

The Philippines and Guam Divorces

A few weeks back when I wrote about Guam 7-day divorces, I mentioned that with some frequency I receive phone calls or emails from persons living in the Philippines anxious to know if they can obtain a Guam divorce. Their questions have raised a number of important issues, and got me scrambling to find answers.

I thought readers might be interested in what I've learned along the way. Please keep in mind that in exploring Philippines laws, I frequently rely on "google" searches. I caution readers that I am not licensed to practice law in the Philippines and any information I pass on in this particular column should be fact-checked with a licensed Philippine attorney.

A common question I'm asked is whether a Philippine citizen can ever get divorced. My qualified answer is "maybe." As I mentioned in an earlier column, a Filipino Muslim may divorce under the Philippine Code of Muslim Personal Laws.

It is a different story for non-Muslim Filipinos. They can't get divorced in the Philippines under any circumstances. However, there is a legal loophole available to some Filipinos that may allow them to have a foreign divorce recognized in the Philippines. This loophole is available to Filipinos married to foreigners. If the couple obtains a divorce in another country, the Philippine court system may recognize the divorce.

In such a situation, the Filipino can remarry through a civil ceremony. (The Filipino spouse will have to process a successful ecclesiastical annulment to remarry in the Catholic Church).

To be successful in this quest, the couple must be very careful to follow all steps required by the legal "recipe." First, to qualify, one spouse **MUST** be a citizen of another country. Be careful here. This language is strictly interpreted. Therefore, a Filipino holding a U.S. green card is still considered a Philippine citizen and doesn't qualify as a "foreigner." A Filipino who has become a naturalized U.S. citizen would qualify.

Second, the citizenship status must be met at the time of filing the divorce. The couple's citizenship at the time of marriage is no longer important. So, if two Philippine citizens marry and later at least one of them becomes a citizen of any other country before filing for divorce, their divorce will be recognized in the Philippines, assuming they meet all the other requirements.

Third, because the Philippines won't grant the couple a divorce, they will have to pursue the divorce in another country. Possible options include filing in the foreign spouse's home country, or in another location that will grant them a divorce, such as Guam.

However, either option can be a bit tricky since each country, and each state within the U.S., can set its own residency requirements for divorce. A couple can only qualify to file a divorce in a country or a state where one of them has been physically living for a specified period of time, normally ranging between three to twelve months.

So, if an American married to a Filipino lives in the Philippines and wants to file a divorce in the U.S., he or she will have to return to a state and reestablish residency.

Fourth, under Philippine law, when the couple files for divorce, the foreign citizen must be the plaintiff. The Philippine government will not recognize a foreign divorce where the Filipino spouse files for divorce.

Fifth, under Philippine law, the divorce won't be legally recognized unless the foreign spouse's home country also recognizes the divorce. So, for example, if a Filipino citizen and a U.S. citizen divorce in Mexico, they must prove that the U.S. recognizes the Mexican divorce before the Philippine government will in turn recognize the divorce.

Sixth, the final decree of divorce must specifically state that the parties may remarry. Without this clause, remarriage won't be possible for the Filipino citizen.

Finally, once the foreign divorce is granted, the Filipino spouse MUST file a Petition for the Recognition of a Foreign Judgment of Divorce at a regional trial court in the Philippines, and have the petition approved. Without completing this process, the Filipino spouse won't be able to remarry within the Philippines.

In light of these requirements, Guam has become a very attractive place for couples of mixed Filipino/foreign citizenship to pursue a divorce. This is especially true for such couples residing in the Philippines or a nearby Asian neighbor. Guam's close proximity, status as a U.S. Territory, reasonably priced airline tickets, and a required residency stay of only seven days, make the island a perfect place to obtain a divorce widely recognized under Philippine law.