

CORAZON JANE Y. PEREÑA, PETITIONER-APPELLEE, VS. THE CIVIL REGISTRAR GENERAL (NSO) AND THE LOCAL CIVIL REGISTRAR OF DAANBANTAYAN CEBU, RESPONDENTS-APPELLEES, REPUBLIC OF THE PHI...

Ponente: LAGURA-YAP, J.

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LAGURA-YAP, J.:

This appeal seeks to nullify the Decision[1] dated May 30, 2011, rendered by the Regional Trial Court (RTC), Branch 61, Bogó, Cebu in SP. Proc. Case No. Bogo-02461, the decretal whereof, reads:

“WHEREFORE, premises considered, judgment is hereby rendered ordering the Civil Registrar General, National Statistics Office and the Local Civil Registrar of Daanbantayan, Cebu, to enter/correct the birth records of petitioner as follows:

- At the LCR of Daanbantayan, Cebu, to enter, reconstruct and or reconstitute all the data appearing in the Birth Certificate and Baptismal Certificate into its records:

- At the National Statistics Office to correct the name of petitioner from Cora Jane Tan to Corazon Jane Yee Pereña which is her true and correct name;

and to issue a new birth certificate which bears the necessary corrections.

SO ORDERED.”

Factual Antecedents

On October 18, 2010, petitioner-appellee, Corazon Jane Y. Pereña[2] filed a Petition[3] for Correction of the Records of her Birth, before the Regional Trial Court (RTC), Branch 61, Bogó City docketed as SP. Proc. Case No. BOGO-02461 and naming as respondents thereto, The Civil Registrar General (NSO) and The Local Civil Registrar of Daanbantayan, Cebu.

After the jurisdictional facts have been established, the petition was called in open court to determine if there were oppositor. No one surfaced to oppose.[4]

When Corazon was presented in court, she testified[5] that she is 55 years old, married and a resident of Poblacion, Daanbantayan, Cebu. She is the daughter of Spouses Abundio Pareña and Socorro Yee as evidenced by the Marriage Certificate[6] of her parents. She also presented her own Marriage Certificate[7] to show that she was married to Rodigelio R. Quijano. In all her transactions she is using the name Quijano, Corazon Jane Pereña and to prove that she is using that name, she presented her Voter's Certification[8] issued by the COMELEC.

Further, Corazon claimed that her name was erroneously entered as “Cora Jane Tan” instead of “Corazon Jane Yee Pereña” in her Birth Certificate from the National Statistics Office[9]. To prove the mistake, she showed her Birth Certificate[10] from the Local Civil Registrar (LCR) of Daanbantayan, Cebu showing her correct name as Corazon Jane Pereña and that her parents' name are Socorro Yee and Abundio C. Pereña. Also, she presented the

documents to prove her allegations, to wit: (1) Diploma[11]; (2) Transcript of Records[12] (TOR) issued by the University of San Carlos (USC); (3) Driver's License[13]; and (4) Passport[14]

Lastly, Corazon testified that she was never charged of any case and presented her Police Clearance[15] and Barangay Certification[16] as proof thereto.

On May 30, 2011, the court a quo rendered the assailed decision[17] granting Corazon's petition.

On July 18, 2011, the Republic of the Philippines[18] through the Office of the Solicitor General (OSG) filed a Notice of Appeal[19].

Assignment of Errors

The OSG interposed the following:

“I.

The court a quo erred in taking cognizance of the petition to change her name from “Cora Jane Tan” to “Corazon Jane Yee Pereña” - a petition which falls within the provisions of Rule 103 of the Revised Rules of Court – despite substantial defect in the petition.

II.

Assuming arguendo that appellee availed of the remedies under Rule 108 of the Revised Rules of Court, the court a quo erred in granting appellee's petition considering that the entry sought to be corrected in her Certificate of Live Birth can only be granted in an adversarial proceeding wherein indispensable parties must be notified and impleaded as parties to the case.[20]”

The Ruling of this Court

Anent the first assignment of error, the Republic argued that the instant case falls appropriately under Rule 103 of the Rules of Court since Corazon seeks to change her name from “Cora Jane Tan” to Corazon Jane Pereña”. Thus, the petition is fatally defective since its caption failed to indicate the applicant's real name as required under Rule 103.

We disagree with the Republic.

In *Silverio v. Republic of the Philippines*[21], the Supreme Court distinguish the word “to correct” and “to change” as follows:

“To correct simply means “to make or set aright; to remove the faults or error from” while to change means “to replace something with something else of the same kind or with something that serves as a substitute.”

In this case, it appears from the records and from Corazon's testimony that she did not seek to change her name from “Cora Jane Tan” to “Corazon Jane Pereña”. What she essentially prayed from the RTC is to correct the entries in her Birth Certificate from the NSO which erroneously bears the name Cora Jane Tan instead of Corazon Jane Pereña. To prove the mistake, she presented, among others, her Birth Certificate from the Office of the LCR which indicated that her name is indeed Corazon Jane Pereña. Hence, the instant case is covered by Rule 108 of the Rules of Court (Cancellation or correction of entries in the Civil Registry) since it seeks to change the entries in of her birth record and not to replace her name with another as contemplated under Rule 103 (Change of name).

Anent the second assignment of error, the OSG posited that the court a quo committed reversible error in granting Corazon's petition because her father, Abundio Tan or Abundio Pereña was not notified and made a respondent in

the case to make the proceeding adversarial.

We are not persuaded.

Pertinent provisions of Rule 108 of the Rules of Court read:

SEC. 3. Parties. – When cancellation or correction of an entry in the civil register is sought, the civil registrar and all persons who have or claim any interest which would be affected thereby shall be made parties to the proceeding.

SEC. 4. Notice and publication. – Upon the filing of the petition, the court shall, by an order, fix the time and place for the hearing of the same, and cause reasonable notice thereof to be given to the persons named in the petition. The court shall also cause the order to be published once in a week for three (3) consecutive weeks in a newspaper of general circulation in the province.

SEC. 5. Opposition. – The civil registrar and any person having or claiming any interest under the entry whose cancellation or correction is sought may, within fifteen (15) days from notice of the petition, or from the last date of publication of such notice, file his opposition thereto. (Emphasis and underscoring supplied)

Undoubtedly, Corazon's father, Abundio Pereña or Abundio Tan is among the parties referred to in Section 3. However, We find that the failure to implead was only through inadvertence which can be cured by compliance with Section 4, Rule 108. The ruling of the Supreme Court in the case of *Republic of the Philippines v. Kho*[22] (*Kho*) citing *Barco v. Court of Appeals*[23] (*Barco*) is very instructive in this matter, thus:

“A similar issue was earlier raised in *Barco v. Court of Appeals*. That case stemmed from a petition for correction of entries in the birth certificate of a minor, June Salvacion Maravilla, to reflect the name of her real father (Armando Gustilo) and to correspondingly change her surname. The petition was granted by the trial court.

Barco, whose minor daughter was allegedly fathered also by Gustilo, however, sought to annul the trial court's decision, claiming that she should have been made a party to the petition for correction. Failure to implead her deprived the RTC of jurisdiction, she contended.

In dismissing *Barco's* petition, this Court held that the publication of the order of hearing under Section 4 of Rule 108 cured the failure to implead an indispensable party.

The essential requisite for allowing substantial corrections of entries in the civil registry is that the true facts be established in an appropriate adversarial proceeding. This is embodied in Section 3, Rule 108 of the Rules of Court, which states:

Section 3. Parties. – When cancellation or correction of an entry in the civil register is sought, the civil registrar and all persons who have or claim any interest which would be affected thereby shall be made parties to the proceeding.

x x x x

Undoubtedly, *Barco* is among the parties referred to in Section 3 of Rule 108. Her interest was affected by the petition for correction, as any judicial determination that June was the daughter of Armando would affect her ward's share in the estate of her father. x x x.

Yet, even though *Barco* was not impleaded in the petition, the Court of Appeals correctly pointed out that the defect was cured by compliance with Section 4, Rule 108, which requires notice by publication x x x.

x x x x

The purpose precisely of Section 4, Rule 108 is to bind the whole world to the subsequent judgment on the

petition. The sweep of the decision would cover even parties who should have been impleaded under Section 3, Rule 108, but were inadvertently left out. x x x

x x x x

Verily, a petition for correction is an action in rem, an action against a thing and not against a person. The decision on the petition binds not only the parties thereto but the whole world. An in rem proceeding is validated essentially through publication. Publication is notice to the whole world that the proceeding has for its object to bar indefinitely all who might be minded to make an objection of any sort against the right sought to be established. It is the publication of such notice that brings in the whole world as a party in the case and vests the court with jurisdiction to hear and decide it.” (Emphasis and underlining Ours)

To warrant the reversal of the trial court's decision the OSG cited the case of Republic of the Philippines v. Coseteng[24] (Coseteng). This case, however, does not fall squarely with Coseteng because in the latter it was dismissed not only for failure to implead affected parties but also for improper venue and failure to implead the Civil Register of Makati. Nonetheless, in Coseteng, the Supreme Court still upheld the principle laid down in both Kho and Barco, viz:

What is clear then in Barco and Kho is the mandatory directive under Section 3 of Rule 108 to implead the civil registrar and the parties who would naturally and legally be affected by the grant of a petition for correction or cancellation of entries. Non-impleading, however, as party-respondent of one who is inadvertently left out or is not established to be known by the petitioner to be affected by the grant of the petition or actually participates in the proceeding is notified through publication.

IN FINE, when a petition for cancellation or correction of an entry in the civil register involves substantial and controversial alterations including those on citizenship, legitimacy of paternity or filiation, or legitimacy of marriage, a strict compliance with the requirements of Rule 108 of the Rules of Court is mandated. (Emphasis in the the original)

Good faith is always presumed. In the absence of any proof that the failure to implead Corazon's father was intentional or manifestly resorted to confuse and defraud the court and the public, We find no reason why the principle in Kho and Barco cannot be applied in this case. The records show that Corazon's real name is indeed Corazon Jane Pereña as shown by her Birth Certificate[25] from the Office of the the LCR, Daanbantayan Cebu and it also appears that she is using the name since birth as evidenced by her Baptismal Certificate[26]. Further, it was established that in all her transaction, she has been using the name Corazon Jane Pereña as indicated in the following documents: (1) College Diploma from USC[27]; (2) TOR also from USC[28]; (3) Driver's License[29]; (4) Passport[30], (5) Voter's Certification[31]; and (6) Marriage Contract[32]. Accordingly, We find it more in line with the spirit of the law, justice and equity to allow the petitioner to correct her birth records to reflect her true identity.

WHEREFORE, the appeal is DENIED. The Decision dated May 30, 2011, rendered by the Regional Trial Court, Branch 61, Bogo, Cebu in SP. Proc. Case No. Bogo-02461 is hereby AFFIRMED.

SO ORDERED.

Lagura-Yap, & *Quijano-Padilla, JJ. concur.

*Acting Junior Member per Office Order No. 472-13-ABR dated December 12, 2013

[1] Rollo, pp. 38-39, penned by Presiding Judge Antonio D. Marigomen

- [2] Corazon for brevity
- [3] Records, pp. 2-5
- [4] Culled from the assailed Decision, *supra* note 1.
- [5] TSN, Corazon Jane Y. Pereña, May 24, 2011
- [6] Records, p. 6
- [7] Records, p. 17
- [8] Records, p. 16
- [9] Records, p. 9
- [10] Records, p. 7
- [11] Records, p. 10
- [12] Records, pp. 11-13
- [13] Records, p. 14
- [14] Records, p. 15
- [15] Records, p. 18
- [16] Records, p. 19
- [17] *Supra* note 1
- [18] Republic for brevity
- [19] Records, pp. 34-36
- [20] Brief for the Oppositor-Appellant, Rollo, pp. 20-37 (at pp. 23-25)
- [21] G.R. No. 174689, Oct. 19, 2007
- [22] G.R. No. 170340, June 29, 2007
- [23] G.R. No. 120587, January 20, 2004
- [24] G.R. No. 189476, February 2, 2011
- [25] Records, p. 7
- [26] Records, p. 8
- [27] Records, p. 10
- [28] Records, pp. 11-13
- [29] Records, p. 14
- [30] Records, p. 15
- [31] Records, p. 16
- [32] Records, p. 17

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