

REPUBLIC OF THE PHILIPPINES (THE LOCAL CIVIL REGISTRAR OF NAGA CITY), PETITIONER, VS. COURT OF FIRST INSTANCE OF CAMARINES SUR AND REYNALDO C. NEOLA, RESPONDENTS.*G.R. No. L-36773. May 31, 1988*

Ponente: SARMIENTO, J.

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In a petition filed on May 15, 1971, with the respondent Court of First Instance of Camarines Sur,[1] the private respondent Reynaldo C. Neola sought the correction of the entries appearing in the original certificate of birth of Reynaldo Balance Neola, Jr., in the records of the Local Civil Registrar of Naga City. Specifically, the private respondent, a policemen, prayed for the striking out from the records of the following: (a) all information referring to him as the father of Reynaldo Balance Neola, Jr., (b) the surname “Neola jr.,” and (c) the child is legitimate and his parents are married.[2] On May 26, 1972, the City Fiscal, for the Solicitor General, filed an opposition and moved for the dismissal of the petition on the ground that the rectification sought was not on mere clerical errors. He argued that this correction must be obtained in an appropriate adversary proceeding. On August 18, 1972, the respondent court issued an order giving due course to the petition and set the same for hearing; and on March 31, 1973, after the petition was heard, the respondent court issued the questioned order, the dispositive portion of which reads:

WHEREFORE, premises considered, and it appearing that there is no truth to the supposed marriage between Dolores D. Balance and petitioner Reynaldo Cleofe Neola who unmistakably is the same person who presented the foregoing petition, the Local Civil Registrar of Naga City is hereby directed, upon the finality of this order, to rectify and correct the entry in Local Civil Registrar No. 972 (Exhibit B) to conform to actual facts by deleting therefrom the name of the supposed father in Item 7 and the occupation of the supposed father in Item II-a and show PNC (sic). The surname of the child shall likewise be corrected from Reynaldo Balance Neola, Jr. to Reynaldo D. Balance.[3]

Hence, this petition filed by the Solicitor General. This was given due course on June 19, 1973, and, seasonably, the private respondent filed his answer as required by the Court. On November 20, 1973, the Solicitor General filed the brief for the petitioner. “For failure of the respondents to file brief within the required periods, the Court Resolved to consider this case SUBMITTED for decision without respondents’ brief.”[4]

We affirm the trial court’s decision

Admittedly, the corrections sought by the private respondent are substantial and controversial in nature since they involve the paternity, filiation, and civil status of the child, Reynaldo Balance Neola, Jr.

Until the Republic of the Philippines vs. Leonor Valencia, et al. ruling in 1986,[5] it has been the uniform jurisprudence of the Court since 1954, before and after the adoption of Rule 108, of the Revised Rules of Court, that the changes and corrections authorized under the summary procedure sanction by Article 412 of the new Civil Code, refer only to the corrections of innocuous or clerical errors that are visible to the eyes or obvious to

the understanding,[6] or a mistake in copying or writing.[7]

We had held that changes in the status of a person from legitimate to illegitimate or from married to not married are substantial as well as controversial, which can only be effected in an appropriate adversary proceeding.[8] More specifically, in the case of *Chua Wee vs. Republic*[9] the Court had declared that Rule 108 of the Rules of Court was precisely adopted to provide for a procedural mechanism solely to implement the provisions of Article 412 of the new Civil Code, the substantial law on the matter of correcting entries in the civil register, which enjoin that “(N)o entry in a civil register shall be changed or corrected, without a judicial order.” Said Rule 108, like all the other provisions of the Rules of Court, was promulgated by the Supreme Court pursuant to its rule-making authority under the Constitution.[10] Further, we had stated that if Rule 108 were extended to cover substantial as well as controversial changes, it would thereby become unconstitutional, for it is beyond the scope of our rule-making power to increase or modify substantive rights. This earlier construction of the law has been reaffirmed in succeeding cases[11] until *Valencia*[12] in which we held:

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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 undisputably 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.

As to what is meant by “appropriate adversary proceeding,” the Court, adopting a *Black’s Law Dictionary* definition, stated:

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. Excludes an adoption proceeding, (*Platt vs. Magagnini*, 187 p. 716, 718, 110 Was. 39)

Amplifying further on the meaning of an appropriate adversary proceeding, the Court stated:

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Provided the trial court has conducted proceedings where all relevant facts have been fully and properly developed, where opposing counsel have [sic] been given opportunity to demolish the opposite party’s case, and where the evidence as been thoroughly weighed and considered, the suit or proceeding is “appropriate.”

This relaxation of the doctrine under Rule 108 has been reaffirmed in the succeeding cases of *Antonio Chiao Ben Lim vs. Hon. Mariano A. Zosa, et al.*[13] and *Republic of the Philippines vs. Hon Napoleon R. Flojo, et al.*[14]

In the instant case, we hold that an appropriate adversary proceeding has taken place. We take note of the respondent Judge’s wise initiative along this line. In an Order dated August 18, 1972, he required an adversary proceeding to be held considering that the error sought to be corrected was not merely clerical.[15] And this was long before the *Velancia* ruling of 1986.

The controverted Order dated March 31, 1973,[16] by itself, indicates sufficient compliance with the requirements of an appropriate adversary proceeding. The publication requirement has been complied with as a prelude to the proceeding. In the hearing, after the jurisdictional requirements had been complied with, the private respondent presented his evidence. Opposition by the petitioner thereto was received by the court, particularly its pleading entitled “Opposition to Petition to Rectify the Certificate of Birth Entered Under Registry No. 972 of the Local

Civil Registrar of Naga City.”[17] And from this proceeding, it was conclusively established that no marriage between the private respondent and Dolores D. Balance, mother of the child, took place on January 7, 1969; that the private respondent hardly knew Dolores D. Balance and never had any extramarital relations with her; and that he is very much a married man and his wife is still living.[18] The record of this case does not show any rebuttal of the evidence of the private respondent. We accept, therefore, the conclusion of the trial court that the proceedings therein satisfy the requirements of an adversary proceeding.

WHEREFORE, the challenged Order is hereby affirmed, and the instant petition is hereby DISMISSED. No pronouncement as to costs.

SO ORDERED.

Yap, C.J., Melencio-Herrera, Paras and Padilla, JJ., concur.

[1] Hon. Rafael de la Cruz, Presiding Judge, 10[th] Judicial District, City of Naga.

[2] Rollo, 11-12, 18-19.

[3] Ibid., 28.

[4] Resolution, February 11, 1974; Rollo, 67.

[5] G.R. No. L-32181, March 5, 1986.

[6] Republic, et al. vs. Amores, et al., No. L-35232, January 31, 1973, citing Ty Kong Tin vs. Republic (1954), 44 Phil. 321, and Uy vs. Local Civil Registrar of Cebu City (1972), L-24442, July 27, 1972.

[7] Black vs. Republic of the Philippines, L-10869, November 28, 1958

[8] Rosales vs. Castillo, et al., No. L-31712, September 28, 1984, 132 SCRA 132, citing Tang Pong vs. Republic, G.R. No. 21010, November 28, 1969, 30 SCRA 380; Chua Tan Chuan vs. Republic, G.R. No. 25439, March 28, 1969, 27 SCRA 447, and other cases.

[9] G.R. No. 27731, April 21, 1971, 38 SCRA 409.

[10] Section 13, Article VIII, 1973 Constitution (now Section 5(5), Article VIII, 1987 Constitution).

[11] Uy vs. Local Civil Registrar, L-24442, July 27, 1972; Sy vs. Local Civil Registrar, L-25621, July 27, 1972, Rosales vs. Castillo, et al., supra.

[12] Supra.

[13] G.R. No. L-40252, December 29, 1986.

[14] G.R. No. L-49703, July 31, 1987.

[15] Rollo, 21-22.

[16] Id., 25-28.

[17] Id., 23-24.

[18] Id., 26-27.

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