

**DY EN SIU CO, ISIDRO CO, ROBERTO CO, ALFREDO CO AND
TEODORA CO, ALL MINORS, AND REPRESENTED IN THIS ACTION BY
THEIR JUDICIAL GUARDIAN MARCIANA BEN,
PLAINTIFFS-APPELLANTS, VS. LO...**

G.R. No. L-20794. July 29, 1968

Ponente: FERNANDO, J.

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FERNANDO, J.:

The nature of the case was set forth in the appealed order of dismissal issued by the Honorable Conrado M. Vasquez, Judge of the Court of First Instance of Manila. Thus: "This is a proceeding Under Article 412 of the Civil Code. The petitioners seek to correct the entries in the Local Civil Registry of the City of Manila, in the following manner: (1) to change the civil status of their mother from married to single, and her citizenship from 'Chinese' to 'Filipino', and (2) the status of the plaintiffs to be changed from legitimate to illegitimate' and their citizenship from 'Chinese' to 'Filipino'. They averred that they are all illegitimate children of their Chinese father named Co Te Sing, alias Coo Guar, their mother Marciana Ben not having been married to their father. The Local Civil Registrar of the City of Manila and the Solicitor General filed oppositions to the petition upon the principal ground that the correction or changes sought by the plaintiffs are substantial in nature and may not be effected in a proceeding under Article 412 of the Civil Code. Before the petitioner was heard, the father Co Te Sing alias Coo Cuan and Co Bing Ling, Co Bing Pang and Ko Ching Po o allege to be legitimate children of Co Te Sing, filed a motion to intervene to which the plaintiffs manifested their conformity. The motion to intervene was likewise opposed by the Solicitor General." [1]

Why the case could not prosper was equally explained clearly in such an order. Thus: "An examination of the pleadings reveals that the opposition of the defendants to the same, which this Court takes in the nature of a motion to dismiss, is well taken. It is quite evident that the changes and corrections sought to be accomplished by the plaintiffs are substantial in nature affecting as they do, the legitimacy and the nationality of the petitioners, including that of their mother who is not a party herein. Corrections of this nature have been repeatedly disallowed in a proceeding under Article 412 of the Civil Code (Ty Kon Tin v. Republics 50 O.O. 1077; Anzaldo v. Republic, 54 O.G. 5886; Black v. Republic, G. R. NO. 1086, November 28, 1958; Espiritu v. Republic, 55 O. G. 4832)." [2]

The lower court correctly relied on the Ty Kong Tin doctrine first announced in 1954 and subsequently reiterated in all succeeding decisions, the latest of which is Lee v. Lee Man Tin. [3] Reyes v. Republic of the Philippines, [4] is particularly relevant. In the language of former Chief Justice Bengzon: "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, declaratory relief is not available for the purpose of obtaining a judicial declaration of citizenship."

The firmness and consistency shown by this Court in rejecting resort to proceedings of this character is thus mistakable. Any attempt as was done in the well-written brief of appellants to exclude this action from the operation of such a well-settled principle on the ground that it could be distinguished, while not implausible, cannot be allowed to succeed. What cannot be denied is that their plea, as noted in the order, is for a change of a citizenship' through the correction in the data appearing in the Office of the Local Civil Registrar. Essentially then the proceeding cannot be dissociated from that contemplated under Article 412 of the Civil Code. It is in that sense that deference to the aforesaid decisions, impressive for their number and unanimity precludes a reversal of the lower court order.

With the above observation, the first and third errors assigned, namely, that the suit filed by appellants in an ordinary civil action and that it is not in the nature of a declaratory relief need not be pursued further. Neither is the second assigned error meritorious. It has been held that on a question affecting the cause of action, the Court may *motu proprio* inquire into such alleged fatal defect and thereafter dismiss the suit.[5]

One other point. Two of the plaintiffs-appellants, Isidro Co and Robert Co, on October 10, 1963, filed a motion to withdraw and dismiss appeal alleging that as to them the matter had "already become moot and academic" in view of a lower court decision. Reference was made to a petition in another branch of the Court of First Instance of Manila to compel the Director of Private Schools and the University of the East to allow the above plaintiffs-appellants to continue their studies in such institution with proper credit on all units earned as "they are Filipinos and do not need alien certificates of registration" as well as to order the Local Civil Registrar of Manila to make the necessary corrections. According to the decision of that particular Sala, quoted in the motion, petitioners Isidro Co alias Isidro Co Bun Huy, and Robert Co alias Roberto Co Bun Pin, "are declared to be citizens of the Philippines and entitled to be enrolled in any school of the Philippines, public or private, entitled to be credited for units they have passed, and the Civil Registrar of the City of Manila is hereby ordered to make the necessary corrections in their certificates of birth in accordance with the tenor of this decision. The writ of preliminary mandatory injunction heretofore issued by this Court is hereby made final."[6]

This Court, in a resolution of October 30, 1963, stated that "such a motion would be taken up when the case is decided on the merits." After serious consideration of the matter, this Court resolves to deny such motion for withdrawal and dismissal of the appeal with respect to plaintiffs-appellants Isidro Co and Robert Co. Whatever be the stage of finality reached in that decision referred to, enabling them to continue their studies in the University of the East and to be credited for units taken by them, it cannot affect their status as aliens, the decision of this Court affirming the order of dismissal of their petition by the Hon. Conrado M. Vasquez being controlling in the premises anything said to the contrary in such other lower court decision notwithstanding.

WHEREFORE, the order of the Hon. Conrado M. Vasquez of October 6, 1962, dismissing the complaint filed by all of the plaintiffs-appellants as well as the order by the same Judge of November 17, 1962, denying the motion for reconsideration, is affirmed. With costs against plaintiffs-appellants.

Concepcion, C.J, Reyes, JBL, Dizon, Makalintal, Zaldivar, Sanchez, and, Angeles, JJ., concur.
Castro, J., concurs in the result.

[1] Order of October 6, 1962 of the lower court, Record on Appeal, pp. 56 -57.

[2] Ibid, pp. 57-58.

[3] L-24540, April 25, 1968. In addition to the cases cited in the lower court order, reference may be made to the following: San Luis de Castro v. Republic, L-17431, April 30, 1963; Liu Lin v. Republic, L-18213, December 24,

1963; *Obeso Beduya v. Republic*, L-17642, November 27, 1964; *David v. Republic*, L-21316, November 29, 1965; *Calicdan Baybayan v. Republic*, L-20717, March 18, 1966; *Tan v. Republic*, L-19847, April 29, 1966; *Chug Sin v. Civil Registrar of Manila*, L-20649, July 31, 1967.

[4] L-47642, November 27, 1964.

[5] *Mun. of Hinabañgan v. Mun. of Wright*, L-12603, March 25, 1960.

[6] Decision of the lower court, July 30, 1963.

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