

**REPUBLIC OF THE PHILIPPINES AND JOSE ZOLETA, IN HIS
CAPACITY AS ACTING LOCAL CIVIL REGISTRAR OF LUCENA CITY,
PETITIONERS, VS. THE HONORABLE DELIA P. MEDINA, IN HER
CAPACITY AS P...**

G.R. No. L-45030. December 15, 1982

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

On April 16, 1975, private respondent Juanito K. Uy filed a verified complaint with the Court of, First Instance of Quezon, Branch II, presided by respondent Judge Delia P. Medina, praying "that the Local Civil Registrar and/or the Acting Local Civil Registrar of Lucena City be ordered to change the entry appearing under item No. 8 of Annex 'A' hereof" (birth certificate of his daughter), from "Chinese" to "Filipino" as his true, actual and present legal citizenship.

Private respondent alleged in his verified complaint that he has been a Filipino by naturalization since February 21, 1961; that his wife, Eleanor Umali, also a Filipino, gave birth to their daughter Joyal Umali Uy on July 15, 1971 in the Calayan Women's Hospital (now Medical Center-Lucena) in Lucena City, owned and operated by Dr. Emeterio Calayan, Jr., the Medical Director, and said delivery was assisted by Dra. Josefina V. Calayan; that in the preparation of Joyal Umali Uy's birth certificate, without the knowledge and consent of private respondent, a mistake was committed with respect to the latter's nationality as the father of Joyal Umali Uy; and that petitioner Zoleta, in his capacity as Acting Local Civil Registrar of Lucena, registered the said birth certificate despite the aforementioned error in the said entry.

On October 17, 1975, petitioner, through the Solicitor General, filed a motion to dismiss on the ground that respondent court had no jurisdiction over the subject matter of the case, arguing that "substantial alteration, such as those affecting the status and citizenship of a person in the Civil Registry Records," 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 as well as other rules of court amply provide."

Subsequently, more specifically, on December 12, 1975, private respondent filed an opposition to the motion to dismiss alleging that "what is prohibited under the law and jurisprudence on the subject matter is the correction of the record in the Civil Registry by a summary proceeding. In the absence of a showing that prejudice would be caused to any party interested, a correction or amendment on a birth certificate under peculiar circumstances may be made. The plaintiff therefore should be given a chance to have his day in court, considering that the suit is not summary in nature."

On March 2, 1976, respondent court issued two orders-deferring resolution on petitioner's motion to dismiss and requiring the private respondent to make the proper publication of the complaint for three (3) consecutive weeks

in a newspaper of general circulation in Quezon province.

After private respondent had adduced his evidence, respondent court on August 4, 1976, rendered the disputed decision, the dispositive portion of which follows:

"Wherefore, finding the action filed by the plaintiff to be well-taken, the Court hereby denies the Motion to Dismiss dated October 17, 1975 filed by the Solicitor General and orders the Local Civil Registrar of Lucena City to correct the entry on the birth certificate of Joyal Umali Uy, pertaining to the nationality of the plaintiff Juanito K. Uy, from 'Chinese' to 'Filipino.' "

Hence, this petition.

Petition is well-taken and the challenged decision should be reversed.

Respondent court has no jurisdiction over the subject matter of the case considering that the entry sought to be corrected is substantial and controversial affecting as it does the citizenship of private respondent and his daughter. Too well-settled to require citation of authorities is the doctrine that correction of entries in the Civil Registry records cannot be had in proceedings held under Article 412 of the New Civil Code. As early as 1954, in the case of *Ty Kong Tin vs. Republic* (44 Phil. 321), the Honorable Supreme Court has consistently declared that Article 412 of the New Civil Code contemplates "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 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. . . . 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."

The *raison de' etre* for the rule cannot be over emphasized. In the said case of *Ty Kong Tin*, this Court stated thus: "The books making up the civil registrar and all documents relating thereto shall be considered public documents and shall be *prima facie* evidence of the facts therein contained, 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 the 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."

In a subsequent ruling, i.e., *Dy Oliva vs. Republic* (20 SCRA 1070), wherein the facts bear striking similarity with those of the instant case, this Court, speaking through the then Acting Chief Justice J.B.L. Reyes, reiterated what had been stated in the case of *Ansaldo vs. Republic* (102 Phil. 1046):

" ' . . . The clerical errors which might be corrected through judicial sanction under Article 412 of the New Civil Code, would be those harmless and innocuous changes, such as, correction of a name that is clearly misspelled, occupation of the parents, etc.; but for changes involving the civil status of the parents, their nationality or citizenship, those are grave and important matters which may have a bearing and effect on the citizenship and nationality not only of said parents, but of the offsprings, and to seek said changes, it is necessary to file a proper suit wherein not only the state, but also all parties concerned and affected should be made parties defendants or respondents, and evidence should be submitted, either to support the allegations of the petition or complaint, or also to disprove the same so that any order or decision in the case may be made with due process of law and on the basis of facts proven. Then and only then may the change or changes be made in the entry in the civil register that will affect or even determine conclusively the citizenship or nationality of a person therein involved.' (Italics supplied)

"With the data presently appearing in the civil registry, which, according to the certificate of live birth of the

child, were furnished by Vicenta S. Oliva (Exhibit 1-A), Oscar Sia Oliva, as the son of Domingo Dy Oliva, a Chinese national and of Vicenta Yu Sia, another Chinese national, is a Chinese citizen. To alter the entries by changing the nationality of said parents, from 'Chinese' to 'Filipino,' would be to make it appear in that public record that the same Oscar Sia Oliva is the son of Filipino citizens and, therefore, is a citizen of the Philippines. It is not difficult to see that the changes asked for are neither harmless nor innocuous, as petitioner-appellees pretend them to be.

"Neither is the case exempted from the operation of the rule simply because the petitioning parents were able to present evidence tending to establish their (the parents') Philippine citizenship. That fact would not be material in a summary proceeding for judicial correction of the civil registry, citizenship not being a proper subject or inquiry therein."

The case of *Francisco Guevarra Lim vs. Republic* (L-8932, May 31, 1957) cannot be controlling in the instant case considering that the correction of entry pertaining to the nationality of petitioner therein was a fact already established by the Deportation Board, hence, incontrovertible, unlike in the case at bar wherein the error sought to be corrected would have required the respondent court to decide a controversial issue.

In denying the Solicitor General's motion to dismiss and directing the Local Civil Registrar of Lucena City to correct the entry on the birth certificate of private respondent's daughter, Joyal Umali Uy, pertaining to plaintiff's nationality, from "Chinese" to "Filipino," respondent Court herein elucidated as follows:

"... what the law forbids in cases of this nature is only a summary proceeding (Article 412, New Civil Code). But after the publication required under Rule 108, Sec. 4 of the New Rules of Court and after the defendant, the Solicitor General and all persons who might have been affected by this action were given a chance to oppose plaintiff's cause, the proceeding undertaken in this case can barely be considered as summary in nature."

Respondent Judge should have looked closely into the case of *Chua Wee, et al. vs. Republic* (L-27731, April 21, 1971, 38 SCRA 409), wherein a comprehensive construction of Article 412 of the New Civil Code in relation to Rule 108 of the Revised Rules of Court was made in the following manner:

"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 Article 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.

... ..

"Again, in *Lee vs. Lee Hian Tiu and the Local Civil Registrar* (L-24540, April 25, 1968, 23 SCRA 212), a petition similar to the instant case was filed on February 18, 1964 and, pursuant to the order of the trial court, was published once a week for three consecutive weeks in a newspaper of general circulation. The order likewise set the case for hearing and directed the local civil registrar and the other respondents or any person claiming any interest under the entries whose corrections were sought to file their opposition to the said

petition. Mr. Justice Enrique M. Fernando, speaking for the Supreme Court, held:

'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.

'What was set forth in Chug Siu v. Civil Registrar of Manila bears reiteration. Thus: "One of the most emphatic affirmations against the utilization of this mode of procedure to obtain a judicial declaration of citizenship comes from the pen of former Chief Justice Bengzon in the above cited 1964 decision of Reyes v. Republic. Thus, "The case before us is not of first impression. We have repeatedly declared that in this jurisdiction, the remedy sought in the instant petition cannot be granted in the manner desired. While ostensibly, the actions seeks a mere correction of an entry in the Civil Registry, in effect, it requests the judicial declaration of Philippine citizenship. Many such cases this Court has dismissed. We have clearly stated time and again, declaratory relief is not available for the purpose of obtaining a judicial declaration of citizenship (Lee vs. Hian Tiu, et al., supra, p. 213).' "

The ruling in the aforecited cases was reiterated in Republic vs. Hon. Rafael dela Cruz, etc., et al. (G.R. No. L-34079, Nov. 2, 1982); Mariano Wong, et al. vs. Republic (G.R. No. L-29376, July 30, 1982); Republic vs. Caparosso (107 SCRA 67, 71); and Republic vs. CFI of Davao (92 SCRA 632).

Following the long established doctrine on the matter, it is crystal clear that respondent should not have assumed jurisdiction of the case as the subject matter thereof is not for the correction of clerical errors of a harmless and innocuous nature, but one involving nationality or citizenship, which is undisputedly substantial as well as controverted, and as such, can only be established in an appropriate adversary proceeding.

ACCORDINGLY, THE QUESTIONED DECISION OF THE RESPONDENT COURT MUST BE, AS IT IS HEREBY, REVERSED. NO COSTS.

SO ORDERED.

Aquino, Concepcion Jr., Guerrero, and Escolin. JJ., concur. Abad Santos and De Castro, JJ., see dissenting opinion.

DISSENTING OPINION

ABAD SANTOS, J.,

I dissent for the reasons given by Judge Medina which are quoted on page 6 of the decision. I want to point out that until now this Court has not indicated the procedure for making substantial changes or corrections in the Civil Registry. It keeps on saying that Article 412 of the Civil Code and Rule 108 of the Rules of Court allow only innocuous corrections. Well then, what is the procedure for non-innocuous corrections? The public is entitled to know.

DISSENTING IN PART

DE CASTRO, J.,

I regret to have to dissent, with respect to the nature of the proceedings under Rule 108 of the Revised Rules of Court, implementing Article 412 of the Civil Code. In my humble opinion, it is that "proper suit" or "appropriate action" as mentioned in existing jurisprudence, starting with *Ty Kong Tin*, a 1954 case. Thus, in a decision I penned in the Court of Appeals, CA-G.R. No. 60592, January 9, 1979,^[1] I made the following observation:

"All the foregoing notwithstanding, We are of the opinion that the proceedings that have already taken place can very well be regarded as that "proper suit" or "appropriate action" as mentioned in existing jurisprudence, starting with *Ty Kong Tin vs. Republic* (1954) 94 Phil. 321, reiterated up to *Baybayan vs. Republic* (1966) supra, for as provided in Rule 108 of the Rules of Court, a new provision on the proceedings intended to implement Art. 412 of the Civil Code, promulgated obviously in the light of the then prevailing doctrine that proceedings under Art. 412 are summary in nature, can hardly be considered as merely summary. The new Rule 108 requires publication of the petition three times, once a week for three consecutive weeks (Sec. 4). The Rule also requires inclusion as parties of "all persons or claim any interest which would be affected by the cancellation or correction" (Sec. 3). The civil registrar and any person in interest are also required to file their opposition, if any, within fifteen (15) days from notice of the petition, or from the last date of the publication on such notice. With all these procedural requirements, an action under Art. 412 of the Civil Code, in effect, has become a proceeding in rem, — an action against the whole world—one which certainly cannot be described as "summary". We venture to say that the promulgation of this new provision of Rule 108 of the Rules of Court was intended precisely to outline the procedure of that "appropriate action" repeatedly held to be necessary for the correction of more than mere clerical errors, but even substantial ones, as could easily be gleaned from what may be judicially ordered cancelled or corrected after the proceedings. Thus—

'SEC. 2. Entries subject to cancellation or correction.— Upon good and valid ground, the following entries in the civil register may be cancelled or corrected: (a) births; (b) marriages; (c) deaths; (d) legal separations; (e) judgments of annulment of marriage; (f) judgments declaring marriages void from the beginning; (g) legitimations; (h) adoptions; (i) acknowledgments of natural children; (j) naturalization; (k) election, loss or recovery of citizenship; (l) civil interdiction; (m) judicial determination or filiation; (n) voluntary emancipation of a minor; and (o) changes of name.'

"The case cited by the Government in its opposition to the instant petition, *Viray vs. Republic*, 35 SCRA 134 (1970), affords no unequivocal and direct ruling that notwithstanding the promulgation of Rule 108 to implement Art. 412 of the New Civil Code the proceedings contemplated thereunder remain summary in nature. Significantly, Rule 108 of the Rules of Court was not even mentioned explicitly in the case abovesited, for the petition in said case, was filed on October 12, 1965, when Rule 108 has been effective only as of January 1, 1964, and the Supreme Court held the case is merely a change of name under Rule 103. We refuse to believe that despite the judicial proceedings as prescribed by Rule 108, all that the court is authorized to do is to order the correction of mere clerical errors, which are "harmless or innocuous." The Local Civil Registrar, upon proper petition, may easily be authorized to correct mere clerical errors without any risk that needs to be safeguarded by judicial overseeing. With the more or less elaborate proceedings outlined by Rule 108, the court should now have the authority to correct more than mere clerical errors, as those mentioned in Sec. 2 thereof." (Decision, pp. 8-10)

The foregoing reflects my view to which, with due respect to my brethren, I would like to be permitted to adhere.

[1] In the matter of the correction of the birth certificates of ROLANDO CABALTICA CHANG and NELIA CABALTICA LEE, EUGENIA CABALTICA LEE, petitioner-appellee, vs. REPUBLIC OF THE PHILIPPINES, oppositor-appellant, promulgated January 9, 1979.

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