

143 Misc.2d 500, 541 N.Y.S.2d 699
 (Cite as: 143 Misc.2d 500, 541 N.Y.S.2d 699)

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Supreme Court, Nassau County,
 Trial/IAS, Part 29.

Carol J. BECKER, Plaintiff,
 v.

Stuart BECKER, Defendant.
 May 3, 1989.

Former wife moved for order converting parties' Dominican Republic judgment of divorce to New York state judgment. The Supreme Court, Trial Part 29, Nassau County, Winick, J., held that although former wife might be entitled to recognition and enforcement of provisions of Dominican Republic judgment of divorce, wife was not entitled to conversion of judgment to New York state judgment.

Motion denied.

West Headnotes

[1] Judgment 228 830.1

228 Judgment

228XVII Foreign Judgments

228k830 Judgments of Courts of **Foreign** Countries

228k830.1 k. In General. Most Cited Cases

(Formerly 228k830)

Judgment entitled to full faith and credit is judgment of American jurisdiction, not judgment of **foreign** country. McKinney's CPLR 5401; U.S.C.A. Const. Art. 4, § 1.

[2] Divorce 134 353(1)

134 Divorce

134VIII Foreign Divorces

134k351 Adjudications Recognized

134k353 Particular **Foreign** Divorces

134k353(1) k. In General. Most Cited

Cases

Although former wife might be entitled to recognition and enforcement of provisions of Dominican Republic judgment of divorce, wife was not entitled to conver-

sion of judgment to New York state judgment. McKinney's CPLR 3213, 5301 et seq., 5301(b), 5302, 5401 et seq., 5401 comment; U.S.C.A. Const. Art. 4, § 1.

****700 *500** Brandes & Stamler, Garden City, for plaintiff.

No appearance for defendant.

ALLAN L. WINICK, Justice.

Plaintiff moves for an order converting the parties' Dominican Republic judgment of divorce into a New York State judgment. A motion for this relief was previously denied (Winick, J., 7/24/87) with leave to renew.

On July 31, 1985, the parties entered into a separation agreement with respect to their rights concerning separate marital property and to settle the issues of maintenance, child support, visitation and custody. The parties were subsequently ***501** divorced pursuant to a decree of the Dominican Republic dated August 23, 1985. The separation agreement, pursuant to the divorce decree, is to be incorporated in and survive the judgment and not be merged therein.

Plaintiff now wants the judgment of divorce, granted by the Dominican Republic, to be entered as a New York State judgment.

The Court of Appeals in the 1981 decision, Greschler v. Greschler, 51 N.Y.2d 368, 376, 434 N.Y.S.2d 194, 414 N.E.2d 694, cogently laid out the law with respect to recognition of **foreign** country judgments in this state.

“[2] Although not required to do so, the courts of this State generally will accord recognition to the judgments rendered in a **foreign** country under the doctrine of comity which is the equivalent of full faith and credit given by the courts to judgments of our sister States. (See, e.g., Schoenbrod v. Siegler, 20 N.Y.2d 403, 408, 283 N.Y.S.2d 881, 230 N.E.2d 638 see, generally, Restatement, Conflict of Laws 2d, § 98; Leflar, American Conflicts Law [3d ed], §

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84, pp 169-171.) Absent some showing of fraud in the procurement of the **foreign** country judgment (*Feinberg v. Feinberg*, 40 N.Y.2d 124, 386 N.Y.S.2d 77, 351 N.E.2d 725) or that recognition of the judgment would do violence to some strong public policy of this State (see, e.g., *Mertz v. Mertz*, 271 N.Y. 466, 3 N.E.2d 597), a party who properly appeared in the action is precluded from attacking the validity of the **foreign** country judgment in a collateral proceeding brought in the courts of this State.”

[1] Insofar as the divorce judgment is concerned, the defendant appeared in person and plaintiff submitted herself to the jurisdiction of the Dominican Republic Court by a duly executed power of attorney. It is plaintiff who now wants to convert this judgment to a New York State judgment. There is no doubt that plaintiff could ask this court to recognize a judgment of a **foreign** country. However, whether this court can convert this Dominican Republic judgment into a New York judgment is another problem.

CPLR § 5401 defines a **foreign** judgment as,

“... any judgment, decree, or order of a court of the United States or of any other court which is entitled to full faith and credit in this state, except one obtained by default in appearance, or by **confession of judgment**.”

However, such enforcement of a judgment entitled to full faith and credit applies only to judgments of American jurisdictions, that is, a judgment entitled to full faith and credit under the Federal Constitution. Article 54 of the CPLR does not apply to judgments of **foreign** countries. Such ***502** judgments cannot be converted into a New York judgment except by either a plenary action or by motion pursuant to CPLR ****701 § 3213** (motion for summary judgment in lieu of complaint). See McKinney's Cons.Laws of New York Practice Commentaries by David D. Siegel, Book 7B, C5401:1, page 501.

In 1970, the legislature added Article 53 to the CPLR which deals with recognition of **Foreign** Country Money Judgments. A **Foreign** Country Money Judgment is defined by CPLR § 5301(b) as,

“... any judgment of a **foreign** state granting or deny-

ing recovery of a sum of money, other than a judgment for taxes, a fine or other penalty, or a judgment for support in matrimonial or family matters.”

In order for New York courts to convert this money judgment, it must be final, conclusive and enforceable, CPLR § 5302. However, this article only deals with those **foreign** judgments which either grant or deny recovery of a sum of money, CPLR § 5303.

[2] This is not the case here. This judgment does not meet the definition of a **Foreign** Country Money Judgment, nor is it a judgment that is entitled to full faith and credit. Although plaintiff may be entitled to recognition and enforcement of the provisions of the Dominican Republic judgment, she is not entitled to conversion of the judgment to a New York State judgment.

Therefore, the motion is denied.

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