

but also because of an increase in our overall economic activity, which has stretched to other parts of the North American continent and beyond--exequatur proceedings have increased and have thus grown in importance in the local legal milieu.

Aware of the fact that the two mentioned circumstances combined have caused certain confusion in the local legal community with regard to the purpose and handling of such proceedings, this opinion allows us to shed some more light on said proceeding and adopt the procedural rules that shall govern its future use. In so doing, we act in accordance with our inherent authority to set down whatever procedural rules may be necessary to facilitate the prosecution of cases. See also, Civil Procedure Rule 71,¹ and Pérez Pascual v. Vega Rodríguez, 124 D.P.R. ____ (1989).

I

Petra Márquez Estrella and Manuel Oblites were divorced by judgment of the California Superior Court, County of Los Angeles, on April 7, 1989. The court adopted the stipulation of the parties and, consequently, awarded a parcel of land in the Guzmán Arriba Ward in Río Grande and a house in the Brisas del Mar Housing Development in Luquillo to Márquez Estrella.

In order to have such properties recorded in her name in the Registry of Property of Puerto Rico, Márquez

¹Said rule provides:

"RULE 71. CASES NOT PROVIDED FOR BY
THESE RULES

"Where no specific proceeding has been provided for in these rules, the court may regulate its practice in any manner not inconsistent therewith or with any applicable legal provision."



Estrella filed an ex-parte petition in the San Juan Superior Court, seeking enforcement of the judgment pursuant to sec. 45 of the Mortgage and Property Registry Act² (Mortgage Law) and Art. 59.1 of the Mortgage Law Regulations.³

On June 27, 1990, the trial court (Hon. Angel D. Ramírez Ramírez, judge) denied Márquez Estrella's petition and required the former spouses to personally sign the petition or, in the alternative, that Márquez Estrella file a complaint against her former husband through the ordinary proceeding.

Márquez Estrella filed this Motion for Reconsideration (rehearing), alleging, among other things, that in a prior case⁴ filed by her counsel in the same Part of the Superior Court she was not required to comply with either of the two conditions set down by the trial court in this

²Mortgage and Property Registry Act, No. 198 of August 8, 1979 (30 L.P.R.A. § 2208). It reads:

"The Registry shall also record all titles, transactions and contracts, mentioned in section 2201 of this title, granted in the United States of America or in foreign countries, enforceable in Puerto Rico according to law, and the judgments issued by courts in the United States of America or foreign courts, which must be complied with in Puerto Rico according to the prevailing rules of legal procedure, provided their enforcement is carried out by a local court with jurisdiction."

³Art. 59.1 of the Regulations for the Execution of the Mortgage and Property Registry Act, 30 L.P.R.A. § 2003, reads:

"Article 59.1--[The [judgments] referred to in article 45 of the Law [30 L.P.R.A. § 2208] will be [recorded] whenever they are included in a writ of execution resolution of the Supreme Court resulting from an ordinary proceeding of which the [Office of the Prosecutor] will be notified."

⁴Elizabeth Ann Roseberry, Ex parte, Civil No. 84-237, filed on January 12, 1984, and adjudicated by the San Juan Superior Court on February 2, 1984 (Hon. William Fred Santiago, judge). See, with regard to this petition, Roseberry v. Registrador, 114 D.P.R. 743 (1983), discussed below.



case, and that, therefore, these requirements did not lie. The trial court denied the motion for reconsideration, stating:

The fact that another Honorable Judge has ruled otherwise is not binding, especially when the Judge is of equal rank. The motion for reconsideration is denied.

Márquez Estrella came to us on appeal essentially assigning the following error: that she was ordered to use any of the proceedings ordered by the court a quo, even when they are not based on any regulation, thus implying needless delays and inconveniences.

II

In Ef. Litográficos v. Nat. Paper & Type Co., 112 D.P.R. 389 (1982), we set forth the standards of Private International Law that will govern the recognition and enforcement of foreign judgments⁵ in Puerto Rico in the absence of a treaty or special laws. Said standards can be summed up as follows⁶:

1. That the foreign judgment has been issued by a court with jurisdiction over the person and the subject matter.
2. That the judgment has been rendered by a competent court.
3. That the court that issued judgment observed due process of law.

⁵A foreign judgment is one issued by a court outside the jurisdiction of the Commonwealth of Puerto Rico, hence, foreign judgments are those issued by courts in foreign countries and by state courts in the United States. Judgments of federal courts are enforced through a writ of execution issued by the United States District Court for the district in which enforcement is sought, following the procedures set down in the state jurisdiction for the execution of its own judgments, unless an applicable federal statute exists, pursuant to Federal Civil Procedure Rule 69 (28 U.S.C.A.).

⁶These standards were ratified in Silva Oliveras v. Durán Rodríguez, 119 D.P.R. 254 (1987).



4. That the legal system in which judgment is rendered is known for its impartiality and absence of prejudice against foreigners.
5. That the foreign judgment is not contrary to the public policy order of the petitioned forum or local court, that it is not repugnant to the basic principles of justice, and has not been obtained by fraud.

In said case we cautioned that the standards were to be applied mainly in situations where the foreign judgment imposed a payment of money, whereas in other cases certain variation could be justified. Ef. Litográficos, supra, at 405.

A year later we addressed another aspect of the problem in Roseberry v. Registrador, 114 D.P.R. 743 (1983): the effects, if any, of the full faith and credit clause of Art. IV, Sec. 1 of the United States Constitution and Sec. 2 of the Federal Relations Act on Mortgage Law sec. 45 and Regulation Art. 59.1, when the foreign judgment was from a state of the United States.

This court ruled as follows:

The pertinent provisions of the Puerto Rico Mortgage Law and its Regulations are not in conflict with the Constitution of the United States or with the cited federal legislation. Section 1 of Art. IV of the Constitution does not prescribe the procedure for giving full faith and credit to public acts, documents and judicial proceedings of other domestic jurisdictions. Said section does not require a Puerto Rican Registry of Property to give full faith and credit directly to a foreign judgment, ignoring the provisions of our laws that require previous court intervention. It does not operate ex proprio vigore.

The reason behind such rule is clear. The full faith and credit clause is subject to exceptions. Judgments rendered in one state are not entitled to full faith and credit in another state if, for example, the judgment was rendered without jurisdiction over the parties or the subject matter. Williams v. North Carolina, 317 U.S. 287 (1942); Underwriters Assur. Co. v. N.C. Guaranty Assn., 455 U.S. 691 (1982); Restatement of the Law Second, Judgment 2d, sec. 81, at 251, St. Paul, Minn., American Law Institute Publishers (1982). A state may lawfully establish that foreign judgments may not be enforceable unless so ordered by its courts, which would afford an interested party the opportunity to oppose some of the recognized defenses to the application of the full faith and credit clause.



Roseberry v. Registrar, *supra*, at 746-747.⁷
(Underscore supplied.)

Having established that foreign judgments do not operate directly or ex proprio vigore, but require local court recognition, we must determine how to obtain such recognition.

III

Our case law has already adopted the standards that such foreign judgments should meet, even those issued in United States jurisdictions, in order to be recognized and enforced by our courts through an exequatur proceeding. With the only exception of Mortgage Regulations Art. 59.1, Puerto Rico does not at present have legislation setting down such procedures. This was recognized in Ramírez v. Registrar, supra, at 345-346, where absent regulation, we schematically adopted certain minimum requirements for this type of proceeding. *Id.* at 348-350.

Today, for the sake of uniformity, we ratify and broaden said requirements, harmonizing them with the provisions of Mortgage Law sec. 45 and Mortgage Regulations Art. 59.1, as well as with our pronouncements in Rf. Litográficos and Roseberry.

In so doing, we must, of course, take into consideration the Mortgage Law sec. 45 requirement and the two Regulation Art. 59.1 procedural requirements. As we said above, the first of these provides that the execution of the foreign judgment must be decreed by a local court with jurisdiction, and the latter requires that such decree result in "an ordinary proceeding of which the Office of the Prosecutor will be notified." (Underscore



⁷See also: Figuerola Pesante v. Registrar, 126 D.P.R. (1990) and Blatt & Udell v. Core Cell, 110 D.P.R. 142 (1980), cases where Civil Procedure Code sec. 426 (32 L.P.R.A. § 1798), was construed in the light of said clause.

supplied.) The purpose of these requirements is to give any interested party a reasonable opportunity to raise any of the defenses recognized by Private International Law against the judgment whose recognition and enforcement is sought in the local forum. Such defenses derive from the standards adopted in Ef. Litográficos. Also, through the Regulations Art. 59.1 ordinary proceeding, evidence will be brought to prove that the foreign judgment met said standards.

Absent any other legislation on this matter, we thus hold that, for all pertinent legal intents, the rules set forth below shall be observed for the recognition and enforcement of all foreign judgments or judgments issued in a United States jurisdiction⁸:

1. The same shall begin with the filing of a complaint in the pertinent Part of the Superior Court of Puerto Rico against all the other parties affected by said judgment.

2. Instead of the aforementioned complaint, the court may accept an ex-parte petition when all the persons affected by the judgment, whose recognition and enforcement is sought, appear in the same. Said petition shall be signed under oath by each and every one of the appearing parties.

3. It shall be prosecuted as an ordinary proceeding pursuant to the Rules of Civil Procedure of Puerto Rico.

4. The complaint or the ex-parte petition filed shall be accompanied by a certified copy of the judgment whose enforcement is sought, and by a true and exact Spanish translation of the same if it was not originally drafted

⁸For an excellent discussion of the background of the formal aspects of this type of action, see, de Passalacqua, El Exequatur en el Derecho puertorriqueño, 63-64 Rev. D. P. 193 (1977).



in Spanish or in English. The certified copy of the judgment shall be legible, complete, and meet all the pertinent requirements of Rule 79 of the Rules of Evidence of Puerto Rico, 32 L.P.R.A. App. IV.

5. In all cases where enforcement of the judgments referred to in Mortgage Law sec. 45 is sought, for purposes of its subsequent recordation in the Registry of Property, the same shall be notified to the Office of the Prosecutor.

6. In any case where the interests of minors or incapacitated persons could be affected, the complaint or ex-parte petition shall include the parents and/or guardian of the minor or incapacitated person, and it shall be notified to the Special Domestic Relations Solicitor so that said official may protect the interests of the minor or incapacitated person.

7. When, in the opinion of the Court, it involves a matter of public order (policy) or interest, a copy of the complaint or ex-parte petition shall be served on the Secretary of Justice of Puerto Rico so that the Secretary may appear in the proceedings on behalf of the Commonwealth of Puerto Rico.

8. The review of decisions, judgments, and other proceedings of the trial court shall be governed by the Rules of Civil Procedure and the Rules of the Supreme Court.

9. Once the recognition or enforcement of the foreign judgment is decreed, its execution shall be governed by the provisions of the procedural rules in force for the execution of our judgments.

In summary, in Puerto Rico, like in other foreign jurisdictions, foreign judgments, including those issued in United States jurisdictions, do not operate directly or



ex proprio vigore, but require local court recognition prior to execution or before they can in any manner be enforced in the Commonwealth of Puerto Rico. The purpose of the recognition or exequatur proceeding is to guarantee due process to the parties affected by the foreign judgment, by affording them a reasonable opportunity to raise their defenses and to be heard. But the court entertaining such action cannot pass upon the merits of the foreign judgment. The court may only determine, after resolving the pertinent procedural issues, if the foreign judgment meets all the Private International Law requisites set forth in Rf. Litográficos.

With regard to this point, it bears noting that the validity of the foreign judgment and its recognition by the court that must enforce it are two different concepts. As we can gather from the above, validity is a requirement for recognition. The fact that a judgment is valid does not necessarily imply its recognition, inasmuch as recognition involves acceptance of the laws of the state or country where the judgment was issued, as to the persons and matter that will be affected by such action. Therefore, this acceptance shall be limited by public order (policy) and constitutional considerations, and by the interests, principles and values of the state or country of the forum where such recognition is sought. See, de Passalacqua, El Exequátur en el Derecho puertorriqueño, 63-64, Rev. D.P. 210-212 (1977). Nonetheless, it must be said that judgments coming from United States jurisdictions, the Commonwealth Courts, and those issued by other states, federal territories or possessions, shall be given full faith and credit, regardless of the public policy and legal provisions of Puerto Rico on the matter or issue at stake, if and when such judgments are issued by a court



with jurisdiction over the person and subject matter, with all due process guarantees, and have not been obtained by fraud. In addition to Art. IV, Sec. 1 of the United States Constitution, see: 28 U.S.C.A. § 1738; Roche v. McDonald, 275 U.S. 449 (1928), and Fauntleroy v. Lum, 210 U.S. 230 (1908).

IV

For the foregoing reasons, the writ requested will be issued and, pursuant to the provisions of Rule 50 of this Court (4 L.P.R.A. App. I-A), judgment will be rendered modifying accordingly the decision appealed. Thus modified, it will be affirmed.



I CERTIFY that this is an Official Translation made by the Bureau of Translations of the Supreme Court of Puerto Rico.

In San Juan, Puerto Rico

JAN 12 2010

[Signature]
LEDA ALBA LLEANA OQUEENDO GRAULLAS,
Clerk of the Supreme Court

[Signature]
Subscribiente del Informe