

RE: PETITION TO CORRECT ENTRY IN THE CERTIFICATE OF LIVE BIRTH OF BARTOLOME CALICDAN BAYBAYAN, JR. CONSUELO CALICDAN BAYBAYAN, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILI...

G.R. No. L-20717. March 18, 1966

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Direct appeal on points of law from a decision of the Court of First Instance of Pangasinan in Civil Case No. 14219, the dispositive part of which is as follows(Rec. on Appeal, p. 12):

"IN VIEW OF THE FOREGOING, decision is hereby rendered ordering the Local Civil Registrar of Bugallon, Pangasinan, to make the proper corrections in the certificate of live birth of Bartolome C. Baybayan, Jr., by crossing out the word 'American' under No. 8 in the certificate of live birth, and inserting therein in red ink the word 'Filipino', and by crossing also the word 'Balungao' under No. 10, birthplace 'Urdaneta', and to furnish a copy of said corrected certificate of live birth with the office of the Civil Registrar General, Bureau of Census and Statistics, Manila.

SO ORDERED.

Given at Lingayen, Pangasinan, this 28th day of November, 1962.

(SGD.) ELOY . BELLO
Judge"

The foregoing judgment was entered upon petition of Consuelo Calicdan Baybayan, filed in the court aforesaid on October 12, 1962, praying that the certificate of birth of her son, Bartolome Calicdan Baybayan, Jr., be corrected "to make it appear in said certificate that the place of birth of his father, Bartolome E. Baybayan, is Urdaneta, Pangasinan, and his citizenship is Filipino" (Rec. App. p. 3) on the ground that petitioner's mother, Valentina Garcia, whom she had requested to register the birth of the boy in the Office of the Local Civil Registrar of Bugallon, Pangasinan, made a mistake in giving the birthplace of her husband as Balongao, Pangasinan, and his citizenship as American.

The court caused copies of the petition to be served on the Solicitor General, the Provincial Fiscal, and the Local Civil Registrar. The Republic of the Philippines, through the Solicitor General and the Provincial Fiscal, opposed the petition, claiming that the court had no jurisdiction to order such substantial changes as those prayed for in a summary proceeding under Article 412 of the Civil Code, as repeatedly decided by this Supreme Court.

Overruling the opposition, the court a quo declared that upon proof of mistake it did have power to order the changes sought, and did so. Wherefore, the State appealed.

The decision must be reversed. It has been the uniform jurisprudence of this Court, since *Ty Kong Tin vs.*

Republic (1954) 94 Phil. 321, that substantial alterations, such as those affecting the status and citizenship of a person in the Civil Registry records, can not be ordered by the court unless first threshed out in an "appropriate action wherein all parties who may be affected by the entries are notified or represented" (see Rule 108 of the Revised Rules of Court), and that the summary proceedings under Article 412 of the Civil Code only justify an order to correct innocuous or clerical errors, such as misspellings and the like, errors that are visible to the eyes or obvious to the understanding (*Black vs. Republic*, L-10869, Nov. 28, 1958; *Ansaldo vs. Republic* L-10226, Feb. 14, 1958; *Tan Su vs. Republic*, L-12140, April 29, 1959; *Bentoto vs. Republic*, L-14978, May 23, 1961; *De Castro vs. Republic*, L-17431, April 30, 1963; *Lui Lin vs. Republic*, L-18213, Dec. 24, 1963).

In *Ansaldo vs. Republic*, supra, this Court said:

"For the information of the parties concerned, and for the guidance of the public in general, we may venture the opinion that the clerical errors which might be corrected through judicial sanction under Article 412 of the New Civil Code, would be those harmless and innocuous changes, such as, correction of a name that is clearly misspelled, occupation of the parents, etc.; but for changes involving the civil status of the parents, their nationality or citizenship, those are grave and important matters which may have a bearing and effect on the citizenship and nationality not only of said parents, but of the offsprings, and to seek said changes, it is necessary to file a proper suit wherein not only the State, but also all parties concerned and affected should be made parties defendants or respondents, and evidence should be submitted, either to support the allegations of the petition or complaint, or also to disprove the same so that any order or decision in the case may be made with due process of law and on the basis of facts proven. Then and only then may the change or changes be made in the entry in a civil register that will affect or even determine conclusively the citizenship or nationality of a person therein involved."

The impropriety of the appealed judgment becomes all the more patent when it is considered that the party whose domicile and citizenship are sought to be altered, Bartolome E. Baybayan, does not appear to have been served with a copy of the petition, nor has he appeared in court to be heard and manifest his conformity or objections. Constitutional due process requires that he be given opportunity to present his side of the question, particularly because the petition itself manifests that the purpose of the correction of the entries sought is "to entitle said baby boy to a living allowance from his father, Bartolome E. Baybayan", i.e., to lay a foundation for future litigation against him.

The order appealed from is reversed, and the petition ordered dismissed. No costs.

Bengzon, C.J., Bautista Angelo, Concepcion, Barrera, Regala, Makalintal, Bengzon, J. P., Zaldivar, and Sanchez, JJ., concur.

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