

MARIANO WONG, IN HIS OWN BEHALF AND AS GUARDIAN-AD-LITEM OF THE MINORS; MARIANO WONG JR., AUDREY WONG AND RICHARDSON WONG, PETITIONERS-APPELLEES, VS. THE REPUBLIC OF THE PHILIPP...

G.R. No. L-29376. July 30, 1982

Ponente: ESCOLIN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/3c4fec484a53/>

ESCOLIN, J.:

In this appeal, perfected before the effectivity of Republic Act 5440, the State challenges the order of the Court of First Instance of Iloilo ordering the -

"x x x the Local Civil Registrar of Iloilo City x x x to make the corresponding correction in the marriage contract, Exhibit C, of Registry No. 15067, of the nationality of Mariano Eugenio Padilla Wong from 'Filipino' to 'Chinese'; and likewise to correct the entries appearing in the Certificates of Live Birth of Mariano Wong, Jr., Audrey Wong and Richardson Wong, covered by Registry No. 109, 21 and 5356, respectively, of the nationality of the father, Mariano Yee Wong from 'Filipino' to 'Chinese'".

On February 29, 1968, Mariano Wong, in his own behalf and as guardian of his minor children, namely, Mariano, Jr., Audrey and Richardson, all surnamed Wong, filed in the Court of First Instance of Iloilo, a verified petition for the correction of their nationality from "Filipino" to "Chinese" in the Iloilo City Civil Registrar pursuant to Article 412 of the Civil Code. The petition alleged inter alia:

"3. That the petitioner Mariano Wong, who is married to a Filipino, Ma. Sylvia Gustilo, is the father of the minor petitioners with whom they are residing at 141 Arsenal St. , Iloilo City , Philippines ;

"4. That the aforesaid minor petitioners were born in the City of Iloilo on the dates hereinafter stated:

1. Mariano Wong, Jr . . . April 20, 1960
2. Audrey Wong November 2, 1961
3. Richardson Wong . . . November 11, 1965;

"5. That the petitioner Mariano Wong is a citizen of the Republic of China as shown by his Alien Certificate of Registration, the photostatic copy of which is hereto attached as Annex 'A' of this petition;

"6. That on April 25, 1959 , petitioner Mariano Wong got married to Ma. Sylvia Gustilo, a Filipino citizen in the City of Iloilo, Philippines, a certified true copy of the marriage contract is hereto attached and marked as Annex 'B' of this petition;

"7. That in the said marriage contract Annex 'B', the citizenship of the petitioner Mariano Wong is Filipino when in truth and in fact he is a Chinese citizen;

"8. That in the certificate of births of the aforesaid minor children, namely: Mariano Wong, Jr., Audrey Wong and Richardson Wong as appearing in the records of the local civil registrar, Iloilo City, Philippines, certified true

copies of which are hereto attached as Annexes 'C', 'D' and 'E', respectively of this petition, their nationality as well as the nationality of the father, petitioner Mariano Wong were registered as Filipinos, when in truth and in fact they are Chinese citizens;

"9. That the pertinent data with respect to the citizenship or rationality of the petitioners were errors and mistakes of facts which the herein petitioners seek judicial determination and subsequent corrections;

"10. That, until and unless, this petition for judicial corrections of the true nationality of the petitioner Mariano Wong and minor petitioners, Mariano Wong, Jr., Audrey Wong and Richardson Wong, be given due course, the respondent Local Civil Registrar will not make the corresponding changes or corrections in the marriage contract, Annex 'B' under Register No. 15067 and in the birth certificates particularly Register Nos. 109, 21 and 5356 and herein attached by reference as Annexes 'C' to 'E', respectively" (pp. 3-5, Record on Appeal).

Finding the petition to be sufficient in form and substance, the trial court issued an order dated March 9, 1968, directing the publication of the petition and the date of the hearing thereof in a newspaper of general circulation in the City and Province of Iloilo and the whole of Western Visayas, and notice thereof duly served on the City Fiscal of Iloilo City, for and in behalf of the Solicitor General, and the Local Civil Registrar of Iloilo City.[1]

At the hearing, petitioner testified that he is a Chinese citizen as shown by his Alien Certificate of Registration No. 138399[2]; that he and his wife Ma. Sylvia Gustilo, a Filipina, were married before the Archbishop of Jaro, Iloilo, on April 25, 1959; that his marriage contract[3], his citizenship was erroneously indicated as "Filipino" instead of "Chinese"; that this mistake was committed by his father who undertook the preparation of the necessary documents relating to his marriage; that his minor children: Mariano Jr., Audrey and Richardson, all surnamed Wong, were born in Iloilo; that the nurse, who attended their births, erroneously reported to the office of the Local Civil Registrar the petitioner's citizenship as "Filipino" instead of "Chinese"[4]; that said error was committed without petitioner's knowledge or consent; and that he became aware of these mistakes only when he asked for certified copies of the birth certificates of his children in connection with his petition for naturalization.[5]

On the basis of the foregoing testimonial evidence, the lower court held that the "errors were committed in good faith and without any bad faith or malicious intent" and consequently, granted the petition.

Hence, this appeal by the State.

The appeal is impressed with merit. It has been a settled doctrine in this jurisdiction, starting from the 1954 case of *Ty Kong Tin vs. Republic*[6] to the case of *Republic vs. Caparosso*[7], that entries which can be corrected under the summary procedure contemplated in Article 412 of the Civil Code, as implemented by Rule 108 of the Rules of Court, refer to those mistakes that are clerical in nature or changes that are harmless and innocuous, such as the correction of a misspelled name or occupation of the parents[8], or those that are visible to the eyes or obvious to the understanding, or "errors made by a clerk or transcriber, a mistake in copying or writing." [9]

Errors involving substantial and controversial matters such as those which affect the civil status or the nationality or citizenship of persons cannot be corrected under said summary proceedings, but should be threshed out in an appropriate action wherein the State as well as persons who may be affected by the change should be notified or represented. Thus, in *Ty Kong Tin*[10] this Court held:

"When this case came up for discussion before the members of this Court, the issue that became the center of controversy revolved around the interpretation of the provisions of Article 412 of the new Civil Code under which the petition under consideration was filed. This article provides that 'No entry in a civil registrar shall be changed or corrected, without a judicial order.' The bone of contention was the extent or scope of the matters

that may be changed or corrected as contemplated in said legal provision. After a mature deliberation the opinion was reached that what was contemplated therein are mere corrections of 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 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. Such action can be found at random in our substantive and remedial laws the implementation of which will naturally depend upon the factors and circumstances that might arise affecting the interested parties. This opinion is predicated upon the theory that the procedure contemplated in Article 412 is summary in nature which cannot cover cases involving controversial issues.

"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 be threshed out in an appropriate action. The philosophy behind this requirement lies in the fact that '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 parties are not 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 correction of clerical mistakes the intervention of the courts was found necessary"

In the instant case, the mistakes sought to be corrected cannot be categorized as mere clerical errors, for they involve controversial matter affecting the citizenship not only of petitioner Mariano Wong, but of his minor children as well.

But even assuming that the relief sought could be obtained in the summary proceedings a quo, the evidence adduced by petitioner is too inadequate to prove the alleged mistakes. The records show that only petitioner gave testimony in support of the petition. According to him, the errors in question were committed by his father, who undertook the preparation of his (petitioner's) marriage papers, and by the nurse, who reported the births of his children to the Local Civil Registrar. It appears, however, that petitioner's father and the nurse, obviously the only competent witnesses who could have shed light on the alleged mistakes, had not been called to the witness stand. The record, therefore, is barren of proof that any mistake at all was committed by them. Since there is a wide chasm existing between what is alleged in the petition and what is proved by the evidence, petitioner's claim "that his father and the nurse could have committed an unintentional erroneous description of his nationality," should be brushed aside as pure conjectural assumption on his part.

One last point. Petitioner emphasizes that he merely seeks the change of his nationality from "Filipino" to "Chinese." To this We say, if this Court were to allow the desired correction in a proceeding that is purely summary in nature, then the Court must also have to yield, despite the existence of the legal obstacle aforesaid, to a similar petition in the reverse, i.e., from "Chinese" to "Filipino". The abuses that can be committed under such a procedure need not here be mentioned.

WHEREFORE, the order of the lower court granting the petition is hereby set aside, and the petition dismissed. No costs.

SO ORDERED.

Barredo, (Chairman), Aquino, Concepcion, Jr., and Guerrero, JJ., concur. Abad Santos, J., see separate opinion

concurring in the result. De Castro, J., see dissenting opinion.

[1] pp. 7-10, Ibid; Exhs. A, A-1, A-2, A-3.

[2] Exhibit B.

[3] Exhibit C.

[4] Exhibits E, F and G.

[5] TSN, April 29, 1968, pp. 2-8.

[6] 94 Phil. 321.

[7] 107 SCRA 67 [Aug. 31, 1981].

[8] Ansaldo vs. Republic, 102 Phil. 1046.

[9] Black vs. Republic, 104 Phil. 848.

[10] Supra.

CONCURRING OPINION

ABAD SANTOS , J.:

I concur in the result. I must state that I do not subscribe to the view expressed in Ty Kong Tin, "that the procedure contemplated in Article 412 is summary in nature which cannot cover cases involving controversial issues." Art. 412 of the Civil Code reads: "No entry in a civil register shall be changed or corrected, without a judicial order." This provision does not say that it applies only to non-controversial issues and that the procedure to be used is summary in nature. To my mind Art. 412 contemplates all kinds of issues and all types of procedures. However, as in the instant case, where the issue is substantive or controversial, the procedure should be adversary, not summary. The lower court did not follow an adversary procedure and so I concur in the result.

DISSENTING OPINION

DE CASTRO, J.:

To my mind, the ruling that Article 412 of the Civil Code allows only the correction of harmless and innocuous clerical errors, not those affecting the status of persons which are substantial and controversial matters, merely applies when the proceedings held leading to the correction of an entry in the Civil Register was summary in nature, as apparently were done prior to the promulgation of Rule 108. However, where the proceedings conducted were contentious and formal, particularly one that is known as an action in rem as the proceedings contemplated under Rule. 108, which requires notice and publication, the correction of an erroneous entry even if the same is not merely an innocuous clerical error may be justified, as long as the evidence warrants. For it is inconceivable that after the rule that no more than mere clerical errors may be corrected under Article 412 of the Civil Code has become well-settled upon a legal pronouncement that proceedings thereunder are merely summary in character, a more expensive, contentious and formal proceeding was still deemed necessary for no other

purpose than merely to reiterate the self-same rule already then so firmly established.

Though the prevailing rule states that Rule 108 will be unconstitutional if it would allow the correction of more than mere harmless clerical error, said view is predicated on the proposition that it would increase substantive rights which the Constitution expressly forbids because Article 412 of the Civil Code, which is the substantive provision sought to be implemented by Rule 108, allows only the correction of innocuous clerical errors not those affecting the status of persons.

An examination of Article 412 of the Civil Code, however, will show that said provision does not limit the correction authorized by it to that of mere clerical errors. No prohibition may be seen from its express language, nor by mere implication, against correction of a substantial error as one affecting the status of a person. If by judicial interpretation, said Article was held to allow correction of only clerical errors, but not one affecting status, it is because of the lack of a proceeding deemed appropriate and adequate to guard against improper change of status that might prejudice the interests of third parties. Thus, a mere summary proceeding as would ensue from a petition for correction of entry under Article 412 of the Civil Code prior to the promulgation of Rule 108 would not provide such safeguard. This apprehension however, seems to arise from the mistaken view that the correction, if one affecting status, not of a mere clerical and harmless error, would be considered as establishing one's status, such a citizenship or legitimacy, in a legal manner conclusively beyond dispute or controversion. This is not so, for as provided by Article 410 of the Civil Code itself, "(the) books making up the civil register and all documents relating thereto x x x shall be prima facie evidence of the facts therein contained."

Besides, the correction of the status should not imply a change thereof but merely a rectification of error to make the matter corrected conform to the truth. To change means to impart a new status without the former being a wrong one. Thus, if "A", next to the youngest brothers of X, Y, and Z, all of whom are registered as legitimates, is registered as illegitimate, but with the same father and mother, to correct his status from illegitimate to legitimate would not be to confer a new status on "A". over, the status as corrected would not have a superior quality for evidentiary purpose as that of his brothers as originally recorded. There is, therefore, no increase or diminution of substantive right, as is the basis for holding that Rule 108 would be unconstitutional, if held to permit correction of more than mere harmless clerical errors. To repeat, Article 412 does not expressly or impliedly prohibit correction of more than mere harmless clerical errors. If this provision had been so construed before Rule 108 was promulgated, it was precisely because of the lack of a procedure better than a summary proceeding in court. This does not mean, however, that a more adversary procedure may not be prescribed to allow the correction of more substantial matters than just harmless clerical errors, precisely for a more comprehensive implementation of the substantive provision that Article 412 of the Civil Code is. Rule 108 is intended to fill in this need, and as already explained, it does not alter Article 412 of the Civil Code. It merely provides the means for its full and proper application, which is the precise purpose of the Rules of Court.

As already observed, it would be preposterous to think that Rule 108 was provided with no other purpose than to make more expensive the correction of mere clerical errors which, before its promulgation, was already possible under a less expensive and a simple summary proceeding. Hence, if the correction sought merely involves the rectification of mere clerical harmless error, such as the correction of a name which is recorded as "Maria" when the sex is "male" as what is recorded, certainly a summary proceeding without need of complying the requirements of Rule 108 will suffice. But if the correction affects material or substantial errors, compliance with the requirements of Rule 108 becomes imperative. In either case, however, the basis of the correction is Article 412. Upon a consideration of this fact, Article 412 would now be given a meaning and intent of allowing correction of erroneous entry of whatever nature, procedural safeguards having only to be provided for, as was the manifest purpose of Rule 108.

On the sufficiency of petitioners-appellees evidence, I find the same adequate to grant the relief sought. Aside from his Alien Certificate of Registration, petitioner Mariano Wong's declaration that he is not a Filipino citizen is a persuasive admission against his own interest, thereby reasonably creating the impression of his voluntary recognition of the ineligibility and disqualification imposed by law with respect to numerous rights and privileges which may be exercised by Filipino citizens alone. Withal, the filing of this petition in the court a quo is a more eloquent evidence of his being not a Filipino citizen, considering that despite the discovery of his being already registered as a Filipino citizen in his own marriage contract and in the birth certificates of his children, he still sought for their correction to make the records speak for the truth in connection with his petition for naturalization, notwithstanding the time, effort and money concomitant of the judicial proceeding for that purpose.

In any case, the question of fact touched upon in the majority opinion need not be inquired into in the present certiorari proceedings.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.