

The Philippines: Recognition of Foreign Divorces and Recent Amendments to the Rules of Court



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1. The Absence of Divorce under Philippine Law and the Recognition of Foreign Divorces in the Philippines

Philippine law provides for the declaration of nullity and the annulment of marriage, but generally it does not provide for divorce (except for Muslims, Code of Muslim Personal Laws[P.D. 1083]). Accordingly, a divorce cannot be obtained under Philippine law, whether between two Filipino nationals or in a case in which Philippine law governs the divorce.

Where a Filipino national and a foreign national divorce abroad, the Filipino spouse must petition a Philippine court for judicial recognition of the foreign divorce. Once the judgment granting recognition becomes final, the Filipino

spouse acquires the legal capacity to remarry under Philippine law (Family Code of the Philippines, Art. 26(2)).

It was once argued that Art. 26(2) applies only where the foreign spouse was the petitioner in the divorce proceedings. The Supreme Court of the Philippines has since held that this is not required, so any foreign divorce suffices (*Republic v. Manalo*, G.R No. 2210129, April 24, 2018). By contrast, a divorce obtained abroad by two Filipino nationals will not be recognized (*Republic v. Orbecido III*, G.R. No. 154380, May 10, 2005, *Garcia v. Recio*, G.R No. 128222, October 2, 2001 (obiter dictum)). A divorce that is effected solely by agreement of the parties, without any decision by a court or public authority, such as a Japanese divorce by agreement (*kyōgi rikon*), is also eligible for recognition, as the Supreme Court held in *Racho v. Tanaka*, G.R. No. 199515, June 25, 2018.

2. Problems with the Previous Recognition Procedure in Cases Involving Japan

Filipinos, many of whom are women, who married Japanese nationals in Japan and subsequently divorced there have not always sought judicial recognition of their foreign divorces in the Philippines. The principal reasons include the high cost of legal representation and the length of the proceedings.

Under the previous procedure, counsel for the petitioner had to establish two matters before the Philippine court: (a) the fact of the foreign divorce and (b) its legal effect under the applicable foreign law, namely, that the divorce had the effect of conferring the legal capacity to remarry. Unlike in Japan, where the content of foreign law is generally ascertained by the court, Philippine proceedings require the party relying on foreign law to plead and prove its content.

As regards proof of the legal effect of a Japanese divorce, Japan's Ministry of Justice provides English translations of Japanese legislation, including the Civil Code, through its Japanese Law Translation database. However, because these translations are not officially certified translations, they have often been regarded as insufficient evidence, and expert opinions may be required. Even after the above-mentioned decision in *Racho v. Tanaka*, the author has encountered numerous cases in which petitions for recognition were denied for lack of

sufficient evidence (*Republic v. Ng*, G.R. No. 249238, February 27, 2024).

Moreover, judicial recognition in the Philippines is not a prerequisite for remarriage in Japan. Suppose that a Japanese national habitually resident in Japan marries a Filipino national and that the couple subsequently divorce in Japan. Under the proviso to Article 27 of the Act on General Rules for Application of Laws (Act No. 78 of 2006), Japanese law governs the substantive requirements for divorce. As regards the form of the divorce, Article 34(1) and (2) of the same Act apply (the governing law is the law of Japan).

Where a divorce by agreement has been validly effected under Japanese law, the Filipino spouse may remarry **in Japan**, provided that the divorce and the resulting termination of the marriage are duly established for the purposes of Japanese law. The spouse need not obtain a certificate of legal capacity to contract marriage or a certificate of single status from the Philippine authorities.

Consequently, a Filipino national who has divorced in Japan may find himself or herself in a “limping” marital status: free to remarry in Japan but still regarded as married in the Philippines (“mariage boiteux”).

3. Amendment of the Philippine Rules of Court

On October 7, 2026, the Supreme Court of the Philippines approved amendments to the Rules of Court intended to ease the evidentiary burden involved in obtaining judicial recognition of foreign divorces. The amendments were announced in the Court’s press briefer dated October 8, 2026.

Under the amended rules, a petitioner seeking recognition of a foreign divorce under Article 26(2) of the Family Code must establish the fact of the foreign divorce. The rules introduce a disputable presumption that the divorce has the effect of conferring the legal capacity to remarry under the applicable foreign law, unless the divorce document indicates that the divorce has only limited effect. The party challenging recognition may rebut this presumption by proving that the divorce does not have the effect of permitting remarriage.

The amendments also introduce a presumption concerning the accuracy of an English translation of a foreign divorce document where the translator certifies

its accuracy under oath, subject to rebuttal by contrary evidence.

By reducing the evidentiary burden on petitioners, the amendments represent a significant procedural development. They should facilitate access to judicial recognition of foreign divorces in the Philippines, particularly for Filipinos who have divorced abroad and face practical difficulties in proving foreign law.

For further details, see the Supreme Court of the Philippines' press briefer dated October 8, 2026.