

IN THE MATTER OF THE CORRECTION OF THE SURNAME OF CESAR YOUNG, AS RECORDED IN THE REGISTRY OF BIRTHS OF THE LOCAL CIVIL REGISTRAR OF MANILA. CESAR YU AND DRA. MAPALAD CRUZ-YU, P...

G.R. No. L-36478. April 29, 1983

Ponente: RELOVA, J.

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RELOVA, J.:

Appeal from the order of the Court of First Instance of Rizal which dismissed the petition for correction of entry in the Civil Registry of Manila.

Petitioners-appellants Cesar Yu and Mapalad Cruz, son and mother, respectively, filed with the Court of First Instance of Rizal a petition for correction of entry in the Civil Registry of Manila alleging that both petitioners are residents of San Juan, Rizal; that petitioner Cesar Yu is the son of petitioner Mapalad Cruz and Aproniano Yu; that Cesar Yu was born at the Sacred Heart Hospital at Looban, Paco, Manila, on April 2, 1943; that the physician who attended his delivery erroneously gave the surname "Young" instead of "YU" to the newly born child when the birth of the child was recorded in the Civil Registry of Manila; that the entries in the birth certificate of Cesar Yu as recorded in the Civil Registry of Manila contain the following entries:

Full Name - Cesar Young

Name of Father - Aproniano Young;

and that these erroneous entries in the birth certificate of Cesar Yu in the Civil Registry of Manila were due to the mistake of the person who supplied the information to the Local Civil Registrar of Manila. Petitioner Cesar Yu prays that an order be issued directing the Civil Registrar of Manila to correct the erroneous entries in his birth certificate by changing the surname "YOUNG" to "YU" under the column "Full Name of Child," and the surname "Young" to "Yu" under the column "Father" so that the full name of the petitioner should read "CESAR YU" instead of "CESAR YOUNG," and that of his father as "Aproniano Yu" instead of "Aproniano Young."

The trial court on June 26, 1969, issued an order as follows:

"It appearing from the records that the civil registry to be corrected is located in the City of Manila and that the Civil Registrar of the City of Manila has not been made party to this proceedings as provided for in Sections 1 and 3 of Rule 108 of the Rules of Court of the Philippines, this case is hereby DISMISSED without prejudice and without pronouncement as to costs."

It is the submission of the petitioners that the provisions of Article 412 of the Civil Code should apply instead of Sections 1 and 3, Rule 108 of the Rules of Court; that the Local Civil Registrar of Manila need not be specifically mentioned as party and that the case may be filed in the residence of the petitioner as provided for in Section 2, Rule 4 of the Rules of Court; and that the court a quo acquired jurisdiction by publication because the petition for correction of surname is by its nature a special proceeding. Further, petitioners contend that Rule 108 of the Rules

of Court contemplates cancellation or correction of an error on a substantial matter in the civil register and that petitioner Cesar Yu's surname was not entered correctly in the civil register and the correction may therefore be secured judicially pursuant to Article 412 of the Civil Code in relation with the general provisions of the Rules of Court in special proceedings.

The opposition of the Solicitor General is based on the ground that the changes sought by petitioners-appellants cannot be effected by a proceeding under Article 412 of the Civil Code.

The opposition is well-taken. Article 412 allows correction only of clerical mistakes, not those substantial changes which may affect the civil status or nationality of the persons involved. (*Ty Kong Tin vs. Republic*, L-5609, February 5, 1954; *Beduya vs. Republic*, 11 SCRA 109). A clerical error is one which is visible to the eyes or obvious to the understanding; an error made by a clerk or a transcriber; a mistake in copying or writing (*Black v. Republic of the Philippines*, L-10869, November 28, 1958); or some harmless and innocuous changes such as correction of a name that is clearly misspelled or of a misstatement of the occupation of the parties (*Ansaldo v. Republic of the Philippines*, L-10226, February 14, 1958).

The correction sought by petitioners-appellants is clearly substantial, not only clerical, affecting as it does not only their names but also their identities. Thus, the correction can only be made in a proper proceeding wherein the person concerned (Civil Registrar of Manila) should be made a party and be given the opportunity to be heard.

Section 1 of Rule 108 of the Revised Rules of Court provides:

"SECTION 1. Who may file petition.— Any person interested in any act, event, order or decree concerning the civil status of persons which has been recorded in the civil register, may file a verified petition for the cancellation or correction of any entry relating thereto, with the Court of First Instance of the province where the corresponding civil registry is located."

and, Section 3 thereof requires that the Civil Registrar and all persons who have or claim any interest which may be affected thereby shall be made parties to the proceeding. Thus, the petition must conform and comply with the provisions of Rule 108 of the Rules of Court and, petitioners having failed to comply with the requirements thereof, the trial court committed no error in dismissing the petition. The reason why non-clerical mistakes cannot be corrected under the summary proceeding set by Article 412 of the new Civil Code "lies in the fact that the books making up the Civil Register and all documents relating thereto shall be considered public documents and shall be prima facie evidence of the facts therein contained, (Article 410, New Civil Code), and if the entries in the civil register could be corrected or changed through a mere summary proceeding, and not through an appropriate action, wherein all 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 consequences of which might be detrimental and far reaching. (*Ansaldo vs. Republic*, 102 Phil. 1047)"

ACCORDINGLY, the order appealed from is AFFIRMED and the petition is hereby DISMISSED, without pronouncement as to costs.

SO ORDERED.

Melencio-Herrera, Plana, Vasquez and Gutierrez, Jr., JJ., concur.
Teehankee (Chairman), J., took no part.

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