

94 Phil. 321

[ G.R. No. L-5609. February 05, 1954 ]

**IN THE MATTER OF THE PETITION OF ATTY. TY KONG TIN TO CORRECT THE MISTAKE AS APPEARING IN THE CIVIL REGISTER OF THE CITY OF MANILA. TY KONG TIN, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLANT.**

**D E C I S I O N**

**BAUTISTA ANGELO, J.:**

This is a petition filed by Ty Kong Tin to correct certain mistakes which had allegedly been committed in the civil register of the Civil Registrar of the City of Manila concerning his citizenship.

On May 9, 1951, petitioner filed in the Court of First Instance of Manila a petition alleging that he is a Filipino citizen duly licensed to practice law in the Philippines; that all his children were born in the City of Manila whose births were duly reported to the civil registrar by the midwife or doctor who had attended their births but in submitting the report it was made to appear therein that the citizenship of petitioner was "Chinese" instead of "Filipino" ; that the aforesaid mistakes were committed by the midwife or doctor without the knowledge or consent of petitioner who became aware thereof only when he asked for a certified copy of the birth certificates of his children; and, therefore, he prays that an order be issued directing the civil registrar to correct the pertinent portion of the civil register by making it appear therein that petitioner as well as his children are Filipino citizens and not Chinese citizens, as authorized by article 412 of the new Civil Code.

The Civil Registrar of Manila, in his answer, states that he has no knowledge or information sufficient to form a belief as to the truth of

the allegations contained in the petition but he has no objection to making the required correction provided he is so ordered by the court.

The court set the petition for hearing not after ordering petitioner to serve a copy thereof on the Solicitor General for whatever action he may deem proper to take in the premises. After the hearing was held, the Solicitor General submitted a written opposition wherein he asks that the petition be denied on the ground that petitioner has failed to present satisfactory and convincing evidence in support of his claim that he is a Filipino citizen.

Issues having been joined, the court rendered decision overruling the opposition of the Solicitor General and holding that the evidence presented by petitioner sufficiently establishes the claim that he and his children are Filipino citizens, and, consequently, it ordered the Civil Registrar of Manila to make the necessary correction in his register as prayed for in the petition. From this decision the Solicitor General has appealed.

When the case came up for discussion before the members of this Court, the issue that became the center of controversy revolved around the interpretation of the provisions of article 412 of the new Civil Code under which the petition under consideration was filed. This article provides that "No entry in a civil register shall be changed or corrected, without a judicial order." The bone of contention was the extent or scope of the matters that may be changed or corrected as contemplated in said legal provision. After a mature deliberation, the opinion was reached that what was contemplated therein are mere corrections of mistakes that are clerical in nature and not those which may affect the civil status or the nationality or citizenship of the persons involved. If the purpose of the petition is merely to correct a clerical error then the court may issue an order in order that the error or mistake may be corrected. If it refers to a substantial change, which affects the status or citizenship of a party, the matter should be threshed out in a proper action depending upon the nature of the issue involved. Such action can be found at random in our substantive and remedial laws the implementation of which will

naturally depend upon the factors and circumstances that might arise affecting the interested parties. This opinion is predicated upon the theory that the procedure contemplated in article 412 is summary in nature which cannot cover cases involving controversial issues.

It is our opinion that the petition under consideration does not merely call for a correction of a clerical error. It involves a matter which concerns the citizenship not only of petitioner but of his children. It is therefore an important controversial matter which can and should only be threshed out in an appropriate action. The philosophy behind this requirement lies in the fact that "the books making up the civil register and all documents relating thereto shall be considered public documents and shall be prima facie evidence of the facts thereon contained" (Article 410, new Civil Code), and if the entries in the civil register could be corrected or changed through a mere summary proceeding, and not through an appropriate action wherein all parties who may be affected by the entries are notified or represented, we would set wide open the door to fraud or other mischief the consequence of which might be detrimental and far reaching. It is for these reasons that the law has placed the necessary safeguards to forestall such eventuality that even on matters which call for a correction of clerical mistakes the intervention of the courts was found necessary. This is an innovation not originally found in the law which placed this matter exclusively upon the sound judgment and discretion of the civil registrars. This was found by Congress unwise and risky in view of the far reaching importance of the subjects covered by the civil register. And under the present innovation the law even exacts civil liability from the civil registrar for any unauthorized alteration, which shows the concern of Congress in maintaining the integrity and genuineness of the entries contained in our civil registers (Article 411, new Civil Code).

The foregoing make it unnecessary for, us to consider the issues raised by the Solicitor General in the present appeal.

Wherefore, the decision appealed from is reversed. The petition is dismissed without pronouncement as to costs.

G.R. No. L-5609. February 05, 1954

*Paras, C. J., Pablo, Bengzon, Padilla, Montemayor, Reyes, and Labrador, JJ., concur.*

---

Date created: October 03, 2014