TINK OF DAMES

FOR PUBLICATION

## IN THE SUPERIOR COURT TO FOR THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

SHONDI MARI ALLAN-AGONCILLO,	) Civil Action No. 93-0765
Petitioner,	)
v.	) DENIAL OF PETITION FOR DIVORCE )
ARMANDO C. AGONCILLO,	
Respondent.	)

The Petitioner, Shondi Mari Allan-Agoncillo, seeks a divorce decree pursuant to 8 C.M.C. § 1331 from this Court. This matter came before the Court on September 22, 1993, for trial. The Petitioner was represented by V.K. Sawney, Esq., and the Respondent, Armando C. Agoncillo, was represented by Anthony Long, Esq.

After considering the evidence adduced at trial, the briefs and closing arguments of counsels, the Court hereby enters the following facts and conclusions of law. Any findings of fact equally applicable as a conclusion of law is hereby adopted as such and the converse is also adopted as such.

## I. FINDINGS OF FACT

- 1. Petitioner is a citizen of the United States and a resident of Saipan, Commonwealth of the Northern Mariana Islands.
  - 2. Respondent is a citizen of the Philippines.

- 3. Respondent came to Saipan on a year-to-year contract in October of 1990.
- 4. Respondent is a musician, and before he moved to Saipan, he lived in the Philippines with his father when he was between contracts.
  - 5. Respondent considers the Philippines to be his home.
  - 6. Petitioner moved to Saipan in March of 1992.
- 7. They met in July of 1992, and were married approximately one year ago on October 4, 1992
- 8. It is undisputed that Respondent wanted to move to Guam and continually insisted that Petitioner sign his application for a green card so that they could move there.
  - 9. Petitioner has since signed the papers.

## II. CONCLUSIONS OF LAW

- 1. Title 8 C.M.C. § 1332 states that "[n]o divorce may be granted unless one of the parties has resided in the Commonwealth for the two years immediately preceding the filing of the complaint." This section does not define the term "resided in."
- 2. The Commonwealth Trial Court has previously held that residency requires a "permanent, fixed abode" and is equivalent to domicile. Manansala v. Manansala, 1 C.R. 160, 162 (N.M.I. Tr. Ct. 1981); accord Sosna v. Iowa, 95 S.Ct. 553, 560 (1975) (citing Korsrud v. Korsrud, 45 N.W.2d 848 (1951)). The Manansala court explained that a "temporary or special purpose home" will not satisfy this requirement. Id.; cf. 1 C.M.C. § 6203(d) (for purposes of voting, "a person's domicile is the place where the person resides when not called elsewhere to work or for other

temporary purposes, and to which a person returns after a temporary absence."). There must be a "present intention of making it his/her home unless and until something, which is uncertain and unexpected, shall happen to induce the person to adopt some other permanent home. It is a place [to] which the person intends to return and from which he has no present plans to depart." Id.

- 3. In an attempt to show that Respondent intended to make Saipan his home, Petitioner emphasizes that Respondent married her and that Respondent has lived here since his arrival on Saipan. This Court rejects Petitioner's argument as simplistic; many couples get married and may live in a particular location while not intending to remain there permanently.
- 4. Based upon the credibility of Respondent's testimony and the following factors, this Court concludes that Respondent does not have the intention to make the Commonwealth his permanent residence:
  - (a) unlike the plaintiff in Manansala, the Respondent in the instant case has testified that he does not intend to remain in the Commonwealth;
  - (b) he declares the Philippines, rather than the Commonwealth, as his residence; and
  - (c) he insisted that Petitioner sign his application for a green card so that they could move to Guam for work.
- 5. For these reasons, this divorce action cannot be premised upon the duration of time that Respondent has lived in the Commonwealth because he is a nonresident. Although Petitioner

may qualify as a resident of the Commonwealth, she has not lived in the C.N.M.I. for two years.

6. Given that neither spouse has "resided in" the Commonwealth for at least two years, Petitioner fails to satisfy the residency requirements of section 1332. This Court, therefore, lacks jurisdiction to grant a divorce decree in the instant case.

III. CONCLUSION

The Petitioner's request for a divorce is hereby DENIED.

So ORDERED this  $\frac{1}{2}$  day of October, 1993.

EDWARD MANIBUSAN, Associate Judge