt of a copy of the report The court shall set the report for hearing and if convinced that the parties are in collusion, it shall dismiss the petition.

(3) If the public prosecutor reports that no collusion exists, the court shall set the case for pre-trial. It shall be the duty of the public prosecutor to appear for the State at the pre-trial.

[87] RULES OF COURT, Rule 108, Sec. 1.

the parties is a citizen of the foreign country. Neither can R.A. No. 8369 define the jurisdiction of the foreign court.

Article 26 of the Family Code confers jurisdiction on Philippine courts to extend the effect of a foreign divorce decree to a Filipino spouse without undergoing trial to determine the validity of the dissolution of the marriage. The second paragraph of Article 26 of the Family Code provides that "[w]here 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." In *Republic v. Orbecido*,[88] this Court recognized the legislative intent of the second paragraph of Article 26 which is "to avoid the absurd situation where the Filipino spouse remains married to the alien spouse who, after obtaining a divorce, is no longer married to the Filipino spouse"[89] under the laws of his or her country. The second paragraph of Article 26 of the Family Code only authorizes Philippine courts to adopt the effects of a foreign divorce decree precisely because the Philippines does not allow divorce. Philippine courts cannot try the case on the merits because it is tantamount to trying a case for divorce.

The second paragraph of Article 26 is only 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. The second paragraph of Article 26 of the Family Code is based on this Court's decision in *Van Dorn v. Romillo*[90] which declared that the Filipino spouse "should not be discriminated against in her own country if the ends of justice are to be served."[91]

The principle in Article 26 of the Family Code applies in a marriage between a Filipino and a foreign citizen who obtains a foreign judgment nullifying the marriage on the ground of bigamy. The Filipino spouse may file a petition abroad to declare the marriage void on the ground of bigamy. The principle in the second paragraph of Article 26 of the Family Code applies because the foreign spouse, after the foreign judgment nullifying the marriage, is capacitated to remarry under the laws of his or her country. If the foreign judgment is not recognized in the Philippines, the Filipino spouse will be discriminated—the foreign spouse can remarry while the Filipino spouse cannot remarry.

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88 509 Phil. 108 (2005).
89 Id. at 114.
90 223 Phil. 357 (1985).
91 Id. at 363.

Under the second paragraph of Article 26 of the Family Code, Philippine courts are empowered to correct a situation where the Filipino spouse is still tied to the marriage while the foreign spouse is free to marry. Moreover, notwithstanding Article 26 of the Family Code, Philippine courts already have jurisdiction to extend the effect of a foreign judgment in the Philippines to the extent that the foreign judgment does not contravene domestic public policy. A critical difference between the case of a foreign divorce decree and a foreign judgment nullifying a bigamous marriage is that bigamy, as a ground for the nullity of marriage, is fully consistent with Philippine public policy as expressed in Article 35(4) of the Family Code and Article 349 of the Revised Penal Code. The Filipino spouse has the option to undergo full trial by filing a petition for declaration of nullity of marriage under A.M. No. 02-11-10-SC, but this is not the only remedy available to him or her. Philippine courts have jurisdiction to recognize a foreign judgment nullifying a bigamous marriage, without prejudice to a criminal prosecution for bigamy.

In the recognition of foreign judgments, Philippine courts are incompetent to substitute their judgment on how a case was decided under foreign law. They cannot decide on the "family rights and duties, or on the status, condition and legal capacity" of the foreign citizen who is a party to the foreign judgment. Thus, Philippine courts are limited to the question of whether to extend the effect of a foreign judgment in the Philippines. In a foreign judgment relating to the status of a marriage involving a citizen of a foreign country, Philippine courts only decide whether to extend its effect to the Filipino party, under the rule of *lex nationalii* expressed in Article 15 of the Civil Code.

For this purpose, 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. 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. Section 48(b), Rule 39 of the Rules of Court states that the foreign judgment is already "presumptive evidence of a right between the parties." Upon recognition of the foreign judgment, this right becomes conclusive and the judgment serves as the basis for the correction or cancellation of entry in the civil registry. The recognition of the foreign judgment nullifying a bigamous marriage is a subsequent event that establishes a new status, right and fact[92] that needs to be reflected in the civil registry. Otherwise, there will be an inconsistency between the recognition of the effectivity of the foreign judgment and the public records in the Philippines.

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[92] *See* RULES OF COURT, Rule 1, Sec. 3(c).

However, the recognition of a foreign judgment nullifying a bigamous marriage is without prejudice to prosecution for bigamy under Article 349 of the Revised Penal Code.[93] The recognition of a foreign judgment nullifying a bigamous marriage is not a ground for extinction of criminal liability under Articles 89 and 94 of the Revised Penal Code. Moreover, under Article 91 of the Revised Penal Code, "[t]he term of prescription [of the crime of bigamy] shall not run when the offender is absent from the Philippine archipelago."

Since A.M. No. 02-11-10-SC is inapplicable, the Court no longer sees the need to address the questions on venue and the contents and form of the petition under Sections 4 and 5, respectively, of A.M. No. 02-11-10-SC.

WHEREFORE, we **GRANT** the petition. The Order dated 31 January 2011 and the Resolution dated 2 March 2011 of the Regional Trial Court, Branch 107, Quezon City, in Civil Case No. Q-11-68582 are **REVERSED** and **SET ASIDE**. The Regional Trial Court is **ORDERED** to **REINSTATE** the petition for further proceedings in accordance with this Decision.

SO ORDERED.

ANTONIO T. CARPIO
Associate Justice

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[93] *See* RULES OF COURT, Rule 72, Sec. 2. *Applicability of rules of civil actions.* — In the absence of special provisions, the rules provided for in ordinary actions shall be, as far as practicable, applicable in special proceedings.

Rule 111, Sec. 2. *When separate civil action is suspended.* — x x x

If the criminal action is filed after the said civil action has already been instituted, the latter shall be suspended in whatever stage it may be found before judgment on the merits. The suspension shall last until final judgment is rendered in the criminal action. Nevertheless, before judgment on the merits is rendered in the civil action, the same may, upon motion of the offended party, be consolidated with the criminal action in the court trying the criminal action. In case of consolidation, the evidence already adduced in the civil action shall be deemed automatically reproduced in the criminal action without prejudice to the right of the prosecution to cross-examine the witnesses presented by the offended party in the criminal case and of the parties to present additional evidence. The consolidated criminal and civil actions shall be tried and decided jointly.

During the pendency of the criminal action, the running of the period of prescription of the civil action which cannot be instituted separately or whose proceeding has been suspended shall be tolled.

The extinction of the penal action does not carry with it extinction of the civil action. However, the civil action based on delict shall be deemed extinguished if there is a finding in a final judgment in the criminal action that the act or omission from which the civil liability may arise did not exist.

WE CONCUR:

ARTURO D. BRION
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

ESTELA M. PERLAS-BERNABE
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.

ANTONIO T. CARPIO
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII 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.

MARIA LOURDES P. A. SERENO
Chief Justice