

CHUG SIU AND TERESITA B. HADLOC, PLAINTIFFS-APPELLANTS, VS. THE LOCAL CIVIL REGISTRAR OF MANILA, DEFENDANT-APPELLEE.

G.R. No. L-20649. July 31, 1967

Ponente: FERNANDO, J.

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FERNANDO, J.:

Appeal from an order of dismissal of the lower court of a complaint wherein plaintiffs, now appellants, sued the Local Civil Registrar of Manila "to cause the birth certificates of the children of the plaintiffs corrected or changed in the manner explained and prayed for * * *."

The complaint was filed on May 29, 1962, plaintiffs Chug Siu and Teresita B Hadloc alleging that they "are of legal age, common-law spouses, Chinese and Filipino respectively by nationality, and they reside at 1560 Zurbaran, Sta. Cruz, Manila; and the defendant Local Civil Registrar of Manila, a duly appointed public officer, is sued in his official capacity * * *."

Then came the allegation that plaintiffs are the parents of five (5) children all born in the City of Manila, with their respective names, Guia, Corazon, Matilde, Manuel and Leticia, dates of birth, and birth registry numbers being stated (par. 2). The alleged errors contained in the birth certificates were set forth in the next paragraph, to the effect that being children and brothers of full-blood born of the same parents, Guia was registered as legitimate, but not the other four, who are registered as illegitimate; that while as appears from the birth certificates of all five (5) children the nationality of their mother was correctly given as Filipino, the birth certificates of Corazon and Matilde described them as of Chinese nationality; that the plaintiffs not being legally married, the civil status of the mother in the birth certificate of Guia should be corrected to read "single"; that there are errors in spelling of the family name or surname "Chug" in all five (5) birth certificates likewise calling for corrections. (par. 3).

The complaint further stated that the above mistakes "must have been inadvertently committed when the mother, the herein plaintiff Teresita Hadloc, was weak and in con-finement due to childbirth or when the members of her house-hold, from whom the physician or midwife got the data con-cerning said children, were in a state of excitement or worry or were deeply engrossed in attending to the mother's weakened condition at the time." (par. 4).

Then came the claim that "such mistakes or errors were explained to defendant Local Civil Registrar of Manila, but notwithstanding repeated demands made on him to change the names, he refused on the plea that he could not do so without a judicial order and, hence, the instant civil action." (par. 5).

The Deputy Local Civil Registrar on May 31, 1962 answered with an admission as to the circumstances of the parties, the assertion of lack of knowledge or information sufficient to form a belief as to the veracity of the averments made in the other paragraphs of the complaint and the allegation of lack of "power or authority to make the corrections or changes desired by the Plaintiffs in the documents mentioned in the Complaint in the absence of a judicial order to that effect."

The Solicitor General on July 10, 1962 filed an opposition and after referring to judicial decisions to the effect that the summary proceeding for correction contemplated in Art. 412 of the New Civil Code is limited to matters "that are not substantial in nature which do not affect the status and citizenship of the persons involved," asserted: "The foregoing changes as sought in the instant complaint are no doubt substantial and controversial in nature and, as such, they could only be threshed out in an appropriate action specially instituted for the purpose, and not in a proceeding to correct mistakes or clerical errors under Article 412 of the New Civil Code."

After a rejoinder to the opposition was filed by plaintiffs on July 9, 1962, the lower court in the order appealed from granted the plea for dismissal made by the Solicitor-General.

The lower court acted correctly. It was the settled law as of October 23, 1962 when the above order was promulgated that a summary petition as authorized by Article 412 of the New Civil Code does not lie where the matter "concerns the citizenship not only of petitioner but of his children." There is need for its being "threshed out in an appropriate action." So it was held in the leading case of *Ty Kong Tin v. Republic*.^[1] The above doctrine was followed in *Ansaldo v. Republic*,^[2] *Black v. Republic*,^[3] *Tan Su v. Republic*,^[4] *Bantoto Co v. Republic*,^[5] and *Barillo v. Republic*,^[6]

That is still the settled law today, as is clear from the subsequent decisions, the last one of which was rendered in April of 1966. The decisions follow: *San Luis de Castro v. Republic*,^[7] *Liu Lin v. Republic*,^[8] *Obeso Beduya v. Republic*,^[9] *Reyes v. Republic*,^[10] *David v. Republic*,^[11] *Calicdan Baybayan v. Republic*,^[12] and *Tan v. Republic*,^[13] As the Baybayan decision so aptly puts it: "The decision must be reversed. It has been the uniform jurisprudence of this Court, since *Ty Kong Tin v. 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 correct innocuous or clerical errors, such as misspellings and the like, errors that are visible to the eyes or obvious to the understanding."

If all that is sought by plaintiffs in this case is the correction of a clearly misspelled name, then the order of dismissal by the lower court might be subject to appropriate challenge. As noted in the opposition of the Solicitor General however, what is "sought in the instant complaint of authorities will involve not only a change of names, but it likewise affects the status and citizenships not only of the minors whose birth certificates are herein sought to be corrected, but also of their respective parents."

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 action 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, that declaratory relief is not available for the purpose of obtaining a judicial declaration of citizenship."

WHEREFORE, the order of dismissal by the lower court is affirmed. With costs.

Reyes, JBL, Acting C.J., Makalintal, Bengzon, JP, Zaldivar, Sanchez, Ruiz Castro and Angeles, JJ., concur.

[1] 94 Phil. 321, February 5, 1954

[2] L-10226, February 14, 1958

- [3] L-10869, November 28, 1958
- [4] L-12140, April 29, 1959
- [5] L-14978, May 23, 1961
- [6] L-14823, December 28, 1961
- [7] L-17431, April 30, 1963
- [8] L-18213, December 24, 1963
- [9] L-17639, May 29, 1964
- [10] L-17642, November 27, 1964
- [11] L-21316, November 29, 1965
- [12] L-20717, March 18, 1966
- [13] L-19847, April 29, 1966

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