CONFLICT OF LAWS | ATTY. LORENZO
CASE DOCTRINES | FINALS
TRICIA CRUZ
JDCTR – DLSU LAW

Republic of the Philippines

Conflict of Laws/Private International Law (cases)

Hilton v. Guyot

- ✓ Judgments rendered in France or in any other foreign country, by the laws of which our own judgments are reviewable upon the merits, are not entitled to full credit and conclusive effect when sued upon this country, but are prima facie evidence only of the justice of the plaintiff's claim.
- ✓ International law is founded upon mutuality and reciprocity and that by principles of international law recognized in most civilized nation, and by the comity of our own country, which it is our judicial duty to know and to declare, the judgment is not entitled to be considered conclusive.

Saudi Arabian Airlines v. CA

- ✓ Violations of Art. 19 & 21 are actionable, with judicially enforceable remedies in the municipal forum.
- ✓ Choice of law problems seek to answer two important questions: (1) What legal system should control a given situation where some of the significant facts occurred in two or more states? (2) To what extent should the chosen legal system regulate the situation?
- ✓ Characterization/Doctrine of Qualification – it is the process of deciding whether or not the facts relate to the kind of question specified in a conflicts rule. The purpose of which to enable the forum to select the proper law.
- ✓ The test applied in the case at bar is "the place where an act has been done, the **locus actus,** such as where a contract has been made, a marriage celebrated, a will signed or a tort committed. The lex loci actus is particularly important in contracts and torts.
- ✓ The SC held that it is the Philippines which could be said as the situs of the tort. It is in the Philippines were petitioner allegedly deceived Morada, a Filipina residing and working in the PI. Thus, Philippines is the situs of the tort complaint of and the place "having the most interest in the problem".

Llorente v. CA

- ✓ Foreign law applies. The Civil Code provides that intestate and testamentary succession, both with respect to the order of succession and to the amount of successional rights and to the intrinsic validity of testamentary provisions, shall be regulated by the national law of the person whose succession is under consideration, whatever may be the nature of the property and regardless of the country wherein said property may be found. In this case, Lorenzo was an American citizen long before and at the time of: (1) divorce from first wife; (2) marriage to Alicia; (3) execution of his will; and (4) death.
- ✓ Owing to the nationality principle embodied in Art. 15 of the Civil Code, only Philippine nationals are covered by policy against absolute divorces, the same being considered contrary to our concept of public policy and morality. Aliens may obtain divorces abroad, provided they are valid according to their national law.

LWV Construction v. Dupo

- ✓ As a general rule, a foreign procedural law will not be applied in the forum. Procedural matters, such as service of process, joinder of actions, period and requisites for appeal, and so forth, are governed by the laws of the forum.
- ✓ A law on prescription of actions is *sui generis* in Conflict of Laws in the sense that it may be viewed either as procedural or substantive, depending on the characterization given such a law. However, the characterization of a statute into a procedural or substantive law becomes irrelevant when the country of the forum has a "borrowing statute". Said statute has the practical effect of treating the foreign statute of limitation as one of substance. A borrowing statute directs the state of the forum to apply the foreign statute of limitations to the pending claims based on a foreign law.
- ✓ Respondent's complaint was well within the three-year prescriptive period under Art. 291 of our Labor Code. This

point, however, has already been mooted by the Court's finding that respondent's service award had been paid, albeit the payroll termed such payment as severance pay.

Hasegawa v. Kitamura

- ✓ Lex loci celebrationis – relates to the law of the place of the ceremony or the law of the place where a contract is made.
- ✓ Lex contractus or lex loci contractus – means the law of the place where a contract is executed or to be performed.
- ✓ Under the "state of the most significant relationship rule," to ascertain what state law to apply to a dispute, the court should determine which state has the most substantial connection to the occurrence and the parties.
- ✓ These three principles in conflict of laws make reference to the law applicable to a dispute and are rules proper for the second phase – choice of law. They determine which state's law is to be applied in resolving the substantive issues of a conflicts problem. Necessarily, as the only issue in this case is that of jurisdiction, choice-of-law rules are not only inapplicable but also not yet called for.
- ✓ It is to be noted that there should exist a conflict of laws situation requiring the application of the conflict of laws rules before determining which law should apply. Also, when the law of a foreign country is invoked to provide proper rules for the solution of a case, the existence of such law must be pleaded and proved.

Resolution of Conflicts Problems

Jurisdiction

Perkins v. Dizon

- ✓ The test of jurisdiction is whether or not tribunal has power to enter upon the inquiry, not whether its conclusion in the course of it is right or wrong. If its decision is erroneous, its judgment can be reversed on appeal; but its determination of the question, which the petitioner here anticipates and seeks to prevent, is the exercise by that court – and the rightful exercise – of its jurisdiction.
- ✓ The action being *quasi in rem*. The CFI of Manila has jurisdiction over the person of the non-resident. In order to satisfy the constitutional requirement of due process summons have been served upon her by publication (mailing of the order of publication to the petitioner's last known place of residence in the US). But of course, the action being *quasi in rem* and *notice* having been made by publication, the relief that may be granted by the Philippine court must be confined to the *res,* it having no jurisdiction to render a personal judgment against the non-resident.

Asiavest Limited v. CA

- ✓ Under par (b) of Sec. 50, Rule 39 of the Rules of Court, a foreign judgment against a person rendered by a court having jurisdiction to pronounce the judgment is presumptive evidence of a right as between the parties and their successors in interest by the subsequent title. However, the judgment may be repelled by want of jurisdiction, want of notice to the party, collusion, fraud or clear mistake of law or fact.
- ✓ There is nothing in the testimony of the "expert witness" that touched on the specific law of HK in respect of service of summons either in actions in rem or in personam, and where the defendant is either a resident or a nonresident of HK. In view of the absence of the foreign law, processual presumption shall come into play.
- ✓ In an action in personam wherein the defendant is a nonresident who does not voluntarily submit himself to the authority of the court, personal service of summons within the state is essential to the acquisition of jurisdiction over her person. This method of service is possible if such defendant is physically present in the country. If he is not found therein, the court cannot acquire jurisdiction over his person and thus cannot validly try and decide the case against him. An exception was laid down in **Gemperle v. Schenker,** wherein a nonresident was served with summons through his wife, who was a resident of the Philippines and who was a resident of the Philippines and who was a resident of the Philippines and who was his representatives and attorney-in-

fact in a prior civil case filed by him; moreover, the second case was a mere offshoot of the first case.

St. Aviation Services v. Grand International Airways

- ✓ Generally, in the absence of a special contract, no sovereign is bound to give effect within its dominion to a judgment rendered by a tribunal of another country; however, under the rules of comity, utility and convenience, nations have established a usage among civilized states by which final judgments of civil courts of competent jurisdiction are reciprocally respected and rendered efficacious under certain conditions.
- ✓ The conditions for the recognition and enforcement of a foreign judgment in our legal system are contained in Sec. 48, Rule 39 of the RoC:
  - In a case of a judgment or final order upon a specific thing, the judgment or final order is conclusive upon the title to the thing; and
  - In case of a judgment or final order against a person, the judgment or final order is presumptive evidence of a right between the parties and their successors in interest by a subsequent title.
- ✓ A foreign judgment or order against a person is merely presumptive evidence of a right as between the parties. It may be repelled, among others, by want of jurisdiction of the issuing authority or by want of notice to the party against whom it is enforced. The party attacking a foreign judgment has the burden of overcoming the presumption of its validity.
- ✓ Generally, matters of remedy and procedure such as those relating to the service of process upon a defendant are governed by the lex fori or the internal law of the forum, which in this case is the law of Singapore.

Raytheon Int'l v. Rouzie Jr.

- ✓ Philippines has jurisdiction despite the valid choice of law clause stipulated in the contract. The SC outline three consecutive phases involved in judicial resolution of the conflicts-of-laws problems, namely: jurisdiction, choice of law, and recognition and enforcement of judgments.
- ✓ Jurisdiction and choice of law are two distinct concepts. Jurisdiction considers whether it is fair to cause a defendant to travel to this state. Choice of law asks the further question whether the application of a substantive law which will determine the merits of the case is fair to both parties.
- ✓ In instances where the SC held that the local judicial machinery was adequate to resolve controversies with a foreign element, the following requisites had to be proved:
  - The Phil Court is one to which the parties may conveniently resort;
  - The Phil Court is in a position to make an intelligent decision as to the law and the facts; and
  - The Phil Court has or is likely to have the power to enforce its decision.
- ✓ On the matter of jurisdiction over a conflict of laws problem, where the case is filed in a Phil Court and where the court has jurisdiction over the subj. matter, the parties and the res, it may proceed to try the case even if the rules of conflict of laws point to a foreign forum. This is an exercise of sovereign prerogative.
- ✓ The RTC acquired jurisdiction over the respondent upon the filing of the complaint while jurisdiction over the person of petitioner was acquired by its voluntary appearance.

Sps. Belen v. Chavez

- ✓ In an action strictly in personam, personal service on the defendant is the preferred mode of service, that is, by handing a copy of the summons to the defendant in person. If the defendant, for justifiable persons, cannot be served with summons within a reasonable period, then substituted service can be resorted to.
- ✓ If defendant cannot be served with summons because he is temporarily abroad, but otherwise he is a Philippine resident, service of summons may, by leave of court, be effected out of the Philippines under Rule 14, Sec. 15.
- ✓ As a general rule, when a party is represented by counsel of record, service of orders or notices must be made upon said attorney and notice to the client and to any other lawyer, not the counsel of record is NOT notice in law. The exception to

this rule is when service upon the party himself has been ordered by the court. In cases where service was made on the counsel of record at his given address, notice sent to petitioner is not even necessary.

- ✓ A copy of the RTC decision was sent first to Atty. Alcantara, petitioners' counsel of record. However, the same was returned unserved in view of the demise of Atty. Alcantara. Thus, a copy of the decision was served on the last known residence of petitioners which was considered defective by the Court in view of the fact that petitioners could not be physically found in the country because they had already been permanent residents of USA.
- ✓ RTC has acquired jurisdiction over the persons of the petitioners through voluntary submission of the counsel. Through certain acts, Atty. Alcantara was impliedly authorized by petitioners to appear on their behalf.

Choice of Law

Pakistan International Airlines v. Ople

- ✓ Petitioner PIA cannot take refuge in paragraph 10 of its employment agreement which specifies (1) the law of Pakistan as the applicable law of the agreement; and (2) the venue for settlement of any dispute only in courts of Pakistan. This cannot be invoked to prevent the application of Philippine labor laws and regulations to the subject matter of this case i.e., employer-employee relationship between PIA and respondents.
- ✓ There were also multiple and substantive contacts between Philippine law and Philippine courts, on the one hand, and the relationship between the parties upon the other: contract executed in the PI; contract performed here; private respondents are Phil citizens and residents, petitioner is a foreign corp licensed to do business here; private respondents were based in the Phil in between their assigned flights.
- ✓ Petitioner PIA did not undertake to plead and prove the contents of Pakistan law on the matter; it must therefore apply processual presumption.

Cadalin v. POEA Administrator

- ✓ As a general rule, foreign procedural law will not be applied in the forum. Procedural matters, such as service of process, joinder of actions, period and requisites for appeal, and so forth, are governed by the laws of the forum. However, the characterization of a statute into a procedural or substantive law becomes irrelevant when the country of the forum has a borrowing statute. Said statute has the practical effect of the treating the foreign statute of limitation as one of substance.
- ✓ Sec. 48 of our old Code of Civil Procedure provides that if by the laws of the state/country where the cause of action arose, the action is barred, it is also barred in the PI.
- ✓ However, in light of the 1987 Constitution, section 48 cannot be enforced insofar as it ordains the application in this jurisdiction of Sec. 156 of the Amiri Decree which is considered obnoxious to the forum's public policy. To enforce the 1-yr prescriptive period as regard the claims in question would contravene the pubic policy on the protection of labor.

Recognition and Enforcement of Judgments

Mijares v. Ranada

- ✓ In an action to enforce a foreign judgment, the matter left for proof is the foreign judgment itself, and not the facts from which it prescinds. Rule 141 of the Rules of Civil Procedure avoids unreasonableness, as it recognizes that the subject matter of an action for enforcement of a foreign judgment is the foreign judgment itself, and not the right-duty correlatives that resulted in a foreign judgment.
- ✓ It also bears noting that Sec. 48, Rule 39 acknowledges that the *Final Judgment* from the US Court is not conclusive yet, but a presumptive evidence of a right of the petitioners against the Marcos Estate. The Marcos Estate is not precluded from presenting evidence if any, of want of jurisdiction, want of notice to the party, collusion, fraud, or clear mistake of law or fact.

Renvoi

Fluemer v. Hix

- ✓ The laws of a foreign jurisdiction do not prove themselves in our courts. Such laws must be proved as facts. The due execution of a will alleged to have been executed in another jurisdiction must be established. Where the witnesses to the will reside outside the PI, it is the duty of the petitioner to prove execution by some other means.
- ✓ Sec. 24, Rule 132: The record of public documents may be evidenced by an official publication or a copy attested by the officer having legal custody, or by his deputy, and accompanied, if the record is not kept in the PI, with a certificate that such officer has the custody. If the record is kept 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 PI stationed in the foreign country in which the record is kept.

Aznar v. Garcia

- ✓ The national law mentioned in Art. 16 of the Civil Code is the law on conflict of laws in the California Civil Code, i.e. Art. 946, which authorizes the reference or return of the question to the law of the testator's domicile. The conflict of laws rule in California (Art.946) precisely refers back the case, when a decedent is not domiciled in California, to the law of his domicile, the Philippines in the case at bar.
- ✓ Renvoi is a procedure whereby a jural matter presented is referred by the conflict of laws rules of the forum to a foreign state, the conflict of laws rule of which, in turn, refers the matter to the law of the forum or a third state.

PCIB v. Escolin

- ✓ The question of what are the laws of Texas governing the matters here in issue is, in the first instance, one of fact, not of law. Elementary is the rule that foreign laws may not be taken judicial notice of and have to be proven like any other fact in dispute between the parties in any proceeding, with the rare exception in instances when the said laws are already within the actual knowledge of the court, such as when they are well and generally known or they have been actually ruled upon in other cases before it and none of the parties concerned claim otherwise.

Zalamea v. CA

- ✓ The US law or regulation allegedly authorizing overbooking has never been proved. Foreign laws do not prove themselves nor can the courts take judicial notice of them. Like any other fact, they must be alleged and proved. Written law may be evidenced by an official publication thereof or by a copy attested by the officers having the legal custody of the record, or by his deputy, and accompanied with a certificate that such officer has custody.
- ✓ Even if the claimed Code of Federal Regulations does exist, the same is not applicable to the case at bar in accordance with lex loci contractus. Since the tickets were sold and issued in the Philippines, the applicable law in this case would be Philippine law.

BANTSA v. American Realty Corp.

- ✓ The SC held that English law is not applicable because the said law was not properly pleaded and proved. Processual Presumption then applies.
- ✓ Assuming arguendo that the English law on the matter were properly pleaded and proved in accordance with Sec. 24, Rule 132, said foreign law would still not find applicability. When the foreign law, judgment or contract is contrary to a sound and established public policy of the forum, the said foreign law, judgment or order shall not be applied. The public policy sought to be protected in the instant case is the principle imbedded in our jurisdiction proscribing the splitting up of a single cause of action.

Wildvalley Shipping v. CA

- ✓ Where the foreign law sought to be proved is **unwritten**, the oral testimony of expert witnesses is admissible, as are printed and published books of reports of decisions of the courts of the country concerned if proved to be commonly admitted in such courts. However, where the foreign law sought to be proved is **written**, Sec. 24, Rule 132 must be complied with.
- ✓ A photocopy of the Reglamento General de la Ley de Pilotaje (Pilotage Law) published in the Gaceta Oficial of the Republic of Valenzuela and rules governing the navigation published in a book was presented in evidence as an official publication of the Republic of Valenzuela. Both of these documents are considered to be public documents for they are written official acts, or records of the official acts of the sovereign authority…. of Valenzuela.
- ✓ For a copy of a foreign public document to be admissible, the following requisites are mandatory: (1) it must be attested by the officer having legal custody of the records or by his deputy; and (2) it must be accompanied by a certificate by a secretary of the embassy or legation, consul general, consul, vice consular or consular agent or foreign service officer, and with the seal of his office.
- ✓ According to the weight of authority, when a foreign statute is involved, the best evidence rule requires that it be proved by a duly authenticated copy of the statute.

Manila Hotel Corp. v. NLRC

- ✓ NLRC is NOT the proper forum for the adjudication of the case between SANTOS (complainant) and MHC since the main aspects of the case transpired in two foreign jurisdictions, involving purely foreign elements. NLRC was seriously an inconvenient forum to adjudicate the same.
- ✓ Under the rule of *forum non conveniens*, a Philippine court or agency may assume jurisdiction over the case if it chooses to do so *provided*: (1) that the Philippine court is one to which the parties may conveniently resort to; (2) that the Philippine court is in a position to make an intelligent decision as to the law and the facts; and (3) that the Philippine court has or is likely to have power to enforce its decision. **The conditions are unavailing in the case at bar.**
  - From the time of recruitment, to employment, to dismissal – all occurred outside the Philippines. The inconvenience is compounded by the fact that the proper defendants, the Palace Hotel and MHICL are not nationals of the Philippines. Neither are they "doing business in the Philippines."
  - *No power to determine applicable law*. — Neither can an intelligent decision be made as to the law governing the employment contract as such was perfected in foreign soil. This calls to fore the application of the principle of lex loci contractus (the law of the place where the contract was made). The employment contract was not perfected in the Philippines.
  - *No power to determine the facts*. — Neither can the NLRC determine the facts surrounding the alleged illegal dismissal as all acts complained of took place in Beijing, People's Republic of China.
  - *Principle of effectiveness, no power to execute decision*. — Even assuming that a proper decision could be reached by the NLRC, such would not have any binding effect against the employer, the Palace Hotel. The Palace Hotel is a corporation incorporated under the laws of China and was not even served with summons. Jurisdiction over its person was not acquired.

Pioneer v. Todaro

- ✓ The doctrine of forum non conveniens emerged in private international law to deter the practice of global forum shopping, that is to prevent non-resident litigants from choosing the forum or place wherein to bring their suit for malicious reasons, such as to secure procedural advantages, to annoy and harass the defendant, to avoid overcrowded dockets, or to select a more friendly venue. Under this doctrine, a court, in conflicts of law cases, may refuse impositions on its jurisdiction where it is not the most

"convenient" or available forum and the parties are not precluded from seeking remedies elsewhere.

- ✓ Whether a suit should be entertained or dismissed on the basis of said doctrine depends largely upon the facts of the particular case and is addressed to the sound discretion of the trial court.
- ✓ The doctrine of forum non conveniens should not be used as a ground for a motion to dismiss because Sec. 1, Rule 16 of the Rules of Court does not include said doctrine as a ground. This Court further ruled that while it is within the discretion of the trial court to abstain from assuming jurisdiction on this ground, it should do so only after vital facts are established, to determine whether special circumstances require the court's desistance; and that the propriety of dismissing a case based on this principle of forum non conveniens requires a factual determination, hence it is more properly considered a matter of defense.
- ✓ In the present case, the factual circumstances cited by petitioners which would allegedly justify the application of the doctrine of forum non conveniens are matters of defense, the merits of which should properly be threshed out during trial.

1987 CONSTI ART. IV: The following are citizens of the Philippines:

(1) Those who are citizens of the Philippines at the time of the adoption of the Constitution;
(2) Those whose father or mothers are citizens of the Philippines;
(3) Those born before January 17, 1973, of Filipino mothers, who elect Philippine citizenship upon reaching the age of majority and
(4) Those who are naturalized in accordance with law.

Domicile

Velilla v. Posadas

- ✓ Our Civil Code (art. 40) defines the domicile of natural persons as "the place of their usual residence." The record before us leaves no doubt in our minds that the "usual residence" of this unfortunate man, whom appellant describes as a "fugitive" and "outcast", was in Manila where he had lived and toiled for more than a quarter of a century, rather than in any foreign country he visited during his wanderings up to the date of his death in Calcutta. To effect the abandonment of one's domicile, there must be a deliberate and provable choice of a new domicile, coupled with actual residence in the place chosen, with a declared or provable intent that it should be one's fixed and permanent place of abode, one's home. There is a complete dearth of evidence in the record that Moody ever established a new domicile in a foreign country.
- ✓ The property in the estate of Arthur Moody at the time of his death was located and had its situs within the PI and, second, because his legal domicile up to the time of his death was within the PI.

Kooritchkin v. SolGen

- ✓ The undisputed fact that the petitioner has been continuously residing in the Philippines for about 25 years, without having been molested by the authorities, who are presumed to have been regularly performing their duties and would have arrested petitioner if his residence is illegal, as rightly contended by appellee, can be taken as evidence that he is enjoying permanent residence legally. That a certificate of arrival has been issued is a fact that should be accepted upon the petitioner's undisputed statement in his declaration of July, 1940, that the certificate cannot be supposed that the receiving official would have accepted the declaration without the certificate mentioned therein as attached thereto.
- ✓ Petitioner's declaration is valid under section 5 of the Naturalization Law, failure to reconstitute the certificate of arrival notwithstanding. What an unreconstituted document intended to prove may be shown by other competent evidence.
- ✓ Perusal of the testimonies on record leads to the conclusion that petitioner has shown legal residence in the Philippines for a continuous period of not less than ten years as required by section 2 of Commonwealth Act No. 473. The lower court also made the finding of fact that applicant speaks and

writes English and Bicol and there seems to be no question about the competency of the judge who made the pronouncement, because he has shown by the appealed resolution and by his questions propounded to appellee, that he has command of both English and Bicol.

- ✓ Appellee's testimony, besides being uncontradicted, is supported by the well-known fact that the ruthlessness of modern dictatorship has scattered throughout the world a large number of stateless refugees or displaced persons, without country and without flag.
- ✓ After finding in this country economic security in a remunerative job, establishing a family by marrying a Filipina with whom he has a son, and enjoying for 25 years the freedoms and blessings of our democratic way of life, and after showing his resolution to retain the happiness he found in our political system to the extent of refusing to claim Russian citizenship even to secure his release from the Japanese and of casting his lot with that of our people by joining the fortunes and misfortunes of our guerrillas, it would be beyond comprehension to support that the petitioner could feel any bond of attachment to the Soviet dictatorship.

Mercado v. Manzano

- ✓ By declaring in his certificate of candidacy that he is a Filipino citizen; that he is not a permanent resident or immigrant of another country; that he will defend and support the Constitution of the Philippines and bear true faith and allegiance thereto and that he does so without mental reservation, Manzano has, as far as the laws of this country are concerned, effectively repudiated his American citizenship and anything which he may have said before as a dual citizen.
- ✓ Manzano's oath of allegiance to the Philippines, when considered with the fact that he has spent his youth and adulthood, received his education, practiced his profession as an artist, and taken part in past elections in this country, leaves no doubt of his election of Philippine citizenship.
- ✓ The phrase "dual citizenship" in the LGC must be understood as referring to "dual allegiance." Consequently, persons with mere dual citizenship do not fall under this disqualification. Unlike those with dual allegiance, who must, therefore, be subject to strict process with respect to the termination of their status, for candidates with dual citizenship, it would suffice if, upon the filing of their certificates of candidacy, they elect Philippine citizenship to terminate their status as persons with dual citizenship considering that their condition is the unavoidable consequence of conflicting laws of different states.

Marcos v. COMELEC

- ✓ Article 50 of the Civil Code decrees that "for the exercise of civil rights and the fulfilment of civil obligations, the domicile of natural persons is their place of habitual residence." In *Ong vs*. *Republic* this court took the concept of domicile to mean an individual's "permanent home", "a place to which, whenever absent for business or for pleasure, one intends to return, and depends on facts and circumstances in the sense that they disclose intent." Based on the foregoing, domicile includes the twin elements of "the fact of residing or physical presence in a fixed place" and *animus manendi*, or the intention of returning there permanently.
- ✓ It is the fact of residence, not a statement in the CoC which ought to be decisive in determining whether or not an individual has satisfied the constitutional requirement.
- ✓ An individual does not lose his domicile even if he has lived and maintained residences in different places. The COMELEC was obviously referring to petitioner's various places of actual residence, not her domicile.
- ✓ Domicile of origin is not easily lost. To successfully effect a change of domicile, one must demonstrate: 1. An actual removal or an actual change of domicile; 2. A *bona fide* intention of abandoning the former place of residence and establishing a new one; and 3. Acts which correspond with the purpose. In the absence of clear and positive proof based on these criteria, the residence of origin should be deemed to continue.

AASJS v. Datumanong

- ✓ It is clear that the intent of the legislature in drafting Rep. Act No. 9225 is to do away with the provision in Commonwealth Act No. 63 which takes away Philippine citizenship from natural-born Filipinos who become naturalized citizens of other countries. What Rep. Act No. 9225 does is allow dual citizenship to natural-born Filipino citizens who have lost Philippine citizenship by reason of their naturalization as citizens of a foreign country. On its face, it does not recognize dual allegiance. By swearing to the supreme authority of the Republic, the person implicitly renounces his foreign citizenship. Plainly, from Section 3, Rep. Act No. 9225 stayed clear out of the problem of dual allegiance and shifted the burden of confronting the issue of whether or not there is dual allegiance to the concerned foreign country. What happens to the other citizenship was not made a concern of Rep. Act No. 9225.
- ✓ Section 5, Article IV of the 1987 Constitution, dual allegiance shall be dealt with by law. Thus, until a law on dual allegiance is enacted by Congress, the Supreme Court is without any jurisdiction to entertain issues regarding dual allegiance.
- ✓ Section 5, Article IV of the Constitution is a declaration of a policy and it is not a self-executing provision. Rep. Act No. 9225, the framers were not concerned with dual citizenship per se, but with the status of naturalized citizens who maintain their allegiance to their countries of origin even after their naturalization.

Ujano v. Republic

- ✓ One of the qualifications for reacquiring Philippine citizenship is that the applicant 'shall have resided in the Philippines at least six months before he applies for naturalization' [Section 3(1), Commonwealth Act No. 63]. This 'residence' requirement in cases of naturalization, means the actual or constructive permanent home otherwise known as legal residence or domicile. A place in a country or state where he lives and stays permanently, and to which he intends to return after a temporary absence, no matter how long, is his domicile. In other words domicile is characterized by *animus manendi.* So an alien who has been admitted into this country as a temporary visitor, either for business or pleasure, or for reasons of health, though actually present in this country cannot be said to have established his domicile here because the period of his stay is only temporary in nature and must leave when the purpose of his coming is accomplished.
- ✓ Here, petitioner was admitted into this country as a temporary visitor, a status he has maintained at the time of the filing of the present petition for reacquisition of Philippine citizenship and which continues up to the present
- ✓ The word "residence" used therein imports not only an intention to reside in a fixed place but also personal presence coupled with conduct indicative of such intention. term cannot refer to the presence in this country of a person who has been admitted only on the strength of a permit for temporary residence
- ✓ The only way by which petitioner can reacquire his lost Philippine citizenship is by securing a quota for permanent residence so that he may come within the purview of the residence requirement of Commonwealth Act No. 63.

Moy Ya Lim Yao v. Commissioner

- ✓ Under Section 15 of Commonwealth Act 473, an alien woman marrying a Filipino, native born or naturalized, becomes ipso facto a Filipina provided she is not disqualified to be a citizen of the Philippines under Section 4 of the same law. Likewise, an alien woman married to an alien who is subsequently naturalized here follows the Philippine citizenship of her husband the moment he takes his oath as Filipino citizen, provided that she does not suffer from any of the disqualifications under said Section 4.
- ✓ The use of the term ipso facto clearly meant that it was no longer necessary for the spouse of a naturalized Filipino to prove that she possessed the requisite qualifications in a naturalization proceeding.

Caasi v. CA

- ✓ To be "qualified to run for elective office" in the Philippines, the law requires that the candidate who is a green card holder must have "waived his status as a permanent resident or immigrant of a foreign country." Therefore, his act of filing a certificate of candidacy for elective office in the Philippines, did not of itself constitute a waiver of his status as a permanent resident or immigrant of the United States. The waiver of his green card should be manifested by some act or acts independent of and done prior to filing his candidacy for elective office in this country. Without such prior waiver, he was "disqualified to run for any elective office"
- ✓ The reason for Section 68 of the Omnibus Election Code is not hard to find. Residence in the municipality where he intends to run for elective office for at least one (1) year at the time of filing his certificate of candidacy, is one of the qualifications that a candidate for elective public office must possess (Sec. 42, Chap. 1, Title 2, Local Government Code). Miguel did not possess that qualification because he was a permanent resident of the United States and he resided in Bolinao for a period of only three (3) months (not one year) after his return to the Philippines in November 1987 and before he ran for mayor of that municipality on January 18, 1988.
- ✓ The Omnibus Election Code has laid down a clear policy of excluding from the right to hold elective public office those Philippine citizens who possess dual loyalties and allegiance. The law has reserved that privilege for its citizens who have cast their lot with our country "without mental reservations or purpose of evasion."

Yu v. Republic

- ✓ Since the use of surnames is based on family rights, and since under Article 15 of the Civil Code provides that laws 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, the converse of the principle must be recognized, that is to say, the same matters in respect of an alien must be governed by the laws of his own country.
- ✓ One's surname is usually that by which not only one as an individual but one's family as well is known. Thus Title XIII of the Civil Code (Articles 364 to 373) contains provisions for the use of surnames by legitimate, legitimated, illegitimate, and adopted children, as well as by women who are married, widowed or legally separated from their husbands. But a change of name as authorized under Rule 103 does not by itself define, or effect a change in, one's existing family relations, or in the rights and duties flowing therefrom, nor does it create new family rights and duties where none before were existing. It does not alter one's legal capacity, civil status or citizenship. What is altered is only the name, which is that word or combination of words by which a person is distinguished from others and which he bears as the label of appellation for the convenience of the world at large in addressing him, or in speaking of or dealing with him. The situation is no different whether the person whose name is changed be a citizen or an alien.
- ✓ The change is not a matter of right but of judicial discretion, to be exercised in the light of the reasons adduced and the consequences that will likely follow.

So v. Republic

- ✓ In determining whether or not an applicant for naturalization is entitled to become a Filipino citizen, it is necessary to resolve the following issues: (1) whether or not R.A. No. 9139 applies to petitions for naturalization by judicial act; and (2) whether or not the witnesses presented by petitioner are "credible" in accordance with the jurisprudence and the definition and guidelines set forth in C.A. No. 473.
- ✓ Naturalization signifies the act of formally adopting a foreigner into the political body of a nation by clothing him or her with the privileges of a citizen. Under current and existing laws, there are three ways by which an alien may become a citizen by naturalization: (a) administrative naturalization pursuant to R.A. No. 9139; (b) judicial naturalization pursuant to C.A. No. 473, as amended; and (c) legislative naturalization in the form of a law enacted by Congress bestowing Philippine citizenship to an alien.

- ✓ Petitioner failed to prove that the witnesses he presented were competent to vouch for his good moral character, and are themselves possessed of good moral character. It must be stressed that character witnesses in naturalization proceedings stand as insurers of the applicant's conduct and character. Thus, they ought to testify on specific facts and events justifying the inference that the applicant possesses all the qualifications and none of the disqualifications provided by law.
- ✓ Petitioner's witnesses clearly did not personally know him well enough; their testimonies do not satisfactorily establish that petitioner has all the qualifications and none of the disqualifications prescribed by law.
- ✓ In naturalization proceedings, it is the burden of the applicant to prove not only his own good moral character but also the good moral character of his/her witnesses, who must be credible persons.
- ✓ It must be stressed that admission to citizenship is one of the highest privileges that the Republic of the Philippines can confer upon an alien. It is a privilege that should not be conferred except upon persons fully qualified for it, and upon strict compliance with the law.

Contracts

Insular Gov't v. Frank

- ✓ Although Frank was still a minor under Philippine laws, he was nevertheless considered an adult under the laws of the state of Illinois, the place where the contract was made.
- ✓ No rule is better settled in law than that **matters bearing upon the execution, interpretation and validity of a contract are determined by the law of the place where the contract is made.**
- ✓ Matters connected with its performance are regulated by the law prevailing at the place of performance. Matters respecting a remedy, such as the bringing of suit, admissibility of evidence, and statutes of limitations, depend upon the law of the place where the suit is brought.
- ✓ The SC applied the law of the place of the contract/lex loci contractus. This same result would have been achieved had the court applied Frank's national law in deciding whether or not he had capacity to act.

Lhuillier v. British Airways

- ✓ Under Article 28(1) of the Warsaw Convention, the plaintiff may bring the action for damages before: 1. the court where the carrier is domiciled; 2. the court where the carrier has its principal place of business; 3. the court where the carrier has an establishment by which the contract has been made; or 4. the court of the place of destination. Article 28(1) of the Warsaw Convention is jurisdictional in character. In other words, where the matter is governed by the Warsaw Convention, jurisdiction takes on a dual concept. Jurisdiction in the international sense must be established in accordance with Article 28(1) of the Warsaw Convention, following which the jurisdiction of a particular court must be established pursuant to the applicable domestic law. Only after the question of which court has jurisdiction is determined will the issue of venue be taken up.
- ✓ The Republic of the Philippines is a party to the Convention for the Unification of Certain Rules Relating to International Transportation by Air, otherwise known as the Warsaw Convention. The Convention is thus a treaty commitment voluntarily assumed by the Philippine government and, as such, has the force and effect of law in this country. The Warsaw Convention applies because the air travel, where the alleged tortious conduct occurred, was between the United Kingdom and Italy, which are both signatories to the Warsaw Convention.

Property

Philip Morris v. CA

- ✓ Following universal acquiescence and comity, our municipal law on trademarks regarding the requirement of actual use in the Philippines must subordinate an international agreement

inasmuch as the apparent clash is being decided by a municipal tribunal. Withal, the fact that international law has been made part of the law of the land does not by any means imply the primacy of international law over national law in the municipal sphere. Under the doctrine of incorporation as applied in most countries, rules of international law are given a standing equal, not superior, to national legislative enactments.

- ✓ A fundamental principle of Philippine Trademark Law is that actual use in commerce in the Philippines is a pre-requisite to the acquisition of ownership over a trademark or a trade name. Adoption alone of a trademark would not give exclusive right thereto. Such right grows out of their actual use. Adoption is not use. One may make advertisements, issue circulars, give out price lists on certain goods; but these alone would not give exclusive right of use. For trademark is a creation of use. The underlying reason for all these is that purchasers have come to understand the mark as indicating the origin of the wares. Flowing from this is the trader's right to protection in the trade he has built up and the goodwill he has accumulated from use of the trademark. In fact, a prior registrant cannot claim exclusive use of the trademark unless it uses it in commerce.
- ✓ Petitioner has never conducted any business in the Philippines. It has never promoted its trade name or trademark in the Philippines. It is unknown to Filipino except the very few who may have noticed it while travelling abroad. It has never paid a single centavo of tax to the Philippine government. Under the law, it has no right to the remedy it seeks.

Mighty Corp. v. Gallo Winery

- ✓ GALLO trademark registration certificates in the Philippines and in other countries expressly state that they cover wines only, without any evidence or indication that registrant Gallo Winery expanded or intended to expand its business to cigarettes.
- ✓ Petitioners and respondents both use “GALLO” in the labels of their respective cigarette and wine products. But, as held in the following cases, the use of an identical mark does not, by itself, lead to a legal conclusion that there is trademark infringement

Sps. Alcantara v. Nido

- ✓ Article 1874 of the Civil Code explicitly requires a written authority before an agent can sell an immovable property. Based on a review of the records, there is absolutely no proof of respondent’s written authority to sell the lot to petitioners. In fact, during the pre-trial conference, petitioners admitted that at the time of the negotiation for the sale of the lot, petitioners were of the belief that respondent was the owner of lot. Petitioners only knew that Revelen was the owner of the lot during the hearing of this case. Consequently, the sale of the lot by respondent who did not have a written authority from Revelen is void. A void contract produces no effect either against or in favor of anyone and cannot be ratified.
- ✓ A special power of attorney is also necessary to enter into any contract by which the ownership of an immovable is transmitted or acquired for a valuable consideration. Without an authority in writing, respondent cannot validly sell the lot to petitioners. Hence, any “sale” in favor of the petitioners is void. Respondent did not have the written authority to enter into a contract to sell the lot. As the consent of Revelen, the real owner of the lot, was not obtained in writing as required by law, no contract was perfected. Consequently, petitioners failed to validly acquire the lot.
- ✓ The General Power of Attorney presented in the RTC cannot also be the basis of respondent’s written authority to sell the lot since it did not comply with Sec. 25, Rule 132 of the RoC.

Wells Fargo v. Collector

- ✓ Originally, the settled law in the United States is that intangibles have only one situs for the purpose of inheritance tax, and such situs is in the domicile of the decedent at the time of his or her death. But the rule has been relaxed.
- ✓ The maxim “mobile sequuntur personam,” upon which the rule rests, has been decried as a mere “fiction of law having

its origin in considerations of general convenience and public policy, and cannot be applied to limit or control the right of the State to tax property within its jurisdiction" and must "yield to established fact of legal ownership, actual presence and control elsewhere, and cannot be applied if to do so would result in inescapable and patent injustice."

- ✓ The relaxation of the original rule rests on either of two fundamental considerations: (1) upon the recognition of the inherent power of each government to tax persons, properties, and rights within its jurisdiction and enjoying, thus, the protection of its laws; and (2) upon the principle that as to intangibles, a single location in space is hardly possible, considering the multiple, distinct relationships which may be entered into with respect thereto.
- ✓ Herein, the actual situs of the shares of stock is in the Philippines, the corporation being domiciled therein. The certificates of stock remained in the Philippines up to the time when the deceased died in California, and they were in possession of one Syrena McKee, secretary of the corporation, to whom they have been delivered and indorsed in blank. McKee had the legal title to the certificates of stock held in trust for the true owner thereof.
- ✓ Accordingly, the jurisdiction of the Philippine Government to tax must be upheld.

Bryan v. Eastern

- ✓ The disputed contract stipulation would seem to be broad enough to cover every possible contingency, including the negligent act of defendant's servant. To so hold, however, would run counter to the established law of England and the United States on that subject.
- ✓ The reasonableness of the strict rule of construction that the courts of England and of the State of New York apply to contracts restricting the liability of carriers with respect to their negligence is apparent when one considers that such contracts are held to be contrary to public policy and invalid in the Federal courts and in most of the State courts of the Union.
- ✓ In view of the accurate answers of the learned witness to the questions put to him as to the validity of the condition in question under English law, there is no reason to suppose that he would not have stated correctly the rule as to the *construction* of the condition had his attention been directed to that point. In any event, the Court is not, by reason of the opinion expressed by an expert witness as to the law of a foreign country, precluded from advising itself from other sources as to the law of that country.

Sterling Products v. Bayer

- ✓ The law of trademarks "rests upon the doctrine of nationality or territoriality."
- ✓ Accordingly, the 1927 registration in the United States of the BAYER trademark would not of itself afford plaintiff protection for the use by defendants in the Philippines of the same trademark for the same or different products.
- ✓ A question basic in the field of trademarks and unfair competition is the extent to which a registrant of a trademark covering one product may invoke the right to protection against the use by other(s) of the same trademark to identify merchandise different from those for which the trademark has been appropriated.

Marriage

Apt v. Apt

- ✓ ISSUE: W/N proxy marriages are positively prohibited by law for motives of public policy? NO
- ✓ RULING: If there is one question better settled than any other in international law, it is that as regards marriage – putting aside the question of capacity – locus regit actum. If a marriage is good by the laws of the country where it is effected, it is good all the world over, no matter where the proceeding or ceremony which constituted marriage according to the law of the place would or would not constitute marriage in the country of domicile of one or other of the spouses.
- ✓ If the so-called marriage is no marriage in the place where it is celebrated, there is no marriage anywhere, although the ceremony or proceeding if conducted in the place of parties' domicile would be considered a good marriage.
- ✓ That the contract of marriage in this case was celebrated in Buenos Aires; that the ceremony was performed strictly in accordance with the law of that country; that the celebration of marriage by proxy is a matter of FORM of the ceremony or proceeding, and not an ESSENTIAL of the marriage; that there is nothing abhorrent to Christian ideas in the adoption of that form; and that, in the absence of legislation to the contrary, there is no doctrine of public policy which entitles me to hold that the ceremony, valid where it was performed, is not effective in this country to constitute a valid marriage.

Wong Woo Yiu v. Vivo

- ✓ Not only is there no documentary evidence to support the alleged marriage of petitioner to Perfecto Blas but the record is punctured with so many inconsistencies which cannot but lead one to doubt their veracity concerning the pretended marriage in China in 1929.
- ✓ Art. 15 of NCC provides that laws relating to family rights or to the status of persons are binding upon citizens of the Philippines, even though living abroad, and it is well-known that in 1929 in order that a marriage celebrated in the Philippines may be valid it must be solemnized either by a judge of any court inferior to the SC, a justice of the peace, or a priest or minister of the gospel of any denomination.
- ✓ A marriage contracted outside of the Philippines which is valid under the law of the country in which it was celebrated is also valid in the Philippines. But no validity can be given to this contention because no proof was presented relative to the law of marriage in China. Such being the case, the Court applied the general rule that in the absence of proof of the law of a foreign country it should be presumed that it is the same as our own.
- ✓ And therefore, the marriage of petitioner to Perfecto Blas before a village leader is valid in China, the same is not one of those authorized in our country.

Van Dorn v. Romillo

- ✓ ISSUE: W/N the divorce obtained from US is valid in the Philippines? YES
- ✓ SC: There can be no question as to the validity of that Nevada divorce in any of the States of the United States. The decree is binding on private respondent as an American citizen. For instance, private respondent cannot sue petitioner, as her husband, in any State of the Union. What he is contending in this case is that the divorce is not valid and binding in this jurisdiction, the same being contrary to local law and public policy.
- ✓ It is true that owing to the nationality principle embodied in Article 15 of the Civil Code, only Philippine nationals are covered by the policy against absolute divorces the same being considered contrary to our concept of public policy and morality. However, aliens may obtain divorces abroad, which may be recognized in the Philippines, provided they are valid according to their national law. In this case, the divorce in

Nevada released private respondent from the marriage from the standards of American law, under which divorce dissolves the marriage.

- ✓ Thus, pursuant to his national law, private respondent is no longer the husband of petitioner. He would have no standing to sue in the case below as petitioner's husband entitled to exercise control over conjugal assets. As he is bound by the Decision of his own country's Court, which validly exercised jurisdiction over him, and whose decision he does not repudiate, he is estopped by his own representation before said Court from asserting his right over the alleged conjugal property.
- ✓ In this case, the divorce released private respondent from the marriage from the standards of American law, under which divorce dissolves the marriage.

Republic v. Orbecido

- ✓ ISSUE: Given a valid marriage between two Filipino citizens, where one party is later naturalized as a foreign citizen and obtains a valid divorce decree capacitating him or her to remarry, can the Filipino spouse likewise remarry under Philippine law? YES
- ✓ SC: The Court holds that paragraph 2 of Art. 26 should be interpreted to include cases involving parties who, at the time of the celebration of marriage were Filipino citizens, but later on, one of them becomes naturalized as a foreign citizen and obtains a divorce decree. The Filipino spouse should likewise be allowed to remarry as if the other party were a foreigner at the time of the solemnization of the marriage.
- ✓ The twin elements for the application of Art. 26 (2) are:
    - There is a valid marriage that has been celebrated between a Filipino citizen and a foreigner; and
    - A valid divorce is obtained abroad by the alien spouse capacitating him/her to remarry.
- ✓ When Cipriano's wife was naturalized as an American citizen, there was still a valid marriage that has been celebrated between her and Cipriano. As fate would have it, the naturalized alien wife subsequently obtained a valid divorce capacitating her to remarry. Clearly, the twin requisites for the application of Art. 26 (2) are both present in the case.

Bayot v. CA

- ✓ Three legal premises need to be underscored: (1) a divorce obtained abroad by an alien married to a Philippine national may be recognized in the Philippines, provided the decree of divorce is valid according to the national law of the foreigner; (2) the reckoning point is not the citizenship of the divorcing parties at birth or at the time of marriage, but their citizenship at the time a valid divorce is obtained abroad; and (3) an absolute divorce secured by a Filipino married to another Filipino is contrary to our concept of public policy and morality and shall not be recognized in this jurisdiction.
- ✓ There can be no serious dispute that Rebecca, at the time she applied for and obtained her divorce from Vicente, was an American citizen and remains to be one, absent proof of an effective repudiation of such citizenship. The following are compelling circumstances indicative of her American citizenship: (1) she was born in Agaña, Guam, USA; (2) the principle of *jus soli* is followed in this American territory granting American citizenship to those who are born there; and (3) she was, and may still be, a holder of an American passport.
- ✓ A foreign divorce can be recognized here, provided the divorce decree is proven as a fact and as valid under the national law of the alien spouse. Be this as it may, the fact that Rebecca was clearly an American citizen when she secured the divorce and that divorce is recognized and allowed in any of the States of the Union, the presentation of a copy of foreign divorce decree **duly authenticated** by the foreign court issuing said decree is, as here, sufficient.

Corpuz v. Sto. Tomas

- ✓ ISSUE: W/N Art. 26 (2) of the Family Code extends to aliens the right to petition a court of this jurisdiction for the recognition of a foreign divorce decree? NO.
- ✓ SC: The alien spouse can claim no right under this provision as the substantive right is established in favour of the Filipino spouse. It provided the Filipino a spouse to have his or her marriage to the alien spouse considered as dissolved, capacitating him/her to remarry.
- ✓ An action based on the second paragraph of Article 26 of the Family Code is not limited to the recognition of the foreign divorce decree. If the court finds that the decree capacitated the alien spouse to remarry, the courts can declare that the Filipino spouse is likewise capacitated to contract another marriage. No court in this jurisdiction, however, can make a similar declaration for the alien spouse (other than that already established by the decree), whose status and legal capacity are generally governed by his national law.
- ✓ The unavailability of the second paragraph of Art 26 of the Family Code to aliens does not necessarily strip the petitioner Corpuz of legal interest to petition the RTC for the recognition of his foreign divorce decree. The petitioner, being a naturalized Canadian citizen now, is clothed by the presumptive evidence (Sec. 48, Rule 39 (b)) of the authenticity of foreign divorce decree with conformity to alien's national law.
- ✓ The Pasig City Civil Registry acted out of line when it registered the foreign decree of divorce on the petitioner and respondent's marriage certificate without judicial order recognizing the said decree. The registration of the foreign divorce decree without the requisite judicial recognition is void. CASE IS REMANDED.

Fujiki v. Marinay

- ✓ ISSUE: W/N the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages (A.M. No. 02-11-10-SC) is applicable? NO
- ✓ SC: 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*, 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." 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.
- ✓ ISSUE: 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? YES
- ✓ SC: Yes. The 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." 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.

Cheesman v. IAC

- ✓ Such conclusions that (1) fraud, mistake or excusable negligence existed in the premises justifying relief to Eselita Padilla under Rule 38; (2) that Criselda Cheesman had used money she had brought into her marriage to Thomas Cheesman to purchase the lot and house in question, or (3) that Estelita Padilla believed in good faith that Criselda Cheesman was the exclusive owner of the property that she intended to and did in fact buy were found SUFFICIENT to prove the three factual matters set forth.
- ✓ Section 14, Art XIV of the 1987 CONSTI prohibits the sale to aliens of residential land. Pursuant to this, petitioner Thomas

Cheesman acquired no right whatsoever over the property by virtue of the purchase of the land of his wife, the sale as to him was null and void. He had and has no capacity or personality to question the subsequent sale of the same property by his wife on the theory that in so doing he is merely exercising the prerogative of a husband in respect of conjugal property. If the property were declared to be conjugal, this would accord to the alien husband a not insubstantial interest and right over the land which the Constitution does not permit him to have.

Garcia v. Recio

- ✓ The divorce decree between respondent and Editha Samson appears to be an authentic one issued by an Australian family court. However, appearance is not sufficient; compliance with the aforementioned rules on evidence must be demonstrated. Respondent has not yet sufficiently proved the Australian Marital Law applicable to support his claim insisting that divorce decree is sufficient and that judges may take judicial notice of foreign laws.
- ✓ A divorce obtained abroad by an alien may be recognized in our jurisdiction, provided such decree is valid according to the national law of the foreigner. However, the divorce decree and the governing personal law of the alien spouse who obtained the divorce must be proven. Our courts do not take judicial notice of foreign laws and judgments; hence, like any other facts, both the divorce decree and the national law of the alien must be alleged and proven according to our law on evidence.
- ✓ In its strict legal sense, *divorce* means the legal dissolution of a lawful union for a cause arising after marriage. But divorces are of different types. The two basic ones are (1) absolute divorce or *a vinculo matrimonii* and (2) limited divorce or *a mensa et thoro.* The first kind terminates the marriage, while the second suspends it and leaves the bond in full force.
- ✓ Respondent presented a decree nisi or an interlocutory decree -- a conditional or provisional judgment of divorce. It is in effect the same as a separation from bed and board, although an absolute divorce may follow after the lapse of the prescribed period during which no reconciliation is effected. The divorce obtained by respondent may have been restricted. It did not absolutely establish his legal capacity to remarry according to his national law. Hence, the Court found no basis for the ruling of the trial court, which erroneously assumed that the Australian divorce *ipso facto* restored respondent's capacity to remarry despite the paucity of evidence on this matter.
- ✓ Legal capacity to contract marriage is determined by the national law of the party concerned. The certificate mentioned in Article 21 of the Family Code would have been sufficient to establish the legal capacity of respondent, had he duly presented it in court. A duly authenticated and admitted certificate is prima facie evidence of legal capacity to marry on the part of the alien applicant for a marriage license. As it is, however, there is absolutely no evidence that proves respondent's legal capacity to marry petitioner.

Roehr v. Rodriguez

- ✓ As a general rule, divorce decrees obtained by foreigners in other countries are recognizable in our jurisdiction, but the legal effects thereof, *e.g.* on custody, care and support of the children, must still be determined by our courts. Before our courts can give the effect of res judicata to a foreign judgment, such as the award of custody to petitioner by the German court, it must be shown that the parties opposed to the judgment had been given ample opportunity to do so on grounds allowed under Rule 39, Section 50 of the Rules of Court (now Rule 39, Section 48, 1997 Rules of Civil Procedure).
- ✓ It is essential that there should be an opportunity to challenge the foreign judgment, in order for the court in this jurisdiction to properly determine its efficacy. In this jurisdiction, our Rules of Court clearly provide that with respect to actions *in personam*, as distinguished from actions *in rem*, a foreign judgment merely constitutes *prima facie* evidence of the justness of the claim of a party and, as such, is subject to proof to the contrary.

- ✓ In the present case, it cannot be said that private respondent was given the opportunity to challenge the judgment of the German court so that there is basis for declaring that judgment as *res judicata* with regard to the rights of petitioner to have parental custody of their two children. The proceedings in the German court were summary. As to what was the extent of private respondent's participation in the proceedings in the German court, the records remain unclear. The divorce decree itself states that neither has she commented on the proceedings nor has she given her opinion to the Social Services Office.
- ✓ Absent any finding that private respondent is unfit to obtain custody of the children, the trial court was correct in setting the issue for hearing to determine the issue of parental custody, care, support and education mindful of the best interests of the children. This is in consonance with the provision in the Child and Youth Welfare Code that the child's welfare is always the paramount consideration in all questions concerning his care and custody.

Dacasin v. Dacasin

- ✓ ISSUE: W/N the trial court has jurisdiction to take cognizance of petitioner's suit and enforce the Agreement on the joint custody of the parties' child? YES
- ✓ SC: Subject matter jurisdiction is conferred by law. At the time petitioner filed his suit in the trial court, statutory law vests on Regional Trial Courts exclusive original jurisdiction over civil actions incapable of pecuniary estimation. An action for specific performance, such as petitioner's suit to enforce the Agreement on joint child custody, belongs to this species of actions. Thus, jurisdiction-wise, petitioner went to the right court.
- ✓ The foregoing notwithstanding, the trial court cannot enforce the Agreement which is contrary to law. In this jurisdiction, parties to a contract are free to stipulate the terms of agreement subject to the minimum ban on stipulations contrary to law, morals, good customs, public order, or public policy. Otherwise, the contract is denied legal existence, deemed "inexistent and void from the beginning."
- ✓ At the time the parties executed the Agreement, two facts are undisputed: (1) Stephanie was under seven years old; and **(2) petitioner and respondent were no longer married under the laws of the United States because of the divorce decree.**
- ✓ The relevant Philippine law on child custody for spouses separated in fact or in law (Art.213(2) FC) is also undisputed. This statutory awarding of sole parental custody to the mother is mandatory, grounded on sound policy consideration, subject only to a narrow exception not alleged to obtain here. Clearly then, the Agreement's object to establish a post-divorce joint custody regime between respondent and petitioner over their child under seven years old contravenes Philippine law.
- ✓ The Agreement is not only void ab initio for being contrary to law, it has also been repudiated by the mother when she refused to allow joint custody by the father. **The Agreement would be valid if the spouses have not divorced or separated because the law provides for joint parental authority when spouses live together.** However, upon separation of the spouses, the mother takes sole custody under the law if the child is below seven years old and any agreement to the contrary is void.
- ✓ Petitioner CANNOT rely on the divorce decree's alleged invalidity - not because the Illinois court lacked jurisdiction or that the divorce decree violated Illinois law, but because the divorce was obtained by his Filipino spouse - to support the Agreement's enforceability. The argument that foreigners in this jurisdiction are not bound by foreign divorce decrees is hardly novel. Van Dorn v. Romillo settled the matter by holding that an alien spouse of a Filipino is bound by a divorce decree obtained abroad.

Succession

Miciano v. Brimo

- ✓ The case concerns the partition of the estate left by Joseph Brimo. Juan Miciano (administrator) filed a scheme of

partition which was opposed by Andre Brimo on the ground that the partition in question puts into effect the provisions of the deceased's will which are not in accordance with the lws of his Turkish nationality.

- ✓ However, the Court applied processual presumption in the absence of evidence of Turkish laws. It has not been proved in these proceedings what the Turkish laws are. The refusal to give the oppositor another opportunity to prove such laws does not constitute an error. It is discretionary with the trial court. There is, therefore, no evidence in the record that the national law of the testator Joseph Brimo was violated in the testamentary dispositions, which, not being contrary to our laws in force, must be complied with.
- ✓ A provision in a foreigner's will to the effect that is properties shall be distributed in accordance with Philippine law and not with his national law is ILLEGAL and VOID, for his national law cannot be ignored in regard to those matters that then Art 10 of the Civil Code states said national law should govern.

Fluemer v. Hix

- ✓ The laws of a foreign jurisdiction do not prove themselves in our courts. The courts of the Philippine islands are not authorized to take judicial notice of the laws of the various States of the American Union. Such laws must be proved as facts.
- ✓ Here, the requirements of the law were not met. There was no showing that the book from which an extract was printed or published under the authority of the State of West Virginia. Nor was the extract from the law attested by the certificate of the officer having charge of the original, under the seal of the State of West Virginia, as provided in Sec. 301 of the Code of Civil Procedure.
- ✓ No evidence was introduced to show that the extract from the laws of West Virginia was in force at the time the alleged will was executed. The due execution of the will was not established. The only evidence was the testimony of the petitioner. There was nothing to indicate that the will was acknowledged by the testator in the presence of two competent witnesses, or that these witnesses subscribed to the will in the presence of the testator and of each other as the law of West Virginia seems to require.

Gibbs v. Government

- ✓ Art.10 of the old Civil Code provides that "personal property is subject to the laws of the nation of the owner thereof; real property to the laws of the country in which it is situated."
- ✓ On the other hand, the California Code provides that pursuant to the rule that "real property is subject to the lex rae sitate, the respective rights of husband and wife in such property, in the absence of an antenuptial contract, are determined by the law of the place where the property is situated, irrespective of the domicile of the parties or to the place where the marriage was celebrated. Under this broad principle, the nature and extent of the title which vested in Mrs. Gibbs at the time of the acquisition of the community lands here in question must be determined in accordance with lex rae sitae.
- ✓ It is admitted that the Philippine lands here in question were acquired as community property of the conjugal partnership of Allison Gibbs and his deceased wife. Under the law of the PI, she was vested of a title equal to that of hr husband. Thus, the descendible interest of Eva Johnson Gibbs in the lands aforesaid was transmitted to her heirs by virtue of inheritance and this transmission plainly falls within the language of Sec. 1536 of the Administrative Code which levies a tax on inheritances. It is unnecessary in this proceeding to determine the order of succession or the exten of the successional rights which would be regulated by the California Code.

Aznar v. Garcia

- ✓ The law that governs the validity of Edward Christensen's testamentary dispositions is defined in Art. 16 of the Civil Code of the Philippines.
- ✓ There is no single American law governing the validity of testamentary provisions in the US, each state of the union having its own private law applicable to its citizens only and

in force only within the state. So it can refer to no other than the private law of the state to which the decedent is a citizen, in the case at bar, the private law of the State of California.

- ✓ Art. 946 of the California Civil Code provides that it is the law of the domicile of the deceased that governs disposition of personal property. On the other hand, *In re Kaufman* provides that the law governing successional rights and the intrinsic validity of the deceased are to be governed by the law of the place where he died.
- ✓ Renvoi was applied in the case at bar. The principle cited in *In re Kaufman* should apply to citizens living in the State but Art. 946 should apply to such citizens as are not domiciled in California but in other jurisdictions. If the Court is to enforce the law of California, then the internal law for residents therein, and its conflict-of-laws rule for those domiciled abroad should be applied. Thus, Philippine law (the deceased's domicile) should be applied.
- ✓ The Philippine court must apply its own law as directed in the conflict of laws rule of the state of the decedent, if the question has to be decided, especially as the application of the internal law of California provide no legitime for children while the Philippine law, NCC 887(4) and 894 makes natural children legally acknowledged forced heirs of the parent recognizing them.

Bellis v. Bellis

- ✓ Renvoi was not applied because such doctrine is usually pertinent where the decedent is a national of one country, and a domicile of another.
- ✓ In the present case, decedent was both a national of Texas and a domicile thereof at the time of his death. So that even assuming Texas has a conflict of law rule providing that the domiciliary system should govern, the same would not result in a reference back to the Philippine law, but would still refer to Texas law.
- ✓ The parties admit that the decedent was a citizen of the State of Texas, USA, and that under Texas law, there are no forced heirs or legitimes. Accordingly, since the intrinsic validity of the provision of the will and the amount of successional rights are to be determined under Texas law, the Philippine law on legitimes cannot be applied to the testacy of deceased.

PCIB v. Escolin

- ✓ There is no reliable evidence as to what are the applicable laws of Texas USA "with respect as to the order of succession and to the amount of successional rights" that may be willed by a testator which, under Art. 16 of the Civil Code, are controlling in the instant cases, in view of the undisputed Texan nationality of the deceased, these cases should be remanded so that the parties may prove what the said law provides.
- ✓ The question of what are the laws of Texas governing the issue re: validity of the testamentary dispositions herein is, in the first instance, one of fact, not of law. Elementary is the rule that foreign laws may not be taken judicial notice of and have to be proven like any other fact in dispute between the parties in any proceeding, with the rare exception in instances when said laws are already within the actual knowledge of the court, such as when they are well and generally known or they have been actually ruled upon in other cases before and it and none of the parties claim otherwise.

Phil Trust v. Bohanan

- ✓ W/N the testamentary dispositions especially those for the children which are short of the legitime given them by the Civil Code of the Philippines are valid? YES
- ✓ In the proceedings for the probate of the will, it was found out and it was decided that the testator was a citizen of the State of Nevada because he had selected this as his domicile and his permanent residence.
- ✓ It is not disputed that the laws of Nevada allow a testator to dispose of his properties by will. It does not appear that at the time of the hearing of the project of partition, the provision was introduced in evidence. However, the Court has consulted the records and have found that during the hearing the pertinent foreign law of Nevada was introduced

in evidence. In addition, the children of the testator does not dispute the laws of Nevada. Thus, the pertinent law of Nevada was taken judicial notice of the SC.

- ✓ In accordance with Art. 10 (now Art. 16(2)) of the old Civil Code, the validity of testamentary dispositions are to be governed by the national law of the testator, ad as it has been decided and it is not disputed that the national law of the testator is that of the State of Nevada which allows na testator to dispose of all his property according to his will.

Llorente v. CA

- ✓ The fact that the late Lorenzo Llorente became an American citizen long before and at the time of: (1) his divorce from Paula (1st wife); (2) marriage to Alicia (2nd wife); (3) execution of his will; and (4) death, is duly established, admitted and undisputed. Thus, as a rule, issues arising from these incidents are necessarily governed by foreign law.
- ✓ The divorce obtained by deceased Lorenzo Llorente from his first wife was valid and recognized in this jurisdiction as a matter of comity. Now, the effects of this divorce (as to the succession to the estate of the decedent) are matters best left to the trial court.
- ✓ Whether the will is intrinsically valid and who shall inherit from Lorenzo are issues best proved by foreign law which must be pleaded and proved. Whether the will was executed in accordance with the formalities required is answered by referring to Philippine law.

Tayag v. Benguet

- ✓ A dispute arose between the domiciliary (NYC) and ancilliary (Phils) administrators as to which of them was entitled to the possession of the stock certificates owned by deceased.
- ✓ It is often necessary to have more than one administration of an estate. When a person dies intestate owning property in the country of his domicile as well as in a foreign country, administration is had in both countries. That which is granted in the jurisdiction of decedent's last domicile is termed the principal administration, while any other administration is termed the ancillary administration. The reason for the latter is because a grant of administration does not *ex proprio vigore* have any effect beyond the limits of the country in which it is granted. Hence, an administrator appointed in a foreign state has no authority in the United States. The ancillary administration is proper, whenever a person dies, leaving in a country other than that of his las domicile, property to be administered in the nature of assets of the decedent, liable for his individual debts or to be distributed among his heirs.
- ✓ It is a general rule universally recognized that administration, whether principal or ancillary, certainly extends to the assets of a decedent found within the state or country where it was granted," the corollary being "that an administrator appointed in one state/country has no power over property in another state/country."
- ✓ Hence, an administrator appointed in a foreign state is proper, whenever a person dies, leaving in a country other than that of his last domicile, property to be administered in the nature of assets of the deceased liable for his individual debts or to be distributed among his heirs.

Johannes v. Harvey

- ✓ The principal administration in this instance is that at the domicile of the late Carmen Theodora Johannes in Singapore, Straits Settlements. What is sought in the Philippine Islands is an ancillary administration subsidiary to the domiciliary administration, conformable to the provisions of sections 601, 602, and 603 of the Code of Civil Procedure. The proper course of procedure would be for the ancillary administrator to pay the claims of creditors, if there be any, settle the accounts, and remit the surplus to the domiciliary jurisdiction, for distribution among the next of kin. Such administration appears to be required in this jurisdiction since the provisions of section 596 of the Code of Civil Procedure, which permit of the settlement of certain estates without legal proceedings, have not been met.
- ✓ It is almost a universal rule to give the surviving spouse a preference when an administrator is to be appointed, unless

for strong reasons it is deemed advisable to name someone else.

- ✓ However, the Code of Civil Procedure, in section 642, while naming the surviving husband or wife, as the case may be, as one to whom administration can be granted, leaves this to the discretion of the court to determine, for it may be found that the surviving spouse is unsuitable for the responsibility. Moreover, non-residence is a factor to be considered in determining the propriety of the appointment, and in this connection, it is to be noted that the husband of the deceased, the administrator of the principal administration, resides in Singapore. Undoubtedly, if the husband should come into this jurisdiction, the court would give consideration to this petition that he be named the ancillary administrator for local purposes. Ancillary letters should ordinarily be granted to the domicilliary representative, if he applies therefor, or to his nominee, or attorney; but in the absence of express statutory requirement the court may in its discretion appoint some other person.

Sy Joc Lieng v. Sy Quia

- ✓ Plaintiffs claim that they are heirs of deceased Vicente Sy Quia being marriage to their mother who lives in China, and are therefore entitled to his inheritance. Defendants are Filipinos who allege that they are the rightful heirs of the deceased as he was married to Petronila Encarnacion, a native of Vigan evidenced by their marriage certificate.
- ✓ Vicente was admittedly a native Chinaman. Even so, he has resided in the PI since January 1984 until he died – for a period of 53 years; he has obtained the necessary license or permission; was converted to the Catholic religion; marriage a woman from Vigan and established his domicile first in Ilocos and later on, the City of Manila with the intention of residing permanently. Thus, it is unquestionable that by virtue of all these acts he acquired a residence and became definitely domiciled in these islands with the same rights as any nationalized citizen in accordance with the laws in force in these islands while he lived and until his death.

Torts and Crimes

U.S. v. Bull

- ✓ Bull, master of a vessel named *Standard*, transported and brought into the port of the City of Manila 677 head of cattle and carabaos, without providing suitable means for securing said animals while in transit, so as to avoid cruelty and unnecessary suffering to the said animals. Bull was then convicted of a violation of Act No. 275 by the CFI.
- ✓ ISSUE: W/N the Phil courts had jurisdiction over an offense of this character, committed on board a foreign ship by the master thereof, when the neglect and omission which constitutes the offense continued during the time the ship was within the territorial waters of the US? YES
- ✓ SC: No court of the PI had jurisdiction over an offense or crime committed on the high seas or within the territorial waters of any other country, but when she came within 3 miles of a line drawn from the headlines which embrace the entrance to Manila Bay, but *Standard* was within territorial waters, and a new set of principles became applicable.
- ✓ The offense, assuming that it originated at the port of departure in Formosa, was a continuing one, and every element necessary to constitute it existed during the voyage across the territorial waters. The completed forbidden act was done within American waters, and the court therefore had jurisdiction over the subject-matter of the offense and the person of the offender.
- ✓ The SC of the US has recently said that the merchant vessels of one country visiting the ports of another for the purpose of trade, subject themselves to the laws which they govern the ports they visit, so long as they remain; and this as well in war as in peace, unless otherwise provided by treaty.

Saudi Arabian Airlines v. CA

- ✓ W/N the Philippine law is applicable law in the case? YES

- ✓ SC: Considering that the complaint filed is one involving torts, the "connecting factor" or "point of contact" could be the place where the tortuous conduct or the *lex loci actus* occurred. And applying the torts principle in a conflicts case, the Philippines could be said a *situs* of the tort.
- ✓ This is because it is in the PI where SAUDIA allegedly deceived respondent, a Filipina residing and working here. She had honestly believed that SAUDIA would, in the exercise of its rights and in the performance of its duties, "act with justice, give her due and observe honesty and good faith." That certain parts of the injury allegedly occurred in another country is of no moment.
- ✓ As to the choice of applicable law, we note that choice-of-law problems seek to answer two important questions: (1) What legal system should control a given situation where some of the significant facts occurred in two or more states; (2) To what extent should the chosen legal system regulate the situation.

Navida v. Dizon

- ✓ A number of personal injury suits were filed in different Texas state courts by citizens of twelve foreign countries, including the Philippines. The thousands of plaintiffs sought damages for injuries they allegedly sustained from their exposure to DBCP, while working on farms in 23 foreign countries.
- ✓ ISSUE: W/N the RTC of Gen Santos City and the RTC of Davao City had jurisdiction over the present complaint? YES
- ✓ SC: The rule is settled that jurisdiction over the subject matter of a case is conferred by law and is determined by the allegations in the complaint and the character of the relief sought, irrespective of whether the plaintiffs are entitled to all or some of the claims asserted therein. Once vested by law, on a particular court or body, the jurisdiction over the subject matter or nature of the action cannot be dislodged by anybody other than by legislature through the enactment of a law.
- ✓ From the foregoing, it is clear that the claim for damages is the main cause of action and that the total amount sought in the complaint is approx P2.7M for each of plaintiff claimants. The RTCs unmistakably have jurisdiction over the cases filed.
- ✓ The allegations in the complaint constitute the cause of action of plaintiffs – a quasi-delict, which under the NCC, is defined as an act, or omission which causes damage to another, there being fault or negligence.

Trajano v. Marcos-Manotoc

- ✓ ATS requires a claim by an alien, a tort, and a violation of an international law. Trajano's complaint alleges that she and her son were citizens of the PI, and that her claims for relief arise under wrongful death statues and various international declarations. There is no doubt, as the district court found, that causing Trajano's death was wrongful, and is a tort. Nor, in view of Marcos-Manotoc's default, is there any dispute that Trajano's death was caused by torture.
- ✓ The prohibition against official torture occupies a uniquely high status among norms of international law. The Philippine government has no objection to a US District Court's entertaining Trajano's claim, so there can be no unwarranted interference with its domestic affairs. For these reasons, subject-matter jurisdiction was exercise even though the actions which caused a fellow citizen to be the victim of official torture and murder occurred outside US.
- ✓ Although Marcos-Manotoc's default concedes that she controlled the military intelligence personnel who tortured and murdered Trajano, and that she was acting under the color of the martial law declared by her father, the Court has concluded that her actions were not those of the Republic of the PI for purposes of sovereign immunity.

Filartiga v. Pena

- ✓ A suit was filed by Dr. Joel Filartiga claiming that defendant Pena had tortured former's son to death while he was a police Inspector General. Defendant went to the US for vacation and was now sued by the plaintiffs who became US citizens under the ATS, which provided jurisdiction for tort committed in violation of the "law of nations."

- ✓ ISSUE: W/N the conduct violates the law of nations? YES
- ✓ RULING: Official torture is now prohibited by the law of nations. For the purpose of the Alien Tort Statute, torture may be considered to violate the law of nations. The prohibition against torture has become part of customary international law.
- ✓ Alien Tort Statute provides that **"the district courts shall have original jurisdiction of any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the US."**
- ✓ It is not extraordinary for a court to adjudicate a tort claim arising outside of its territorial jurisdiction. A state or nation has a legitimate interest in the orderly resolution of disputes among those within its borders and where the *lex loci delicti commissi* is applied, it is an expression of comity to give effect to the laws of the state where the wrong occurred.
- ✓ In the absence of a congressional enactment, the US courts are "bound by the law of nations, which is a part of the law of the land." International law is part of our law, and must be ascertained and administered by the courts of justice of appropriate jurisdiction, as often as questions of right depending upon it are duly presented for their determination.
- ✓ The Alien Tort Statute does not grant new rights to aliens, but simply opens the federal courts for adjudication of the rights already recognized by international law.

Kadic v. Karadzic

- ✓ Plaintiffs (Kadic et al) who are Croat and Muslim citizens of the internationally recognized nation of Bosnia-Herzegovina, allege that they are victims and representatives of victims of various atrocities (rape, torture, summary execution among others) carried out by Bosnian-Serb military forces as part of a genocidal campaign conducted in the course of the Bosnian civil war. Karadzic is a citizen of Bosnia-Herzegovina and the President of a three-man presidency of the self-proclaimed Bosnian-Serb republic within Bosnia-Herzegovina. Plaintiffs sought compensatory and punitive damages on the basis of violations of ATS and Torture Victim Protection Act of 1991.
- ✓ ATS confers federal subject-matter jurisdiction when the following conditions are satisfied viz: (1) an alien sues; (2) for a tort; (3) committed in violation of the law of the nations. The first two requirements are plainly satisfied here and the only disputed issue is whether plaintiffs have impleaded violations of international law.
- ✓ Private persons may be found liable under the ATS for acts of genocide, war crimes and other violations of international humanitarian law.
- ✓ The ruling in *Filartiga* mentions that official torture is prohibited by universally accepted norms of international law and that Torture Victim Act confirms this holding and extends it to cover summary execution. However, torture and summary execution – when NOT perpetrated in the course of war crimes – are proscribed by international law only when committed by state officials or under color of law.
- ✓ It suffices to hold at this stage that the alleged atrocities are actionable under the Alien Tort Act, without regard to state action, to the extent that they were committed in pursuit of genocide or war crimes, and otherwise may be pursued against Karadzic to the extent that he is shown to be a state actor.
- ✓ The customary international law of human rights, such as the proscription of official torture, applies to states without distinction between recognized and unrecognized states.
- ✓ The Torture Victim Act renders liable only those individuals who have committed torture or extrajudicial killing "under actual or apparent authority, or color of law, of any foreign nation."

Doe v. Unocal

- ✓ Villagers in Myanmar, former Burma, brought suit against Unocal and its business partners under the ATCA alleging forced labour, murder, rape, and torture inflicted while a pipeline was being built in the region. Unocal, a U.S. corporation, owned a 28% interest in French oil company Total's license to produce, transport and sell natural gas off the Myanmar coast. Myanmar military provided security for the project, although there

was a dispute as to whether the government provided its military or Unocal hired the military and who directed and controlled the security force's actions. However, the Myanmar military had a well-known record for human rights abuses, including those alleged by the villagers, and Unocal was specifically made aware of this record, conducting a risk assessment and keeping management apprised of the allegations. The U.S. district court dismissed the claims against the Myanmar Military and Myanmar Oil, a partner in the project, on the grounds that they were entitled to immunity under the FSIA but allowed the ATCA claims against Unocal to continue. The district court also dismissed state law claims for lack of jurisdiction. Unocal filed a motion for summary judgment, asking the district court to rule on the case based solely on the villagers' allegations and Unocal's response, without a trial. Granting this motion, the district court found, on the claims of rape, murder, and torture, that the plaintiffs could not show that Unocal engaged in state action or that it controlled the military. On the claim of forced labour, the court found that the plaintiffs could not show that Unocal was an active participant. Judgment was entered in favour of Unocal.

- ✓ The villagers appealed the federal claim dismissal and the judgment for Unocal. The Ninth Circuit reversed in part, finding that the torts alleged violated the law of nations and that certain acts committed in furtherance of crimes such as genocide, war crimes, and slavery do not require state action for liability to attach. Applying international criminal law, a court could find Unocal liable under an aiding and abetting theory because its knowledge of, and complacence towards, the torts enabled them to take place. Ultimately, the Ninth Circuit found insufficient evidence to maintain the ATCA action as to torture, but reversed the dismissal of the forced labour, rape, and murder claims, sending the case back to the district court to be tried.
- ✓ The villagers won a second coup, filing the dismissed state law claims in California and surviving Unocal's motions to dismiss. The case went to trial in state court and became the first instance of a U.S. corporation standing trial for human rights abuses committed abroad.
- ✓ The Ninth Circuit had agreed to rehear the case in 2003 before the entire 11-judge panel, but the parties settled both the federal and state cases before decisions could be rendered in either.

Sosa v. Alvarez-Machain

- ✓ In this Supreme Court decision, the Justices reversed an award of damages to Mexican national Humberto Alvarez-Machain for "arbitrary arrest." The Drug Enforcement Agency (DEA) alleged that Alvarez-Machain was present during the torture and execution of one of its agents in Mexico. He was indicted and a warrant issued for his arrest. Jose Francisco Sosa was hired by the DEA to forcibly bring Alvarez-Machain into the U.S. from Mexico so he could be arrested. After being forcibly brought to the U.S. to stand trial and acquitted, Alvarez-Machain filed a civil claim against Sosa under the ATS and Sosa prevailed in the district court. The Ninth Circuit affirmed the district court's award of $25,000 and Sosa appealed to the U.S. Supreme Court.
- ✓ The Justices unanimously agreed that the ATS conferred jurisdiction and did not require any additional act of Congress for a claim to be filed under it. However, they also unanimously agreed that only a very narrow set of common law actions could be brought under the Act and that those violations must be defined with great specificity in international law.
- ✓ Alvarez-Machain's claim was deficient in this aspect because he could not prove that the international right to be free of "arbitrary arrest" included a prohibition of the circumstances of his short detainment. In concurring decisions, the Justices also questioned the Court's ability to identify new causes of action under the ATCA as well as the impact of suits filed against foreigners on international comity.
- ✓ ATS is a jurisdictional statute creating no new causes of action. Federal courts should not recognize claims under

federal common law for violations of any international law norm with less definite content and acceptance among civilized nations. It must only recognize causes of action only for alleged violations of international law norms that are "specific, universal and obligatory."

Kiobel v. Royal Dutch

- ✓ Petitioners who are Nigerian nationals residing in the US, filed suit in the federal court under the Alien Tort Statute, alleging that respondents (certain Dutch, British and Nigerian corporations) aided and abetted the Nigerian government in committing violations of the law of nations in Nigeria. The District Court dismissed petitioners' claims reasoning that the law of nations does not recognize corporate liability.
- ✓ ISSUE: W/N ATS applies extraterritorially? NO
- ✓ RULING: The ATS is a jurisdictional statute that creates no cause of action. It permits federal courts to "recognize private claims for a modest number of international law violations under federal common law." In contending that a claim under the ATS does not reach conduct occurring a foreign sovereign's territory, respondents rely on the presumption against extraterritorial application, which provides that **"when a statute gives no clear application, it has none."** The presumption serves to protect against unintended clashes between our laws and those of other nations which could result in international discord."

Foreign Judgments

Garcia v. Recio

- ✓ R.Recio and Samson (Australian) married in the PI. Lived together in Australia then got divorced. R.Recio became and Australian citizen and then married G.Recio. G.Recio and R.Recio lived separately without dissolving their marriage. G.Recio filed a complaint for declaration of nullity OTG of bigamy.
- ✓ Philippine law does not provide for absolute divorce; hence, our courts cannot grant it. A marriage between two Filipinos cannot be dissolved even by a divorce decree obtained abroad, because of Arts. 15 and 17 of the Civil Code. In mixed marriages involving a Filipino and a foreigner, Art. 26 of the FC allows the former to contract a subsequent marriage in case the divorce is "validly obtained abroad by the alien spouse capacitating him or her to remarry." A divorce obtained abroad by a couple, who are both aliens, may be recognized in the Philippines, provided it is consistent with their respective national laws.
- ✓ Aliens may obtain divorces abroad, which may be recognized in the PI, provided they are valid according to their national law. Therefore, before a foreign divorce decree can be recognized by our courts, the party pleading it must prove the divorce as a fact and demonstrate its conformity to the foreign law allowing it.
- ✓ The divorce decree between respondent and Editha Samson appears to be an authentic one issued by an Australian family court. However, appearance is not sufficient; compliance with the aforementioned rules on evidence must be demonstrated. Since the divorce was a defense raised by respondent, the burden of proving the pertinent Australian law validating it falls squarely upon him.

Vda. De Catalan v. Catalan-Lee

- ✓ Because of the nationality principle embodied in Art. 15 of the Civil Code, only Philippine nationals are covered by the policy against absolute divorces, the same being considered contrary to our concept of public policy and morality.
- ✓ Nonetheless, the fact of divorce must still be proven as the Court had enunciated in the Garcia case. Before a foreign judgment is given presumptive evidentiary value, the document must first be presented and admitted in evidence. A divorce obtained abroad is proven by the divorce decree itself. The decree purports to be a written act or record of an act of an official body or tribunal of a foreign country.
- ✓ Under Secs. 24 and 25 of the RoC, a writing or document may be proven as a public or official record of

a foreign country by either (1) an official publication or (2) a copy attested by the officer having legal custody of the document. If the record is not kept in the Philippines, such copy must be accompanied by a certificate issued by the proper diplomatic or consular officer in the Philippine foreign service stationed in a foreign country in which the record is kept and (b) authenticated by the seal of his office.

Mijares v. Ranada

- ✓ 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.
- ✓ Under Sec. 48, Rule 39 of the RoC, for an action *in rem*, the foreign judgment is deemed conclusive upon the title to the thing, while in action *in personam*, the foreign judgment is presumptive, and not conclusive, of a right as between the parties and their successors in interest by a subsequent title. However, in both cases, the foreign judgment is susceptible to impeachment in our local courts on the grounds of want of jurisdiction or notice to the party, collusion, fraud or clear mistake of law or fact.
- ✓ Enforcement of a foreign judgment is capable of pecuniary estimation since it involves a recovery of a sum of money against Marcos' estate. An examination of Sec. 19(6), B.P. 129 reveals that the instant complaint for enforcement of a foreign judgment, even if capable of pecuniary estimation, would fall under the jurisdiction of the RTC, thus negating the fears of the petitioners.
- ✓ Rule 141 of the RoC avoids unreasonableness, as it recognizes that the subject matter of an action for enforcement of a foreign judgment is the foreign judgment itself, and not the right-duty correlatives that resulted in the foreign judgment.

Fujiki v. Marinay

- ✓ A petition to declare 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.
- ✓ 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. The recognition of the foreign divorce decree may be made in a Rule 108 proceeding itself, as the object of special proceedings is precisely to establish the status or right of a party or a particular fact.
- ✓ 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.

PNB v. Manila Oil

- ✓ ISSUE: W/N a stipulation constitutive of a "confession of judgment" in a PN is valid and enforceable in the PI? NO
- ✓ SC: Neither the Code of Civil Procedure nor any other remedial statute expressly or tacitly recognizes a confession of judgment commonly called a judgment note. On the contrary, the provisions of the Code of Civil Procedure, in relation to constitutional safeguards relating to the right to take a man's property only after a day in court and after due process of law, contemplate that all defendants shall have an opportunity to be heard.

Oil and Natural Gas Commission v. CA

- ✓ The conflict between the ONGC and Pacific Cement rooted from the failure of the latter to deliver 43K metric tons of oil well cement to ONGC. ONGC then informed Pacific Cement that it was referring its claim to an arbitrator pursuant to Clause 16 of their contract which stipulates that the venue for arbitration shall be at Dehra Dun, India. The arbitrator resolved the judgment in favour of ONGC. ONGC filed a complaint with the RTC for the enforcement of the said judgment.
- ✓ The non-delivery of the oil well cement is a matter properly cognizable by the regular courts as stipulated by the parties.
- ✓ The constitutional mandate that no decision shall be rendered by any court without expressing therein clearly and distinctly the facts of the law on which it is based does not preclude the validity of "memorandum decisions" which adopt by reference the findings of fact and conclusions of law contained in the decisions of inferior tribunals.
- ✓ Furthermore, the recognition to be accorded a foreign judgment is not necessarily affected by the fact that the procedure in the courts of the country in which such judgment was rendered differs from that of the courts of the country in which judgment is relied on. Thus, if under the procedural rules of the Civil Court of Dehra Dun, India, a valid judgment may be rendered by adopting the arbitrator's findings, then the same must be accorded respect.

Hang Lung Bank Ltd. V. Saulog

- ✓ ISSUE: W/N petitioner foreign banking corporation has the capacity to file the action below? YES
- ✓ SC: Under RA 337 (Gen Banking Act), a foreign corporation not licensed to do business in the Philippines cannot sue or maintain an action in Philippine courts. The object of the statute was to subject the foreign corporation doing business in the Philippines to the jurisdiction of its courts.
- ✓ The complaint therefore appears to be one of the enforcement of the HK judgment because it prays for the grant of the affirmative relief given by said judgment. Although petitioner asserts that it is merely seeking the recognition of its claims based on the contract sued upon and not the enforcement of the HK judgment, it should be noted that in the prayer of the complaint, petitioner simply copied the HK judgment with respect to private respondent's liability.
- ✓ However, a foreign judgment may not be enforced if it is not recognized in the jurisdiction where affirmative relief is being sought. Hence, in the interest of justice, the complaint should be considered as a petition for the recognition of the HK judgment under Sec. 50 (b), Rule 39 of the RoC in order that the defendant, may present evidence of lack of jurisdiction, notice, collusion, fraud or clear mistake of fact or law, if applicable.

Northwest Orient Airlines Inc. v. CA

- ✓ Northwest and CF Sharp entered into a Sales Agency Agreement whereby the former authorized the latter to sell its transportation tickets. Unable to remit the proceeds of the

ticket, Northwest sued CF Sharp in Japan for collection of the unremitted proceeds. The attempt to serve summons proved unavailing and so the judge of the Tokyo District Court requested the SC of Japan to serve the summons through diplomatic channels upon CF Sharp's head office in MNL. Despite the receipt of the summons, CF Sharp failed to appear. The judgment of the Tokyo Court in favour of Northwest became F&E but it was unable to execute the decision in Japan. A suit for enforcement of the judgment was filed by Northwest before the RTC of Manila.

- ✓ A foreign judgment is presumed to be valid and binding in the country from which it comes, until the contrary is shown. It is also proper to presume the regularity of the proceedings and the giving of due notice therein.
- ✓ Under Sec. 50, Rule 39 of the RoC, a judgment in an action in personam of a foreign tribunal having jurisdiction to pronounce the same is presumptive evidence of a right as between the parties and their successors-in-interest by a subsequent title. The judgment, however, may be assailed by evidence of want of jurisdiction, want of notice to the party, collusion, fraud or clear mistake of law/fact. Also, under Sec. 3, Rule 131, a court whether of the PI or elsewhere, enjoys the presumption that it was acting in the lawful exercise of jurisdiction and has regularly performed its official duty.
- ✓ Consequently, the party attacking a foreign judgment has the burden of overcoming the presumption of its validity. Being the party challenging the judgment rendered by the Japanese court, SHARP had the duty to demonstrate the invalidity of such judgment.
- ✓ In as much as SHARP was admittedly doing business in Japan through its four duly registered branches at the time the collection suit against it was filed, then in the light of the processual presumption, SHARP may be deemed as a resident of Japan, and, as such, was amenable to the jurisdiction of the courts therein and may be deemed to have assented to the said courts' lawful methods of serving process. Accordingly, the extraterritorial service of summons on it by the Japanese court was valid not only under the processual presumption but also because of the presumption of regularity of performance of official duty.

Philippine Aluminum Wheels, Inc. v. FASGI

- ✓ ISSUE: W/N the Phil court can recognize the US judgment? YES
- ✓ SC: In this jurisdiction, a valid judgment rendered by a foreign tribunal may be recognized insofar as the immediate parties and the underlying cause of action are concerned so long as it is convincingly show that there has been an opportunity for a full and fair hearing before a court of competent jurisdiction; that trial upon regular proceedings has been conducted, following due citation before a court of competent jurisdiction; that trial upon regular proceedings has been conducted, following due citation or voluntary appearance of the defendant under a system of jurisprudence likely to secure an impartial system of justice; and that there is nothing to indicate either a prejudice in court and in the system of laws under which it is sitting or fraud in procuring the judgment. A
- ✓ A foreign judgment is presumed to valid and binding in the country from which it comes, until a contrary showing on the basis of a presumption of regularity of proceedings and the giving of due notice in the foreign forum.
- ✓ Fraud, to hinder the enforcement within this jurisdiction of a foreign judgment, must be extrinsic, i.e. fraud based on facts not controverted or resolved in the case where judgment is rendered, or that which would go to the jurisdiction of the court or would deprive the party against whom judgment is rendered a chance to defend the action to which he has a meritorious case or defense.

Yaiguaje v. Chevron

- ✓ ISSUE: W/N the Ontario court has jurisdiction over the enforcement action? YES
- ✓ SC: An Ontario court does have jurisdiction to recognize and enforce the Ecuadorian judgment against both Chevron and Chevron Canada. In recognition and enforcement actions relating to foreign judgments in Canadian jurisdictions, the

exclusive focus is whether there is a real and substantial connection between the subject matter of the litigation and the foreign court that rendered the judgment.

- ✓ An enforcement action may proceed in Ontario against a corporate subsidiary that has a connection to Ontario and an "economically significant relationship" with another corporation over which Ontario courts have jurisdiction. In this case, although Chevron Canada was not liable under the Ecuadorian judgment, the court held that an Ontario court has jurisdiction to determine the merits of an enforcement action against Chevron Canada is an indirect subsidiary of Chevron, but the court considered their relationship economically significant because Chevron guarantees debt and performance of obligations of its subsidiaries and Chevron's income is wholly derived from dividends from its indirect subsidiaries, including Chevron Canada.

Chevron v. Dozinger

- ✓ ISSUE: W/N the US District Court's preliminary injunction violates the Principle of Non-Intervention and assumes jurisdiction when international law does not allow so? YES
- ✓ SC: The District Court's preliminary injunction purports to interfere w/ Ecuador's relationship with every state in the world in which the judgment might be recognized and enforced except the US. It does this by seeking to prohibit every state except US from determining the issues of recognition and enforcement.
- ✓ Customary international law has for centuries prohibited a state from intervening in the domestic affairs of another state. This principle of non-intervention has also long precluded interference by another state in the relations between two or more other states without consent. Art. 8 of the Convention on Rights and Duties of States to which both US and Ecuador are signatories to, specifically provides that "no state has the right to intervene in the internal or external affairs of another."
- ✓ **The balancing test for considering exercise of international adjudicatory jurisdiction:** the mere presence of a link between a person and a forum does not in itself justify the exercise of adjudicatory power by a state. Instead, the requirement of reasonableness requires a process of analysis and assessment that considers: the relative importance of the links between the state asserting jurisdiction and the individual; the legitimate expectations of those affected; the likelihood of conflict with other states.
- ✓ The action of a single American trial judge, essentially ordering the preclusion, in pre-emptive fashion, of all courts in the world outside of Ecuador from independently deciding the issues of recognition and enforcement is an extraordinary breach of comity.

Foreign Arbitral Awards

Korea Technologies v. Lerma

- ✓ PGSMC and KOGIES executed a Contract whereby Kogies would set up an LPG Cylinder in Cavite. The contract was executed in the Philippines. The parties executed an amendment in Korea. They both stipulated that their disputes should be settled by arbitration as agreed upon. PGSMC defaulted. KOGIES files a complaint for specific performance + damages.
- ✓ Art. 2044 of the NCC sanctions the validity of mutually agreed arbitral clause of the finality and binding effect of an arbitral award. Art. 2044 provides, "Any stipulation that the arbitrators' award shall be final is valid without prejudice to Arts. 2038-2040."
- ✓ The arbitration clause was mutually and voluntarily agreed upon by the parties. It has not been shown to be contrary to any law, or against morals, good customs, public order, or public policy. The provision to submit to arbitration any dispute arising therefrom and the relationship of the parties is part of that contract and is itself a contract.

- ✓ RA 876 was adopted to supplement the NCC's provisions on arbitration.
- ✓ For domestic arbitration proceedings, there are particular agencies to arbitrate disputes arising from contractual relations. In case a foreign arbitral body is chosen by the parties, the arbitration rules of domestic bodies would not be applied. As a signatory to the Arbitration Rules of the UNCITRAL Model Law, the Philippines committed itself to be bound by the Model Law. This has even been incorporated in RA 9825 or the ADR Act of 2004.
- ✓ While RA 9285 was passed only in 2004, it nonetheless applies since it is a procedural law which has a retroactive effect.
- ✓ Sec. 42 in relation to Sec. 45 of RA 9285 designated and vested the RTC with specific authority and jurisdiction to set aside, reject or vacate a foreign arbitral award on grounds provided under Art. 34(2) of the UNCITRAL Model Law. Thus, while the RTC does not have a jurisdiction over disputes governed by arbitration mutually agreed upon by the parties, still the foreign arbitral award is subject to judicial review by the RTC which can set aside, reject or vacate it.
- ✓ Foreign arbitral awards, while final and binding, do not oust courts of jurisdiction since these arbitral award are not absolute and without exceptions as they are still judicially reviewable.
- ✓ Thus, based on the foregoing features of RA 9285, PSMC must submit to the foreign arbitration as it bound itself through the subject contract. Its interests are duly protected by the law which requires the arbitral award that may be rendered by KCAB must be confirmed here by the RTC before it can be enforced.

Tuna Processing Inc. v. Philippine Kingford

- ✓ ISSUE: W/N a foreign corporation – not licensed to do business in the Philippines, but which collects royalties from entities in the Philippines – has the capacity to sue here to enforce a foreign arbitral award? YES
- ✓ SC: Petitioner TPI, although not licensed to do business in the Philippines, may seek recognition and enforcement of the foreign arbitral award in accordance with the provisions of the ADR Act of 2004.
- ✓ The ADR Act of 2004 is a law especially enacted to actively promote party autonomy in the resolution of disputes or the freedom of the party to make their own arrangements to resolve their disputes. It specifically provides exclusive grounds available to the party opposing an application for recognition and enforcement of the arbitral award.
- ✓ Sec. 45 of the ADR Act of 2004 provides that the opposing party in an application for recognition and enforcement of the arbitral award may raise only those grounds that were enumerated under Art. 5 of the NY Convention. Clearly, not one of these exclusive grounds touched on the capacity to sue of the party seeking the recognition and enforcement of the award.
- ✓ When a party enters into a contract containing a foreign arbitration clause and, as in this case, in fact submits itself to arbitration, it becomes bound by the contract, by the arbitration and by the result of arbitration, conceding thereby the capacity of the other party to enter into the contract, participate in the arbitration and cause the implementation of the result.

IMC Aviation Solutions v. Altain Khuder

- ✓ Altain and IMC Mining executed a contract by which IMC Mining agreed to prepare plans and budgets for a proposed iron ore mine. IMC Solutions was not named as a party to the contract. The contract contained a clause providing for arbitration. A dispute arose. Altain purported to terminate the contract and initiated arbitration against IMC Mining. Arbitral Tribunal of Mongolia ruled in favour of Altain. Trial judge made an order allowing for the application of enforcement of the award. IMC Solutions sought for the dismissal of the judgment.
- ✓ CA allowed the appeal. The majority reasoned that an award creditor must satisfy the Court on a prima facie basis, that: (a) an award has been rendered by a foreign tribunal granting relief to the award creditor; (b) an award

was rendered pursuant to an arbitration agreement and; (c) the award creditor and award debtor are both parties to the arbitration agreement. Once the award creditor establish a prima facie entitlement to an enforcement order, the award debtor could resist such order only by proving to the satisfaction of the Court one of the matters set out in sections 8 (5) and (7) of the NYC.

- ✓ Altain had the legal burden of establishing before the trial judge, on the balance of probabilities, that IMC Solutions was a party to the arbitration agreement in pursuance of which the award was made.

Applicant v. Eton

- ✓ In considering whether or not to refuse the enforcement of the award, the court does not look into the merits or at the underlying transaction. Its role is confined to determining whether or not ground exist for refusing to enforce the award because it would be contrary to public policy. As the judge recognized, the court's role should be as "mechanistic as possible."
- ✓ As regards public policy, the only ground the HK Companies rely on as justifying a refusal to enforce the award is impossibility of performance. It was said that it is now impossible to deliver the land and, further, because of restructuring, the shares can no longer be transferred.
- ✓ Since the conversion of an award into a judgment of the court does not involve going into the merits, it is difficult to see how impossibility of performance is relevant at the registration stage. **No authority has been cited for the proposition that impossibility of performance is sufficient reason to justify a refusal to enforce an award under public policy grounds.**