

JAN BLAIR UDELL QUINTAN (A MINOR), REP. BY HER FATHER, JADE HILARIO QUINTAN PETITIONER-APPELLEE, VS. THE LOCAL CIVIL REGISTRAR OF LIGAO CITY, ALBAY, AND THE CIVIL REGISTRAR GENE...

Ponente: PERALTA, JR., E. B., J.

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PERALTA, JR., E. B., J.:

To the question of whether the procedure in Rule 108 of the Revised Rules of Court can be characterized as summary or adversarial, the Supreme Court again underscored in *Republic v. Olaybar*,^[1] that:

“Rule 108 of the Rules of Court provides the procedure for cancellation or correction of entries in the civil registry. The proceedings may either be summary or adversary. If the correction is clerical, then the procedure to be adopted is summary. If the rectification affects the civil status, citizenship or nationality of a party, it is deemed substantial, and the procedure to be adopted is adversary. Since the promulgation of *Republic v. Valencia* in 1986, the Court has repeatedly ruled that “even substantial errors in a civil registry may be corrected through a petition filed under Rule 108, with the true facts established and the parties aggrieved by the error availing themselves of the appropriate adversarial proceeding.” An appropriate adversary suit or proceeding is one where the trial court has conducted proceedings where all relevant facts have been fully and properly developed, where opposing counsel have been given opportunity to demolish the opposite party’s case, and where the evidence has been thoroughly weighed and considered.

It is true that in special proceedings, formal pleadings and a hearing may be dispensed with, and the remedy [is] granted upon mere application or motion. However, a special proceeding is not always summary. The procedure laid down in Rule 108 is not a summary proceeding per se. It requires publication of the petition; it mandates the inclusion as parties of all persons who may claim interest which would be affected by the cancellation or correction; it also requires the civil registrar and any person in interest to file their opposition, if any; and it states that although the court may make orders expediting the proceedings, it is after hearing that the court shall either dismiss the petition or issue an order granting the same. Thus, as long as the procedural requirements in Rule 108 are followed, it is the appropriate adversary proceeding to effect substantial corrections and changes in entries of the civil register.”

Was the method before the court a quo summary in nature when it agreed to effect a change on the birth certificate of the minor whose mother’s citizenship was modified from Filipino to American vis-a-vis the Republic’s appeal now before Us?^[2]

On November 4, 2011,^[3] petitioner Jan Blair Quintan, through her father, sought to correct the citizenship of her mother in her birth record. Per the Petition,^[4] Jan Blair alleged that she was born on January 29, 2009 in Ligao City, Albay to common-law spouses Jade Hilario Quintan and Feliza Star Udell. According to Jan Blair’s father,^[5] when he caused the registration of petitioner’s nativity, he was unaware that Feliza Star Udell was an American citizen. When he and Feliza planned to get married, it was only then that he discovered the American citizenship of Feliza when Feliza was advised by the Local Civil Registrar of Ligao City to submit a Certificate of Legal Capacity to Contract Marriage.^[6]

For her Petition, Jan Blair submitted her Certificate of Live Birth,[7] the Consular Report of Birth Abroad[8] issued by the United States of America, to the effect that Feliza Star Udell acquired United States Citizenship at birth, the Certificate of Live Birth of her mother[9] and the Marriage Contract[10] of her mother's parents.

Based on the incipient Order for hearing, with a concomitant instruction for the requisite publication,[11] petitioner adduced documents therefor.[12]

After a brief hearing, during which occasion petitioner's father reinforced the crux of the Petition,[13] the impugned Decision was promulgated in this manner:[14]

“WHEREFORE, in view of all the foregoing, judgment is hereby rendered DIRECTING the Civil Registrar of Ligao City, Albay and the Civil Registrar General, National Statistics Office, to correct the entry as regards the citizenship of Feliza Star Udell, the mother of herein petitioner, JAN BLAIR UDELL QUINTAN, from that of a “FILIPINO”, to that of an “AMERICAN” in the Certificate of Live Birth, and birth records of herein petitioner, JAN BLAIR UDELL QUINTAN. ”

SO ORDERED.”

In granting the Petition, the lower court was convinced that there was substantial error in the Certificate of Live Birth of petitioner with respect to the citizenship of her mother. It was opined, too, that to avoid confusion and fraud, the correction of citizenship of petitioner's mother was imperative.[15]

Dismayed by the outcome of the Petition, the Republic, through the OSG, filed the present appeal on the sole ground that the correction made on petitioner's birth certificate was substantial and must only be effected through an appropriate adversary proceeding, with the participation of the opposing counsel.[16]

By contrast, appellee disagreed and argued that the proceeding before the trial court was adversarial in nature inasmuch as there was service of copies of the Petition and annexes upon the Civil Registrar of Ligao, the Civil Registrar General, and the OSG; the posting of copies of the notice of hearing in at least four public places; the delegation by the OSG to the City Prosecutor of Ligao City to appear on behalf of the Republic; the publication of the notice of hearing in a newspaper of general circulation for three consecutive weeks; and the fact that no oppositor appeared on the scheduled hearing.[17]

It can hardly be ignored that there was adherence by petitioner with jurisdictional preconditions in regard to publication requirements which are vital for Rule 108 of the Revised Rules of Court. Such observation may well apply to the lower court inasmuch as the hearing for presentation of petitioner's evidence unfolded with the active participation of,[18] nay, cross-examination[19] conducted by, the Public Prosecutor[20] after petitioner adduced pieces of documentation[21] in the presence of the State's representative,[22] as prelude to the Court's authority to proceed thereafter. Verily, when petitioner formally offered the exhibits,[23] the Public Prosecutor's Comment to Formal Offer of Exhibits[24] interposed no serious reservation thereto and the trial court resolved to admit petitioner's exhibits sans contradictory evidence from the State.[25]

However, even as the proceedings below were adversarial with respect to aspects of jurisdiction and the opportunity extended to the State to demolish the proponent's cause,[26] it would appear, at first blush, that there were serious concerns over petitioner's quest from the standpoint of how American citizenship could have been supposedly vested upon her.

From available datum, the National Statistics Office copies presented below revealed that Jon C. Udell, an American, married Maximina L. Repomanta, a Filipino, at Subic, Zambales on June 7, 1989.[27] Before their nuptial, Feliza Star Udell, the mother of Jan Blair Udell Quintan, was born on August 28, 1988 at Olongapo City.[28] Thereafter, Jan Blair Udell Quintan, was born at Olongapo City on January 29, 2009 whose parents

were identified as Jade Hilario Quintan, the acknowledged Filipino father, and Feliza Star Udell, as mother but whose citizenship was referred to as Filipino.[29]

Anent available papers, there was no direct indication as to how the mother of Jan Blair Udell Quintan became an American citizen which can be the matrix of the proposed correction on the corresponding entry of Jan Blair Udell Quintan's Birth Certificate. What the record revealed was a Consular Report of Birth Abroad of Feliza Star Udell, which attested to her acquisition of American citizenship following her birth at Olongapo City, Zambales on August 28, 1988 and whose parents were Jon Charles Udell and Maximina Udell, based on "...documentary evidence presented to the Consular Service of the United States at Manila, Philippines on February 24, 1993."

What We encountered, too, was the presentation, formal offer and admission of a portion of Feliza Star Udell's passport issued by the United States of America,[30] which impliedly suggested that Feliza Star Udell is an American citizen, inclusive of colored reproductions of her United States Social Security Number Card, Virginia driver's license, and California identification card.[31]

Before We discuss the legal significance of the use of a foreign passport, and by way of en passant, it may be recalled that after Feliza Star Udell's birth on August 28, 1988, Jon C. Udell married Maximina L. Repomanta, on June 7, 1989 at Subic, who were the alleged parents of Feliza Star Udell. Reflected on the Marriage Certificate of Feliza Star Udell's parents was the Filipino citizenship of her mother Maximina L. Repomanta and despite the marital knot in 1989, Maximina L. Repomanta did not necessarily become an American citizen on account of the caveat under Section 4, Article 4 of the 1987 Constitution:

"Citizens of the Philippines who marry aliens shall retain their Philippine citizenship, unless by their act or omission they are deemed, under the law, to have renounced it."

In his commentaries, Fr. Bernas remarked on the net effect of marriage to an alien spouse in regard to citizenship:[32]

"Commonwealth Act No. 63, Section 1 (7), provided that a Filipino woman lost her Philippine citizenship "upon her marriage to a foreigner if, by virtue of the laws in force in her husband's country, she acquires his nationality." The 1973 constitutional provision repealed the above statutory rule. The fact alone of marriage to an alien cannot strip a Filipino woman of her Philippine citizenship. Only acts and omissions, which under Article III, Section 4, Congress may prescribe, constitute explicit or implicit renunciation of citizenship. The 1973 provision, therefore, like Section 1(2), placed the Filipino woman on the same level as the Filipino male.

The provision, however, is prospective. It does not serve to restore citizenship already lost by marriage under the old law."

In relation to the marriage in 1989 of her parents, and Feliza Star Udell's birth prior thereto, or in 1988, a fundamental tenet in Philippine law is the rule on *jus sanguinis*, or acquisition of citizenship on the basis of blood relationship.[33] Corollary thereto, a factual foundation for Feliza Star Udell's legitimation[34] was the marriage of her parents in 1989 and We thus proceed on the assumption that she was, in fact legitimated by sheer marriage,[35] with the same rights as a legitimate child,[36] and the effect of such legitimation shall retroact to the time of Feliza's birth in 1988.[37] Even then:[38]

"It is also a settled rule that the principle of *jus sanguinis* applies only to natural filiation and not to filiation by adoption. Likewise, it is a settled rule that only legitimate children follow the citizenship of the father and that "illegitimate children are under the parental authority of the mother and follow her nationality, not that of the illegitimate father." This rule, based on parental authority, remains unchanged by the new Constitution."

And inasmuch as Feliza Star Udell became a legitimate child by operation of law as of August 28, 1988[39] after

the marriage of her parents in 1989, and since her father is an American, Feliza Star Udell enjoyed a fusion of Filipino and American citizenship.[40] We again reiterate Fr. Bernas' pertinent passage on dual citizenship under Section 5, Article 4 of the 1987 Constitution:[41]

“Since the universal rule is that the child follows the citizenship of the father, and since under Section 1(2) the child also follows the citizenship of the Filipino mother, and since under Section 4 the Filipino woman does not lose Philippine citizenship by marriage to an alien husband, it is clear that the Constitution allows for the possibility of dual citizenship. It is, after all, a condition which arises from the fact that Philippine law cannot control international law and the laws of other countries on citizenship.”[42]

Indeed, the matrix of the legal feasibility in the proposed correction of Felisa Star Udell's citizenship from Filipino to American on the corresponding entry for the mother of Jan Blair Udell Quintan did not emanate from the use of Felisa Star Udell's U.S. passport which was among the documents which was presented by petitioner before the trial court:

“... the act of using a foreign passport is not one of the acts enumerated in Commonwealth Act No. 63 constituting renunciation and loss of Philippine citizenship...”[43]

X X X

“We agree with the COMELEC En Banc that such act of using a foreign passport does not divest Arnado of his Filipino citizenship, which he acquired by repatriation. However, by representing himself as an American citizen, Arnado voluntarily and effectively reverted to his earlier status as a dual citizen. Such reversion was not retroactive, it took place the instant Arnado represented himself as an American citizen by using his U.S. passport.”[44]

Indeed:

“The fact that a Philippine citizen with dual citizenship, i.e. American and Filipino, resulting from the simultaneous application of jus soli and jus sanguinis holds a foreign passport and having himself listed as a foreigner in the Bureau of Immigration does not amount to a renunciation of his Philippine citizenship nor result in the loss of his citizenship, for possessing such passport or having himself listed as a foreigner is merely an assertion of his other citizenship and not a renunciation of his Filipino citizenship. What Com. Act No. 63 requires to lose one's citizenship in favor of the other is express renunciation, as by filing a certificate of candidacy for an elective position and asserting therein under oath that he is a Filipino citizen and that he will defend and support the Constitution of the Philippines and bear true faith and allegiance thereto, such that insofar as the Philippines is concerned he has renounced and abandoned his other citizenship.”[45]

WHEREFORE, by reason of the foregoing premises, We hereby DENY the Republic's APPEAL from the Decision of May 18, 2012 in Special Proceedings No. 702 of RTC, Branch 12, Ligao City.

SO ORDERED.

De Leon, M.M., (Chairperson) and Cruz, S.C., JJ., concur.

[1] G.R. No. 189538, February 10, 2014, Justice Diosdado Peralta

[2] Decision dated May 18, 2012, RTC, Branch 12, Ligao, penned by Acting Presiding Judge Alben C. Rabe, Record, pp. 50-54; Notice of Appeal dated June 11, 2012, Record, page 55.

[3] Exhibit “A”, Record, pp. 2-5.

[4] Id., paragraph 4, Record, page 3.

- [5] Id., paragraph 5; TSN dated March 9, 2012, pp. 14 and 16.
- [6] Id., paragraph 6; TSN dated March 9, 2012, page 13.
- [7] Exhibit “D”, Record, page 7.
- [8] Exhibit “G”, Record, page 11.
- [9] Exhibit “E”, Record, page 9.
- [10] Exhibit “F”, Record, page 10.
- [11] Dated November 23, 2011, Record, pp. 13-14.
- [12] Exhibits “J” - “J-6”, “K”, “L”, “M”, “N” - “N-1”, “O” - “O-1”, and “P”, Record, pp. back of page 14, 18, 32-44.
- [13] TSN, March 9, 2012, pp. 1-18.
- [14] Decision, page 5, Record, page 54.
- [15] Decision, page 4, Rollo, page 53.
- [16] See Oppositor-Appellant's Brief, pp. 3-5, Rollo, pp. 21-23.
- [17] Appellee's Brief, pp. 9-10, Rollo, pp. 54-55.
- [18] OSG's Notice of Appearance dated December 27, 2011, Record, page 15
- [19] As opposed to the ex parte presentation of evidence referred to on the Order dated March 2, 2012, Record, page 20.
- [20] TSN, March 9, 2012, pp. 2-17.
- [21] Order dated March 2, 2012, Record, page 20.
- [22] Id.
- [23] Record, pp. 29-47.
- [24] Dated April 10, 2012, Record, page 48.
- [25] Order dated April 13, 2012, Record, page 49.
- [26] Republic of the Philippines v. Olaybar, G.R. No. 189538, February 10, 2014 citing Republic of the Philippines v. Lim, 464 Phil. 151, 157 (2004); Eleosida v. Local Civil Registrar of Quezon City, 431 Phil. 612, 619 (2002).
- [27] Exhibit F, Record, page 24.
- [28] Exhibit E, Record, page 23.
- [29] Exhibit D, Record, pp. 25-26.
- [30] Record, page 46.
- [31] Record, pp. 47.
- [32] Bernas, The 1987 Constitution of the Republic of the Philippines: A Commentary, 2003 edition, page 627 ;

Cruz, Constitutional Law, 2007, page 387 – “... Now both male and female citizens shall remain Filipinos despite their alien spouses except only when they may be deemed by their act or omission to have renounced their Philippine citizenship.”

[33] Bernas, Vide, page 609; 1 Ledesma, An Outline of Philippine Immigration and Citizenship Laws, 2006 edition, page 521.

[34] Article 177, The Family Code.

[35] Article 178, The Family Code.

[36] Article 179, Vide.

[37] Article 180, Vide.

[38] Bernas, Vide, page 613, citing Serra vs. Republic, G.R. No. L-4223, May 12, 1952, unreported; Zamboanga Transportation Co. vs. Lim, 105 Phil. 1321 [1959], unreported, Board of Immigration vs. Gallano, 25 SCRA 890 [1968].

[39] Memorandum Circular No. 85 dated November 7, 1988 – Family Code became effective on August 3, 1988;; Spouses De Mesa vs. Sps. Acero, Jr., et al., G.R. No. 185064, January 16, 2012, Justice Reyes.

[40] Agpalo, Conflict of Laws, 2004 edition, page 82 – “Dual citizenship means the status of a person who is a citizen of two or more countries at the same time. Dual citizenship arises when, as a result of the concurrent application of the different laws of two or more states, a person is simultaneously considered a national by the said states...

x x x

“... Considering the citizenship clause of Our Constitution, it is possible for the following classes of citizens of the Philippines to possess dual citizenship:

x x x

2. Those born in the Philippines of Filipino mothers and alien fathers if by the laws of their fathers’ country such children are citizens of that country; and x x x”

[41] Bernas, Vide, page 628, citing Convention Sessions of November 25 and 27, 1972.

[42] Cf. Agpalo, Vide, page 78 – “... Each state or country determines who are its citizens or nationals; it has no authority generally to determine who are citizens of other countries, except as an incident in a case whose resolution requires such determination...” citing Frivaldo v. Comelec, 257 SCRA 727, 768 [1996].

[43] Macquiling vs. Commission on Elections, et al., G.R. No. 195649, April 16, 2013, citing Commonwealth Act No. 63.

[44] Macquiling vs. Commission on Elections, et al., Vide.

[45] Agpalo, Vide, pp. 89-90, citing Mercado vs. Manzano, 307 SCRA 630, Valles cs. Comelec, 337 SCRA 543 [2000].

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