

IN THE MATTER OF THE CORRECTION OF CERTAIN ENTRIES IN THE REGISTER OF BIRTHS OF OZAMIS CITY GUADALUPE UY SIOCO NACAGUE TAN AS NATURAL GUARDIAN OF LORETA, TERESITA, CORAZON, ALMA...

G.R. No. L-19847. April 29, 1966

Ponente: REGALA, J.

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REGALA, J.:

This is an appeal by the Government directly from a decision of the Court of First Instance of Misamis Occidental, on questions of law.

Appellees filed in the lower court a petition for the correction of certain entries in the civil register of Ozamiz City. Their petition alleged:

"1. That Guadalupe Uy Sioco Nacague Tan is the mother of the above-named petitioners, and she herself is a citizen of the Philippines as shown by the certificate of the Division of Archives at the City of Manila which is marked as Annex "A" hereof;

"2. That petitioner Loreta Nacagui Tan was born to the above-named Guadalupe Uy Sioco Nacague Tan by her husband Cokoc (alias Tan Sin Guan) at Ozamiz City on March 20, 1947, but her name is mistakenly recorded as Loreta Tan Suat Ching, and her mother is erroneously recorded as Guadalupe Ong, a Chinese Citizen;

"3. That petitioner Teresita Nacagui Tan was born on Oct. 15, 1948 to the same spouses at Ozamiz City but her name is erroneously recorded as Teresita Tan Suta Tin, and her mother as Guadalupe Ong, a Chinese citizen;

"4. That petitioner Corazon Nacagui Tan was born on Sept. 1, 1950 to the same spouses at Ozamiz City, but her name is erroneously recorded as Bi Ling Corazon Tan, and her mother as Guadalupe Uy, a Chinese citizen;

"5. That petitioner Alma Nacague Tan was born on June 9, 1954 to the same spouses at Ozamiz City, but her mother is erroneously recorded as being a Chinese citizen;

"6. That petitioner Rosalina Nacague Tan was born on October 13, 1956 to the same parents, but her mother is erroneously recorded as a citizen of China;

"7. That petitioner Victor (Tan Giok Cheng) N. Tan was born on March 23, 1958 but her mother's citizenship is erroneously recorded as Chinese;

"8. That the errors in the records of birth of the above-named petitioners will cause great inconvenience to them and will especially prejudice them when they would already elect Philippine citizenship for which they are qualified and which they contemplate on doing;

"WHEREFORE, it is most respectfully prayed of this Honorable Court that the proper corrections be made on the records of births of the above-named petitioners in the Registry of Births Of the City of Ozamiz as above

indicated."

Barely four days after the filing of the petition, without previous hearing and/or publication, the lower court, thru the then Justice of the Peace of Oroquieta Misamis Occidental, in the absence of the District Judge who was then on vacation, issued an order granting the petition and, accordingly ordered the civil registrar "to make the proper corrections as above indicated in the names of the petitioners (appellees herein) appearing in the Registry of Births of the said City and in the name and citizenship of their mother, which should be Guadalupe Uy, a Filipino citizen."

Upon learning of this order, the city fiscal asked the court for a reconsideration on the ground that appellees' petition was not published and that article 412 of the Civil Code authorizes the correction only of clerical errors, not errors involving substantial matters, such as citizenship. Acting on the city fiscal's motion for reconsideration, the said court, with now the District Judge presiding, set aside the order. However, the court reversed itself again when the appellees in turn asked for a reconsideration. In its modified order of February 10, 1962, the court directed that the name of appellee Guadalupe Uy Sioco Nacague Tan, which appears as "Guadalupe Ong" in the birth records of appellees Loreta Tan Suat Ching and Teresita Tan Suat Tin, be changed to "Guadalupe Uy " It is from this order that the Solicitor General, in representation of the Government, appealed. His position is that the change from "Guadalupe Ong" to "Guadalupe Uy" cannot be made in a summary proceeding under article 412 of the Civil Code because the alleged error is not a mere clerical error.

Article 412 of the Civil Code provides that "no entry in a civil register shall be changed or corrected, without a judicial order."

Interpreting this provision, this Court held in the case of *Ansaldo vs. Republic*, 102 Phil., 1046:

"For the information of the parties concerned and for the guidance of the public in general, we may venture the opinion that the clerical errors which might be corrected through judicial sanction under Article 412 of the 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 parentst 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," (*Italics supplied*)

In the present case, no less than the lower court itself, in its first order, has observed that the mother of the petitioners was recorded as Guadalupe Ong, a Chinese citizen but that her name should be corrected to Guadalupe Uy, a citizen of the Philippines. This shows that in petitioning for the correction of the entries of their names, it is also the intention of petitioners to make it appear that their mother is not a Chinese but a Filipino. This correction cannot be allowed in a summary proceeding, following our ruling in the abovesited case of *Ansaldo vs. Republic*, *supra*, because it involves the citizenship of petitioner's mother, a grave and important matter, which will eventually have a bearing on the citizenship of her child- ren. To allow such a correction would set wide open the door to fraud or other mischief the consequences of which might be detrimental or far reaching, (*Ty Kong Tin vs. Republic*, 94 Phil. 321)

In the most recent case on the subject, *Consuelo Calicdan Baybayan vs. Republic*, G. R. No. L-20717, March 18, 1966, where the correction sought concerns place of birth and citizenship, this Court, reiterating the ruling in the *Ansaldo* case, thru Mr. Justice J.B.L. Reyes, stated:

"* * * It has been the uniform jurisprudence of this Court since *Ty Kong Tin vs. Republic* (1954) 94 Phil. 321, that substantial alterations, such as those affecting the status and citizenship of a person in the Civil Registry records, can not be ordered by the court unless first threshed out in an 'appropriate action wherein all parties who may be affected by the entries are notified or represented' (see Rule 108 of the Revised Rules of Court), and that the summary proceedings under Article 412 of the Civil Code only justify an order to corrects innocuous or clerical errors such as misspellings and the like, errors that are visible to the eyes or obvious to the understanding (*Black vs. Republic*, L-10869, Nov. 28, 1958; *Ansaldo vs. Republic*, L-10226, Feb. 14, 1958; *Tan Su vs. Republic*, L- 12140, April 29, 1959; *Bentoto vs. Republic*, L-14978, May 23, 1961; *De Castro vs. Republic*, L- 17431, April 30, 1963; *Lui Lin vs. Republic*, L- 18213, Dec. 24, 1963)."

It follows that since the correction contemplated in this case does not refer merely to clerical errors, a summary proceeding would not be sufficient. Instead, petitioners should file a petition as that provided for under Rule 108 of the Revised Rules of Court,[1] section 4 of which requires notice and publication, as in change of names, as follows:

"Upon the filing of the petition, the court shall, by an order, fix the time and place for the hearing of the same, and cause reasonable notice thereof to be given to the persons named in the petition. The court shall also cause the order to be published once a week for three (3) consecutive weeks in a newspaper of general circulation in the province."

Referring to a similar provision under Article 103 of the Revised Rules of Court, we have explained in *Jesus Ng Yao Siong vs. Republic*, G. R. No. L-20306, March 31, 1966, that "publication is notice to the whole world that the proceeding has for its object 'to bar indifferently all who might be minded to make an objection of any sort against the right sought to be established'."

It being apparent from the foregoing that the order of the lower court is not in accordance with the rule applicable in the premises, the same is hereby reversed, and consequently the petition is dismissed. No costs.

Bengzon, C. J., Bautista Angelo, Concepcion, Reyes, J.B.L., Barrera, Dizon, Makalintal, Bengzon, J.P., Zaldivar, and Sanchez, JJ., concur.

[1] This is a new provision.

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