

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. FLORENTINA C. CAPAROSSO AND HON. HONORATO B. MASAKAYAN, IN HIS CAPACITY AS JUDGE OF THE COURT OF FIRST INSTANCE OF RIZAL, BRANCH V (...)

G.R. No. L-32746. August 31, 1981

Ponente: GUERRERO, J.

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GUERRERO, J.:

The instant petition seeks to review the decision dated August 7, 1969 of the Court of First Instance of Rizal, Branch V, granting the petition in Special Pro-ceedings No. Q-10968 filed before it and ordering the Civil Registrar of Marikina, Rizal to make the neces-sary correction in the register of birth of minor Victor Uy changing the citizenship or nationality of said minor appearing therein from "Chinese" to "Filipino".

It appears from the records of this case that on April 11, 1967, private respondent Florentina C. Capa-rosso filed a petition for correction of registration, alleging inter alia that:

"2. That she is the common-law wife of Benito Uy, a Chinese citizen and with whom she has been living as such since the year 1951;

3. That among others, one of their children named VICTOR UY, 10 years of age, was born at Marikina, Rizal, on April 10, 1956;

4. That in the Register of Births of the Office of the Local Civil Registrar of the Municipality of Marikina, Province of Rizal, her said son Victor Uy was inad-vertently and erroneously registered as a Chinese citizen, despite the fact that the petitioner has not been married to the father of the child, Benito Uy, who is a Chinese citizen;

5. That the rest of the children of the petitioner with her said common-law husband, namely, Edilberto, 14 yrs; Eliza, 12 yrs.; Emma, 7 yrs.; Norma, 5 yrs.; and Anita, 3 yrs.; all surnamed Uy, have been registered in the corres-ponding Register of Births as Filipino citizens;"[1]

As required by law, the Order setting the initial hearing of the petition was published once a week for three (3) consecutive weeks in the Manila Daily Bulletin, a newspaper of general circulation.

There being no opposition to the petition when it was published and announced to the public for initial hearing, the Deputy Clerk of Court was commissioned to receive and examine the evidence for the petitioner.

The evidence adduced before the court a quo shows that petitioner Florentina C. Caparosso is the common-law wife of Benito Uy, a Chinese citizen and with whom she has been living since 1951 up to the present; that out of said union, the petitioner begot seven (7) children, the 7th having been born on August 15, 1967, after the filing of the instant petition; that all the children of the petitioner with her common-law husband Benito Uy, with the exception of Victor Uy, a minor of 10 years old, whose nationality is "Chinese" in the registry of birth, bear the

nationality of "Filipino" in their respective birth certificates as their mother is not married to their father; that said erroneous entry in the registry of birth of minor Victor Uy as a "Chinese" was caused by the wrong information given by the midwife who attended the petitioner when she gave birth to the minor; and that so far, no contract or transaction has been entered into the name of the minor, nor any property has been registered in his name.[2]

In an order dated August 7, 1968, the respondent court granted the petition and accordingly directed the correction in the register of birth of minor Victor Uy by changing his citizenship or nationality from "Chinese" to "Filipino", from which order petitioner Republic of the Philippines appealed to the Supremes Court assigning the following errors:

1. The respondent court erred in finding that there was a mistake in registering Victor Uy as a Chinese citizen in the Local Register of Marikina, Rizal because no evidence has been adduced that respondent Florentina C. Caparosso and Benito Uy were not actually married.
2. The trial court erred in holding that the entries in the birth certificate of Victor Uy does not affect his citizenship and civil status in which case it cannot be corrected in a summary proceeding like the instant case.[3]

Obviously, a mere cursory reading of the petition will readily reveal that the fatal infirmity of this petition lies in the impropriety of the remedy availed of by the private respondent as reflected in the second issue: "whether the trial court erred in holding that the entries in the birth certificate of Victor Uy does not affect his citizenship and civil status."

While ostensibly, the action of the private respondent seeks a mere correction of an entry in the Civil Registry, pursuant to Article 412[4] of the Civil Code in relation with Rule 108[5] of the Rules of Court, in effect it requests the judicial declaration of Philippine citizenship, which We have time and again reprobated and dismissed.

In this jurisdiction, it is a well-settled doctrine, unswervingly followed, that the allowable correction in a civil registry cannot go as far as to afford a basis for a change of nationality. As early as 1954, this Court in the leading case of *Ty Kong Tin vs. Republic of the Philippines*[6] held that the allowable correction under Article 412 of the Civil Code are "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." Thus, in the subsequent leading case of *Chua Wee vs. Republic*,[7] We have declared in no uncertain terms that changes in the citizenship of a person "can only be established in an appropriate adversary proceeding as a remedy for the adjudication of real and justiciable controversies involving actual conflict of rights." The *raison d'être* is basic and fundamental, 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 therein 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." [8]

The long line of cases[9] upholding the doctrine set forth in *Ty Kong Tin* decision is formidable and well-entrenched, and We find no reason to depart therefrom. Two of the latest cases[10] are 1981 decisions which reaffirmed the same doctrine. Such adherence to a doctrine deeply entrenched in our jurisprudence was emphatically pronounced in the case of *Lee vs. Lee Hian Tiu*[11] by no less than Justice Fernando, now the Chief Justice, thus: "It would be to overturn a long list of cases, impressive for their number and their unanimity, upholding the *Ty Kong Tin* decision, for this petition to prosper. To abandon such a doctrine which has in its

favor adherence to a sound policy is unthinkable. Necessarily then, reliance on petitions of this character for the far-from-commendable purpose of changing one's nationality should continue to be frowned upon and discouraged."

WHEREFORE, the decision of the Court of First Instance of Rizal, Branch V at Quezon City, allowing the correction of the entries in the Record of Birth of Victor Uy, is hereby REVERSED and SET ASIDE.

No costs.

SO ORDERED.

Makasiar, Fernandez, and Melencio-Herrera, JJ., concur.

Teehankee, J., (Chairman), in the result.

[1] Rollo, p. 29.

[2] Rollo, pp. 84-85.

[3] Petitioner's Brief, p. 3.

[4] Article 412 provides "No entry in a civil register shall be changed or corrected, without a judicial order."

[5] Rule 108 provides the procedure of cancellation or correction of entries in the Civil Registry.

[6] 94 Phil. 321.

[7] 38 SCRA 409, underscoring supplied.

[8] Ty Kong Tin vs. Republic, *supra*.

[9] The cases are as follows: *Ansaldo v. Republic*, 102 Phil. 1046 (1958); *Black v. Republic*, 104 Phil. 848 (1958); *Tan Su v. Republic*, 105 Phil. 578 (1959); *Bantoto Co v. Republic*, 111 Phil. 1067 (1961); *Barillo v. Republic*, 113 Phil. 695 (1960); *San Luis de Castro v. Republic*, 7 SCRA 967 (1963); *Liu Lin v. Republic*, 9 SCRA 707 (1963); *Obeso Beduya v. Republic*, 11 SCRA 109 (1964); *Reyes v. Republic*, 12 SCRA 376 (1964); *David v. Republic*, 15 SCRA 438 (1965); *Calicdan Baybayan v. Republic*, 16 SCRA 403 (1966); *Tan v. Republic*, 16 SCRA 671 (1966); *Chug Siu v. Civil Registrar*, 20 SCRA 877 (1967); *Dy Oliva v. Republic*, 20 SCRA 1070 (1967); *Lee v. Lee Hian Tiu*, 23 SCRA 211 (1968); *Chua Tan Chuan v. Republic*, 27 SCRA 447 (1969); *Republic v. Maddela*, 27 SCRA 702 (1969); *Tan Pong v. Republic*, 30 SCRA 380 (1969); *Chua Wee v. Republic*, *supra* (1971); *Go v. Civil Registrar*, 39 SCRA 350 (1971); *Republic v. Amores*, 49 SCRA 361 (1973); *Republic v. Castañeda, Jr.*, 80 SCRA 111 (1977); *Republic v. CFI of Davao*, 92 SCRA 632 (1979).

[10] *Salim Wing v. Abubakar*, L-25168, January 21, 1981; *Celestial v. Republic*, L-27713, February 10, 1981.

[11] 23 SCRA 211.

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