

THE REPUBLIC OF THE PHILIPPINES AND THE LOCAL CIVIL REGISTRAR OF SAN FERNANDO, PAMPANGA, PETITIONERS, VS. JUDGE MARIANO CASTAÑEDA, JR., PRESIDING JUDGE, BRANCH III, CFI-PAMPANGA...

G.R. No. L-36769. October 28, 1977

Ponente: FERNANDO, J.

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FERNANDO, J.:

A recital of the allegations in this certiorari proceeding to review an order suffices to demonstrate its merit. The order of respondent Judge dated February 28, 1973, assailed by the Republic of the Philippines, directed the Local Civil Registrar of San Fernando, Pampanga to correct the corresponding entries in his registry, the effect of which would be to classify as Filipinos Rolando Koh, Alicia Koh, Jesusa C. Koh, Wilna C. Koh, Gina C. Koh, Jannete C. Koh and Rommel C. Koh.[1] It was so explicitly decreed in the dispositive portion of such order with respect to each of such person. Private respondent Gerarda Canlas, the mother of the above individuals, on November 16, 1972, "filed with the Court of First Instance of Pampanga a petition for correction of entries in the, birth certificates of Rolando, Alicia, Jesusa, Wilna, Gina, Jannete and Rommel, all surnamed Koh, in the Civil Registry of San Fernando, Pampanga." [2] It was alleged therein that petitioner, now private respondent, was the mother, and that the natural father, one Koh Chi, was a Chinese subject who had left for China, and that as they were born out of wedlock they should have been registered as Filipinos and not as Chinese nationals, the mistake being due to the erroneous belief that the parents were married.[3] On December 21, 1972, the Solicitor General filed an opposition "on the ground, among others, that the petition for correction of entry in the Civil Registry pursuant to Article 412 of the Civil Code in relation to Rule 108 of the Rules of Court contemplates a summary proceeding and correction of mere clerical errors; those harmless and innocuous changes such as the correction of a name that is clearly misspelled, occupation of parents, * * * and not changes or corrections involving civil status, nationality; or citizenship which are substantial or controversial." [4] Thereafter came the order of February 28, 1973.[5] Hence this petition.

It is to be noted that the well-settled doctrine, as above set forth, was called to the attention of the respondent Judge in the opposition filed by the Solicitor General.[6] As a matter of fact, in the challenged order, there was reference to it. Thus: "There is no doubt that the opposition filed by the Honorable Solicitor General for the Republic of the Philippines is very well grounded. Incidentally however, this Court believes that our basic laws are not supposed to be applied, nor prescribed rules of procedure to be followed with absolute strictness and in all instances irrespective of the nature of the facts and circumstances of a given case." [7] Based on what he considered to be the spirit of the present Constitution, he granted the correction as prayed for.

Thus there was an explanation but not a justification for the failure to abide by the deeply-embedded principle that the allowable correction in the entries in a civil registry cannot go as far as to afford a basis for a change of nationality. The constitutional mandate concerning citizenship must be adhered to strictly. This Court has always been alert to the possibility that through a motion for the correction of entries in the civil registry an alien may

become a Filipino and has guarded against it. So it has been from *Ty Kong Tin v. Republic*,^[8] a 1954 decision: "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."^[9]

Such a doctrine has subsequently been followed.^[10] *Chua Wee v. Republic*^[11] reiterated the principle, first announced by Chief Justice Bengzon in *Reyes v. Republic*^[12] that Rule 108 of the Rules of Court merely implemented the *Ty Kong Tin* doctrine, by setting forth the procedure to be followed in the correction of mistakes in the entries in the civil registry, mistakes which are innocuous in character. This point was stressed by Justice Makasiar as ponente in *Chua Wee* thus: "From the time the New Civil Code took effect on August 30, 1950 until the promulgation of the Revised Rules of Court on January 1, 1964, there was no law nor rule of court prescribing the procedure to secure judicial authorization to effect the desired innocuous rectifications or alterations in the civil register pursuant to Article 412 of the New Civil Code. Rule 108 of the Revised Rules of Court now provides for such a procedure which should be limited solely to the implementation of Article 412, the substantive law on the matter of correcting entries in the civil register. Rule 108, like all the- other provisions of the Rules of Court, was promulgated by the Supreme Court pursuant to its rule-making authority under Sec. 13 of Art. VIII of the Constitution, which directs that such rules of court 'shall not diminish or increase or modify substantive rights.' If Rule 108 were to be extended beyond innocuous or harmless changes or corrections of errors which are visible to the eye or obvious to the understanding, so as to comprehend substantial and controversial alterations concerning citizenship, legitimacy of paternity or filiation, or legitimacy of marriage, said Rule 108 would thereby become unconstitutional for it would be increasing or modifying substantive rights, which changes are not authorized under Article 412 of the New Civil Code."^[13]

The latest case in point is *Republic v. Amores*.^[14] There is this relevant excerpt from the opinion of Justice Antonio in that case, promulgated less than a month before the assailed order, to be precise on January 31, 1973: "From *Ty Kong Tin v. Republic* (1954) to *Uy v. Local Civil Registrar of Cebu City* (1972) it has been the uniform juris-prudence of this Court before and after the adoption of Rule 108 of the Revised Rules of Court, that the changes and corrections authorized under the summary procedure sanctioned by Article 412 of the New Civil Code, refers only to correction of innocuous or clerical errors, such as misspellings or errors that are visible to the eyes or obvious to the understanding, and that 'changes in the citizenship of a person or in his status from legitimate to illegitimate or from married to not married are substantial as well as controversial, which 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 final determination of which depends upon the resolution of the issues of nationality, paternity, filiation or legitimacy of the marital status for which existing substantive and procedural laws * * * amply provide.'"^[15]

WHEREFORE, the writ of certiorari is granted and the order of respondent Judge of February 28, 1973 is nullified, set aside and declared to be without force and effect as having been issued with grave abuse of discretion.

Antonio, Aquino, Concepcion, Jr., and Santos, JJ., concur.

Barredo, J., did not take part.

[1] Petition, II, par. 4; Annex C.

[2] Petition, III, par. 5.

[3] Ibid, Annex A.

[4] Petition, III, par. 6.

[5] Ibid, par. 7 and Annex C of Petition.

[6] Ibid, Annex B.

[7] Ibid, Annex C, 4-5.

[8] 94 Phil. 321.

[9] Ibid, 324.

[10] Cf. *Ansaldo v. Republic*, 102 Phil. 1046 (1958); *Coo Ak v. Republic*, 111 Phil. 1067 (1961); *Balete v. Republic*, 113 Phil. 559 (1961); *Barillo v. Republic*, 113 Phil. 695 (1961); *De Castro v. Republic*, L-17431, April 30, 1963, 7 SCRA 967; *Liu Lin v. Nuño*, L-18213, Dec. 24, 1963, 9 SCRA 707; *Dy Kim Liong v. Republic*, L-18608, Dec. 26, 1963, 9 SCRA 773; *Beduya v. Republic*, L-17693, May 29, 1964, 11 SCRA 109; *Reyes v. Republic*, L-17642, Nov. 27, 1964, 12 SCRA 376; *David v. Republic*, L-21316, Nov. 29, 1965, 15 SCRA 438; *Chug Siu v. Local Civil Registrar of Manila*, L-20649, July 31, 1967, 20 SCRA 877; *Dy Oliva v. Republic*, L-21806, Aug. 17, 1967, 20 SCRA 1070; *Lim v. Local Civil Registrar of Manila*, L-24284, Feb. 28, 1968, 22 SCRA 876; *Lee v. Lee Hian Tiu*, L-24540, April 25, 1968, 23 SCRA 211; *Dy En Siu Co v. Local Civil Registrar of Manila*, L-20794, July 29, 1968, 24 SCRA 309; *Chua Tan. Chuan v. Republic*, L-25439, March 28, 1969, 27 SCRA 447; *Chan Chin v. Local Civil Registrar of Manila*, L-27159, Sept. 17, 1969, 29 SCRA 448; *Viray v. Republic*, L-26588, Sept. 30, 1970, 35 SCRA 133.

[11] L-27731, April 21, 1971, 38 SCRA 409.

[12] L-17642, November 27, 1964, 12 SCRA 376.

[13] 38 SCRA 409, 415.

[14] L-35232, January 31, 1973, 49 SCRA 361.

[15] Ibid, 352-363. Two other opinions may be mentioned: *Go v. Civil Registrar*, L-29544, May 31, 1971, 39 SCRA 350 and *Uy v. Local Civil Registrar*, L-24442, July 27, 1972, 46 SCRA 1.

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