

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. HONORABLE PEDRO JL. BAUTISTA AND IMELDA MANGABAT SORENSEN, RESPONDENTS.

G.R. No. L-35316. October 26, 1987

Ponente: FERNAN, J.

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FERNAN, J.:

This is a petition for review on certiorari to annul the judgment of the then Court of First Instance of Rizal, Branch III, Pasay City in Special Proceedings No. 2191-P, the dispositive portion of which reads:

"WHEREFORE, the Court hereby grants the herein petition, and the Local Civil Registrar of Pasay City ordered, upon payment of the prescribed fees, to change the word 'American' into 'Danish', the nationality of Bo Huage Sorensen appearing in the birth certificate of his second son, Raymund Mangabat Sorensen [Exh. E-1], for all purposes and effects." [1]

In her verified petition filed before the lower court, private respondent Imelda Mangabat Sorensen sought to correct and change the word "American" into the word "Danish" in the birth certificate of her minor son, Raymund Mangabat Sorensen to reflect the true nationality of Bo Huage Sorensen, her husband and the father of said minor child.

Upon compliance with the jurisdictional requirements set forth in Rule 108 of the Rules of Court on cancellation or correction of entries in the Civil Registry, the petition was set for hearing.

The evidence adduced in support of the petition is summarized in the lower court's decision as follows:

"Petitioner Imelda Mangabat Sorensen in substance testified that she is married to Bo Huage Sorensen, a Danish citizen [Exhs. 'C' and 'C-1']; that with her Danish husband, she begot two (2) children, namely: Launny and Raymund [Exhs. 'D' and 'E']; that the nationality of her husband was correctly stated as 'Danish' [Exhs. 'D' and 'D-1'], while in the birth certificate of her second son Raymund, her husband's nationality was erroneously stated as 'American' [Exhs. 'E' and 'E-1'].

"Bo Huage Sorensen testified that he was born of a Danish father, on April 22, 1944, at Vejle, Denmark, and presented a certification issued by the Royal Danish Consulate of Manila [Exhs. 'E', 'F-1' and 'F-2']; that on March 14, 1968, he was married to petitioner Imelda Mangabat at Makati, Rizal [Exhs. 'C' and 'C-1']; that he is still considered tourist and living with his wife and two sons at 122-A Mabuhay St., Pasay City; that in the birth certificate of his first child, Launny Mangabat Sorensen, his nationality as 'Danish' was correctly stated, while in the birth certificate of his second son, Raymund, his citizenship was erroneously entered as 'American' [Exhs. 'D' and 'E']. [2]

The Republic of the Philippines opposed the aforesaid petition and moved for the dismissal on the ground that a correction of entry in the Civil Registry is allowed only when the same refers to mere clerical errors or mistakes, but not to substantial changes affecting the civil status, nationality or citizenship of the person concerned.

Thereafter, the court a quo rendered the assailed decision ordering the Local Civil Registrar of Pasay City as prayed for to make the necessary corrections in the entry of birth of minor Raymund Mangabat Sorensen.

Upon denial of its motion for reconsideration, oppositor Republic of the Philippines appealed to this Court, raising the sole issue of whether or not the challenged decision which involves the question of citizenship is a matter which can legally be treated under the provision of Article 412 of the Civil Code, in conjunction with Rule 108 of the Rules of Court.[3]

The petitioner Republic of the Philippines claims that the proceedings laid down in Article 412 of the Civil Code, in relation to Rule 108 of the Rules of Court, refer only to corrections of clerical errors or alterations which are harmless and innocuous. Since the petition under consideration concerns the citizenship of private respondent's son, the same cannot be determined under the aforementioned provisions of law. Citizenship is a grave and serious matter which should be threshed out only in an appropriate suit, wherein not only the State but also all affected persons are made parties defendants or respondents including the Commissioner of the then Bureau of Immigration who was not summoned in the special proceedings below.

We are constrained to deny the instant petition for review. The issue now before Us has been resolved in the well-written and exhaustive ponencia in *Republic vs. Valencia*[4] wherein the Court, speaking through Justice Gutierrez, Jr., held in effect that proceedings under Article 412 of the Civil Code and Rule 108 of the Rules of Court may either be summary or adversary in nature.

If the correction sought to be made in the civil register 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. Thus We said in *Republic vs. Valencia*:

"It is undoubtedly true that if the subject matter of a petition is not for the correction of clerical errors of a harmless and innocuous nature, but one involving nationality or citizenship, which is indisputably substantial as well as controverted, affirmative relief cannot be granted in a proceeding summary in nature. However, it is also true that a right in law may be enforced and a wrong may be remedied as long as the appropriate remedy is used. This Court adheres to the principle that even substantial errors in a civil registry may be corrected and the true facts established provided the parties aggrieved by the error avail themselves of the appropriate adversary proceeding. x x x.

"What is meant by 'appropriate adversary proceeding?' Black's Law Dictionary defines 'adversary proceeding' as follows:

'One having opposing parties; contested, as distinguished from an ex parte application, one of which the party seeking relief has given legal warning to the other party, and afforded the latter an opportunity to contest it. x x x.'"[5]

We further ruled in *Republic vs. Valencia* that if the procedural requirements provided in Sections 3, 4 and 5 of the Rules of Court are followed, the procedure ceases to be summary and becomes litigious. Proceedings following the aforementioned sections may then be appropriate for the correction of substantial matters in the civil registry.[6]

In the earlier case of *Republic vs. Medina*,[7] which cited *Chua Wee vs. Republic*,[8] it was noted therein that from the effectivity of the new Civil Code on August 30, 1950 until the promulgation of the Revised Rules of Court on January 1, 1984, there was no rule of court prescribing the particular course of action for securing judicial authorization to effect harmless changes or revisions in the civil register pursuant to Article 412 of the Civil Code. Rule 108 of the 1964 Rules of Court provides for such a mode which should however be limited solely to the implementation of Article 412, the substantive law on corrections in the civil register.

From the 1954 case of *Ty Kong Tin vs. Republic*[9] to the case of *Republic vs. Caparosso*,[10] the consistent rule laid down was that the revision of any entry pursuant to Article 412, as implemented by Rule 108, referred to those changes that are harmless and innocuous. In those cases, however, it was intimated that rectifications regarding nationality or citizenship in the civil register may be undertaken as long as the appropriate remedy is used.

Going back to the case of *Republic vs. Valencia*, We postulated that the appropriate remedy may well be a petition filed by way of special proceeding for the cancellation and/or correction of substantial entries in the civil register with the requisite parties, notices, publications and the proceedings to be taken thereafter pursuant to Sections 3, 4 and 5 of Rule 108 because then the proceedings will be adversary in character. We said:

"Thus, the persons who must be made parties to a proceeding concerning the cancellation or correction of an entry in the civil register are - [1] the civil registrar, and [2] all persons who have or claim any interest which would be affected thereby. Upon the filing of the petition, it becomes the duty of the court to - (1) issue an order fixing the time and place for the hearing of the petition, and (2) cause the order for the hearing to be published once a week for three [3] consecutive weeks in a newspaper of general circulation in the province. The following are likewise entitled to oppose the petition: - [1] the civil registrar, and [2] any person having or claiming any interest under the entry whose cancellation or correction is sought.

"If all these procedural requirements have been followed, a petition for correction and/or cancellation of entries in the record of birth even if filed and conducted under Rule 108 of the Revised Rules of Court can no longer be described as 'summary'. There can be no doubt that when an opposition to the petition is filed either by the Civil Registrar or any person having or claiming any interest in the entries sought to be cancelled and/or corrected and the opposition is actively prosecuted, the proceedings thereon become adversary proceedings." [11]

In the present case, the records show that the Pasay City Local Civil Registrar and the Solicitor General [as counsel for the Republic] were made parties to the petition for correction of entry in the civil registry filed in the Court of First Instance of Rizal, Pasay City branch. The proper notice was published once a week for three [3] consecutive weeks in the *Rizal Weekly Bulletin*, a newspaper of general circulation. The Republic appeared through a trial attorney of the Office of the Solicitor General who was present and did not object to the presentation of evidence, although after the hearing, the said trial attorney filed an opposition and/or motion to dismiss on the ground that the correction being sought did not refer to a mere clerical mistake but to a substantial change involving the nationality of a person.

In the light of the foregoing which show compliance with Sections 3, 4 and 5 of Rule 108, the proceedings undertaken in the lower court in Special Proceedings No. 2191-P were unmistakably adversary, thus removing the initial apprehension of the State that "if the entries in the civil registrar could be corrected x x x 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." [12]

WHEREFORE, the instant petition for review on certiorari is hereby denied for lack of merit and the decision of the court a quo in Special Proceedings No. 2191-P is affirmed.

SO ORDERED.

Gutierrez, Jr., Feliciano, Bidin, and Cortes, JJ., concur.

[1] Rollo, p. 30

[2] Rollo, pp. 28-29

[3] "Article 412. No entry in a civil register shall be changed or corrected, without a judicial order. [Civil Code]

"Rule 108. Cancellation or correction of entries in the Civil Registry.-

"x x x

"Sec. 3. Parties. - When cancellation or correction of an entry in the civil register is sought, the civil registrar and all persons who have or claim any interest which would be affected thereby shall be made parties to the proceeding.

"Sec. 4. Notice and Publication. - 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.

"Sec. 5. Opposition. - The civil registrar and any person having or claiming any interest under the entry whose cancellation or correction is sought may, within fifteen [15] days from notice of the petition, or from the last date of publication of such notice, file his opposition thereto.

"x x x." [Rules of Court]

[4] G.R. No. L-32181, March 5, 1986, 141 SCRA 462

[5] Id at 468-469

[6] Id at 474

[7] G.R. No. L-45030, December 15, 1982, 119 SCRA 270

[8] G.R. No. L-27731, April 21, 1971, 38 SCRA 409

[9] 94 Phil. 321

[10] G.R. No. L-32746, August 31, 1981, 107 SCRA 67

[11] See note 4, supra at 473-474

[12] Republic vs. Medina, G.R. No. L-45030, December 15, 1982, 119 SCRA 270, 274

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