

CEFERINA V. DAVID, PETITIONER AND APPELLANT VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLEE.*G.R. No. L-21316. November 29, 1965*

Ponente: BAUTISTA ANGELO, J.

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Cerefin V. David filed on September 21, 1962 before the Court of First Instance of Manila a petition for correction of certain errors which were allegedly committed in the birth certificate of her son filed in the Manila Civil Registrar. The corrections which petitioner desires to make in said certificate are: (a) to change the name of her child from Raul Sabile to Raul David; (b) to delete the name of the father mentioned therein; (c) to change the name of Ceferina D. Sabile to Ceferina V. David; and (d) to delete the Place and date of marriage placed therein because there exists no such marriage.

On September 24, 1962, the Civil Registrar of Manila filed his answer opposing the petition because (1) the error or mistake allegedly committed is not apparent on the face of the record; (2) the entries sought to be corrected are substantial and controversial in nature; and (3) the correction requested should be threshed out in an appropriate proceeding and not in a petition to correct the pertinent entries in the civil registry under Article 412 of the Civil Code.

After hearing, the court a quo issued an order denying the petition on the ground that the corrections sought by petitioner are substantial in nature which can not be made by filing merely a petition as contemplated in Article 412 of the Civil Code.

Petitioner now comes before this Court contending that the court a quo erred in denying her petition despite the fact that the same is within the purview of Article 412 of the new Civil Code and the ruling of this Court in *Roces vs. The Local Civil Registrar of Manila*, (54 Off. Gaz., 4950) decided on February 14, 1958.

It appears that petitioner gave birth to a baby boy at the Family Clinic in the City of Manila on October 28, 1960 and that the information regarding the birth of said boy was supplied by her grandmother who is now dead; that petitioner signed the birth certificate issued by the local civil registrar which was filed as above-stated without verifying the accuracy of the data contained therein; that subsequently, however, petitioner furnished the office of the registrar with a supplemental report changing the name of the child from Baby Boy Sabile to Raul Sabile; that petitioner is not married; and that the child is illegitimate because his father, Ruperto P. Sabile, is married to another woman.

This Court has already held in a number of cases that corrections of mistakes that may be allowed in contemplation of Article 412 of the new Civil Code are those which are merely clerical in character and not those which may affect the civil status or the nationality or citizenship of the person involved (*Ty Kong Tin vs. Republic*, 94 Phil. 321; 50 Off. Gaz., 1077). And elaborating on what might be considered to be within the scope of a clerical error whose correction may be allowed, we intimated that the error should be harmless and innocuous such as the correction of a name that is clearly misspelled, the occupation of the parents, etc., and not a change

that might involve the civil status of the parents, their nationality or citizenship, or of their offsprings, in which cases a proper action should be filed wherein not only the State but also the parties concerned should be made parties defendants to the end that the case may be decided with due process of law and on the basis of the facts proven (*Ansaldo vs. Republic*, 102 Phil., 1046; 54 Off. Gaz., 5886).

There is no doubt that on the strength of the doctrines laid down by us on the matter the corrections which petitioner wants to introduce in the pertinent portion of the registry of her child are not merely harmless or innocuous but substantial in the sense that they tend to affect the civil status not Only of petitioner herself but her child as well In effect, if the petition is granted it will have the effect of changing the status of the child from legitimate to illegitimate. Such a relief cannot be granted except only in an adversary proceeding.

We cannot entertain petitioner's claim that this case comes within the purview of our ruling in *Roces v. The Local Civil Registrar of Manila*, supra, promulgated on February 14, 1958, for the facts obtaining in both cases differ materially. In the *Roces* case, the data supplied to the local civil registrar regarding the parentage of the child was furnished by a physician of the hospital who was not in a position to know the truth of the supplied information, while, on the other hand, *Roces* did not have anything to do with the birth certificate filed with said registrar. In the instant case, however, it was either the petitioner or her grandmother who supplied all the data that were placed in the birth certificate and as such they were in a position to know the truth of the information thus supplied. And there is reason to believe that the father of the child signed the birth certificate jointly with petitioner with the particularity that such fact was apparently concealed as shown by petitioner's failure to present a certified copy of the opposite side of said birth certificate. And this is understandable for petitioner would prefer to I have her child lose his right as a legitimate child rather than expose herself to prosecution either for falsification of a public document or for tile crime of adultery considering that the alleged father is married to another woman. There are, therefore, cogent reasons why the *Roces* case cannot be invoked as a precedent in the case under review.

Wherefore, the order appealed from is affirmed. No costs.

Bengzon, C. J., Concepción, Reyes, J. B. L., Dizon, Regala, Makalintal, Bengzon, J. P., and Zaldivar, JJ., concur.

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