



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Baguio City

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated April 12, 2023 which reads as follows:

“G.R. No. 237016 (REPUBLIC OF THE PHILIPPINES, Petitioner, v. XAVIER AVERIA Y RODRIGUEZ, JINKY A. ANGCANA, CIVIL REGISTRAR OF SAN ANDRES, QUEZON, Respondents). — Dual citizenship is an involuntary act which occurs when the concurrent application of the different laws of two or more states results in a person simultaneously being considered a national by those states.

This Court resolves the Petition for Review on *Certiorari*¹ filed by the Republic of the Philippines, assailing the Decision² and Resolution³ of the Court of Appeals, which upheld the Decision of the Regional Trial Court⁴ granting a petition for rectification of a certificate of marriage.

The facts are not disputed.

Xavier Averia (Averia) resided in San Andres, Quezon while Masami Koroishi (Koroishi) resided in Tokyo, Japan. They met through the internet and eventually entered into a romantic relationship when Koroishi visited Averia in the Philippines in 2010.⁵

On July 14, 2015, Averia and Koroishi were wed in a civil ceremony officiated by the municipal mayor of San Andres, Quezon.⁶

¹ *Rollo*, pp. 26–37.

² *Id.* at 14–21. The August 16, 2017 Decision in CA-G.R. CV No. 107914 was penned by Associate Justice Mariflor P. Punzalan Castillo and was concurred in by Associate Justices Rodil V. Zalameda (now a member of this Court) and Ma. Luisa Quijano-Padilla of the Eighth Division, Court of Appeals, Manila.

³ *Id.* at 22–24. The January 23, 2018 Resolution in CA-G.R. CV No. 107914 was penned by Associate Justice Mariflor P. Punzalan Castillo and was concurred in by Associate Justices Rodil V. Zalameda (now a member of this Court) and Ma. Luisa Quijano Padilla of the Former Eighth Division, Court of Appeals, Manila.

⁴ *Id.* at 69–72. The April 27, 2016 Decision in Spec. Proc. Case No. 945-G was penned by Presiding Judge Napoleon E. Matienzo of Branch 62, Regional Trial Court, Gumaca, Quezon.

⁵ *Id.* at 14–15.

⁶ *Id.* at 15.

After their wedding, Koroishi returned to Japan and initiated the application for Averia's immigrant visa.⁷

While going over their documents, Averia discovered that the Certificate of Marriage issued by the Philippine Statistics Authority indicated Koroishi's citizenship as "Filipino." Knowing that this would jeopardize his application for a Japanese immigrant visa, he filed a Petition⁸ for alteration before the Regional Trial Court of Gumaca, Quezon to correct Koroishi's citizenship from "Filipino" to "Japanese."⁹

To prove Koroishi's Japanese citizenship, Averia presented Koroishi's Japanese passports, Certificate of Family Register, and Certificate of legal capacity to contract marriage as evidence.¹⁰

On April 27, 2016, the Regional Trial Court¹¹ granted Averia's Petition for Correction. The trial court found that the pieces of evidence presented substantiated Averia's claim that Koroishi is a Japanese citizen. It noted that the proceedings would only rectify an error "to make the matter corrected conform to the truth"¹² and would not change Koroishi's status.

The dispositive portion of the Regional Trial Court Decision reads:

WHEREFORE, viewed from the foregoing, the petition is granted. The Municipal Civil Registrar of San Andres, Quezon is directed to rectify alteration in the petitioner's Certificate of Marriage, by deleting the nationality of Masami Koroishi erroneously recorded as Filipino and instead to register her true and correct citizenship as Japanese National.

SO ORDERED.¹³

The Republic moved for reconsideration,¹⁴ but the trial court denied its motion on August 30, 2016.¹⁵

The Republic then appealed to the Court of Appeals, but its appeal was denied on August 16, 2017.¹⁶

The Court of Appeals noted that the entry sought to be corrected was substantial as it involved citizenship, requiring an adversarial procedure,

⁷ *Id.*

⁸ *Id.* at 57-60.

⁹ *Id.* at 15.

¹⁰ *Id.*

¹¹ *Id.* at 69-72.

¹² *Id.* at 72.

¹³ *Id.*

¹⁴ *Id.* at 73-77.

¹⁵ *Id.* at 78. The Order was penned by Presiding Judge Napoleon E. Matienzo.

¹⁶ *Id.* at 14-21.

which Averia availed of properly.¹⁷

Like the trial court, the Court of Appeals found that the evidence presented proved that Koroishi is a Japanese citizen. On the contention of the Republic that she is Filipino having been born to a Filipino mother, the Court of Appeals held that the Republic's argument "is speculative and lacks positive proof and evidence."¹⁸

The dispositive portion of the Court of Appeals' Decision reads:

WHEREFORE, premises considered, the instant appeal is **DENIED**. The Decision of the Regional Trial Court of Gumaca, Quezon, Branch 62 dated 27 April 2016 is **AFFIRMED**.

SO ORDERED.¹⁹ (Emphasis in the original)

The Republic filed a Motion for Reconsideration,²⁰ arguing for the first time that Averia was not the proper party to file the Petition²¹ and reiterating its previous arguments.

On January 23, 2018, the Court of Appeals denied²² the Motion for Reconsideration for lack of merit. It noted that in the interest of fair play and justice, the Republic cannot raise the issue of proper party for the first time on appeal.²³

Nonetheless, the Court of Appeals pointed out that Averia was deemed to be a proper party under the Rules of Court. Since a petition may be filed by "any interested person," Averia, as Koroishi's husband, has an interest in the rectification of his own Certificate of Marriage "even if the entry in question pertains to the circumstances of his wife."²⁴

In its Petition for Review on *Certiorari*,²⁵ petitioner Republic maintains that there was no error in respondent Averia and Koroishi's Certificate of Marriage, because Koroishi is born to a Filipino mother, hence, she is a Filipino citizen by operation of law. It stresses that Koroishi remains to be a Filipino citizen since there was no showing that she ever lost or renounced her citizenship under any of the grounds provided by law, specifically, Commonwealth Act No. 63.²⁶

¹⁷ *Id.* at 18.

¹⁸ *Id.* at 20.

¹⁹ *Id.*

²⁰ *Id.* at 52-56.

²¹ *Id.* at 54.

²² *Id.* at 22-24.

²³ *Id.* at 23.

²⁴ *Id.*

²⁵ *Id.* at 26-37.

²⁶ *Id.* at 30-32.

Petitioner emphasizes that it does not refute the pieces of evidence presented attesting to Koroishi's Japanese citizenship, instead, it points out that respondent failed to prove that Koroishi only has one citizenship or that she has renounced her Filipino citizenship. Petitioner also asserts that the deliberate non-presentation of Koroishi's certificate of live birth was meant to mislead the trial court about Koroishi's dual citizenship.²⁷

Finally, petitioner reiterates that respondent was not the proper party to file the Petition for Correction. Instead, the proper party was his wife Koroishi, who was not even a party to the Petition.²⁸

In his Comment/Opposition,²⁹ respondent maintains that the Petition raised questions of fact which are generally not allowed in a petition for review. Further, it asserts that petitioner failed to establish that the Petition fell under any of the established exceptions to the general rule.³⁰

In its Reply,³¹ petitioner denies that it raised a question of fact as it does "not involve the determination of the truth or the falsity of the facts."³² It reiterates that it does not deny Koroishi's Japanese citizenship, nor her marriage to respondent, rather, it is asserting that Koroishi is also a Filipino citizen by virtue of her mother's Filipino citizenship.³³

The sole issue for this Court's resolution is whether the Court of Appeals erred in granting the Petition for rectification of Koroishi's citizenship from Filipino to Japanese in her Certificate of Marriage with respondent.

The Petition is meritorious.

In respondent and Koroishi's Certificate of Marriage,³⁴ Koroishi's date of birth is September 30, 1987 in Mandaluyong City. Her father is Masayoshi Koroishi, a Japanese citizen, and her mother is Divina Rallos Diola (Diola), a Filipino citizen. In turn, Koroishi's Family Register³⁵ provided by the Embassy of Japan reads:

²⁷ *Id.* at 33-34.

²⁸ *Id.* at 34.

²⁹ *Id.* at 95-96.

³⁰ *Id.* at 95.

³¹ *Id.* at 113-120.

³² *Id.* at 114.

³³ *Id.* at 115-117.

³⁴ *Id.* at 67-68.

³⁵ *Id.* at 61-64.

born citizens.

SECTION 3. Philippine citizenship may be lost or reacquired in the manner provided by law.

SECTION 4. Citizens of the Philippines who marry aliens shall retain their citizenship, unless by their act or omission they are deemed, under the law, to have renounced it.

SECTION 5. Dual allegiance of citizens is inimical to the national interest and shall be dealt with by law.

Koroishi is a natural-born Filipino citizen as her mother was a Filipino citizen at the time of Koroishi's birth, thus she did not have to "perform any act to acquire or perfect [her] Philippine citizenship."³⁹ Further, Diola retained her Filipino citizenship as evidenced by Koroishi and respondent's Certificate of Marriage and respondent's testimony.

As the party asking for relief from the courts, it was incumbent on respondent to prove his wife's Japanese citizenship with the requisite burden of proof.⁴⁰

Burden of proof lies on the party making the allegations and never shifts from one party to another. What shifts is the burden of evidence and the shift happens when a party makes a *prima facie* case in their favor. The other party then has the "burden of going forward"⁴¹ to refute the alleging party's evidence.

Respondent attempted to prove his wife's Japanese citizenship by presenting her Japanese passports,⁴² her original⁴³ and translated⁴⁴ Family Registry, and Certificate of legal capacity to contract marriage.⁴⁵

With the burden of evidence shifting to petitioner, it presented respondent's Certificate of Marriage which listed down Diola's citizenship as Filipino. It asserts that there was no mistake committed in the Certificate of Marriage since Koroishi is a Filipino citizen or a dual citizen, possessing both Filipino and Japanese citizenships.

At this juncture, the burden of evidence shifted to respondent, but he failed to disprove petitioner's claim of his wife's Filipino citizenship by birth

³⁹ CONST., art. VI, sec. 2.

⁴⁰ RULES OF COURT, rule 131, sec. 1. *Burden of proof*. Burden of proof is the duty of a party to present evidence on the facts in issue necessary to establish his claim or defense by the amount of evidence required by law.

⁴¹ *David v. Senate Electoral Tribunal*, 795 Phil. 529, 598 (2016) [Per J. Leonen, *En Banc*].

⁴² *Rollo*, p. 66.

⁴³ *Id.* at 65.

⁴⁴ *Id.* at 62-64

⁴⁵ *Id.* at 15.

or proffered evidence that she renounced her Filipino citizenship prior to their marriage. A careful review of the documents presented into evidence convinces the Court that there is no mention of Koroishi renouncing her Filipino citizenship.

The Japanese passports⁴⁶ prove Koroishi's Japanese citizenship but not that she is not a Filipino citizen. The Family Register,⁴⁷ in turn, lists down her lineage one degree up and degree down, providing information on her parents and her son with Gaudioso II Nero Tabamo (Tabamo). The Certificate of legal capacity to contract marriage proved that she obtained a divorce from Tabamo on August 13, 2008, allowing her to remarry.⁴⁸

All three documents, while proving Koroishi's Japanese citizenship and her lack of any impediment to marry, do not provide or imply that Koroishi only has one citizenship or that she has renounced any other citizenship aside from Japanese.

Dual citizenship is an involuntary act and "arises when, as a result of the concurrent application of the different laws of two or more states, a person is simultaneously considered a national by the said states."⁴⁹ What is forbidden in our Constitution is dual allegiance or a "situation in which a person simultaneously owes, by some positive act, loyalty to two or more states."⁵⁰

Respondent failed to disprove petitioner's claim that Koroishi is a dual citizen, possessing both Filipino and Japanese citizenships. Hence, he was unable to discharge the burden of proof required of him. His Petition to correct the entry on Koroishi's nationality in their Certificate of Marriage must therefore fail.

FOR THESE REASONS, the Petition is **GRANTED**. The August 16, 2017 Decision and January 23, 2018 Resolution of the Court of Appeals in CA-G.R. CV No. 107914 are **REVERSED** and **SET ASIDE**.

Respondent Xavier Averia's Petition for the rectification of his Certificate of Marriage with Masami Koroishi docketed as Spec. Proc. Case No. 945-G before the Regional Trial Court, Branch 62, Gumaca, Quezon is **DENIED** for lack of merit.

SO ORDERED."

⁴⁶ *Id.* at 66.

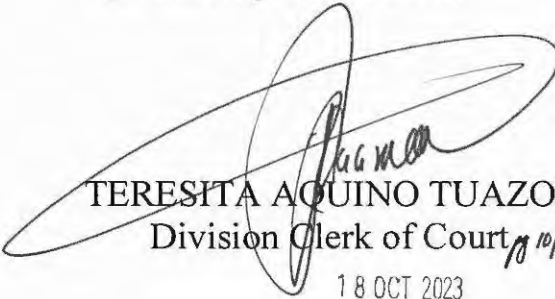
⁴⁷ *Id.* at 62-64.

⁴⁸ *Id.* at 15-16.

⁴⁹ *Mercado v. Manzano*, 367 Phil. 132, 144 (1999) [Per J. Mendoza, *En Banc*], citing JOVITO R. SALONGA, PRIVATE INTERNATIONAL LAW 166 (1995).

⁵⁰ *Id.* at 144.

By authority of the Court:


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