

CIRILA UY, PETITIONER AND APPELLEE, VS. LOCAL CIVIL REGISTRAR OF THE CITY OF CEBU & SY AN SAI, RESPONDENTS, REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLANT.

G.R. No. L-24442. July 27, 1972

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

May entries in the record of the local civil registrar relative to the citizenship, civil status and filiation of a person be the object of a substantial or non-clerical correction through a petition filed pursuant to Rule 108 of the Rules of Court' This is the only issue in the above-entitled cases. Hence this joint decision.

L-24442 (UY vs. Local Civil Registrar of the City of Cebu)

In a petition tiled on February 18, 1964, with the Court of First Instance of Cebu, Cirila Uy who testified that she is the natural daughter of a Filipino and a Chinese national, both deceased sought authority for the "correction" of the entries in the birth record of her son, Alexander Sy, in the local civil registry of Cebu City, relative to her citizenship, from "Chinese" to "Filipino," her civil status, from "married" to "single." and the surname of Alexander, from "Sy" the surname of his allegedly "natural" father, Sy An Sai to "UY," her own surname. Alexander being allegedly her natural child, and that accordingly, the name of his natural father, Sy An Sai be deleted from said birth record. Cirila averred in her petition that these entries were due to errors committed by one Flaviana Mañago, the midwife now deceased who attended her (petitioner) at the delivery of Alexander she (the midwife) having erroneously believed that petitioner was legally married to Sy An Sai.

Despite the opposition of the Solicitor General and of the Local Civil Registrar of the City of Cebu, said court, after taking petitioner's testimony rendered judgment, on February 1, 1965, ordering the correction of the entries as regards the citizenship of petitioner Cirila Uy, from "Chinese" to "Filipino," and her civil status, from "married" to "single." as well as that of Alexander, "from legitimate to natural child," but denying the other relief prayed for namely the change or correction of Alexander's surname, from "Sy" to "Uy" it appearing that he had been recognized by his father, Sy An Sai, with whom he (Alexander) lives and by whom he has been and is being supported. The case is before Us on appeal taken by the Solicitor General.

L-25621 (Sy vs. The Local Civil Registrar of Virac, Catanduanes, The Commissioner of Immigration, and the Solicitor General)

Together with their children Maria Cleofas, Severo and Marina, all surnamed Sy, the spouses Juan and Pilar Ubalde Sy commenced these proceedings, on September 24, 1964, in the Court of First Instance of Catanduanes, for the cancellation of their respective alien certificates of registration and the change of their surname from "Sy" to "Pampanga," upon the authority of Rules 103 and 108 of the Revised Rules of Court and Article 412 of our Civil Code. They alleged in their petition, as amended on April 21, 1965, that Juan Sy was born in Cabugao, Bato, Catanduanes, on June 24, 1908 and baptized in a Catholic church as Juan Pampanga; that he is the illegitimate child of Juana Pampanga — whom he had never known, according to his testimony a Filipina maid of the spouses

Sy Jong Kay and Ang Jing (Hong), who died in 1955 and 1958, respectively; that petitioners do not know whether Juana Pampanga is still alive or not, and - - if she is — her whereabouts; that soon after the birth of Juan, his mother "left the Chinese couple, leaving" him with them; that the couple took care of him, treated him as one of their children, caused him to use their family name and to be called and known as Juan Sy, not as Juan Pampanga, as well as to be registered in 1941, in the Office of the Local Civil Registrar of Virac, Catanduanes, as a Chinese citizen, and, consequently, his wife and children the other petitioners herein -- were, likewise, registered as Chinese citizens — and, according to the evidence, were issued the corresponding alien certificates of registration; that sometime in 1950, the couple informed him of his true parentage; and that thereupon, he, and his wife and children had considered themselves as Filipino citizens and been using the surname "Pampanga."

A motion of the Solicitor General for the dismissal of the case, for lack of cause of action, having been denied, trial took place, after which decision was rendered granting the reliefs prayed for by the petitioners. Hence, this appeal by the Solicitor General.

L-33014 (Bual vs. The Local Civil Registrar of Candijay, Bohol)

On September 21, 1966, Cresencia B. Bual initiated these proceedings in the Court of First Instance of Bohol, for the correction of the entries in the birth record of her son, Jeffrey Yu, in the Office of the Local Civil Registrar of Candijay, Bohol, concerning his citizenship, from "Chinese" to "Filipino," and his filiation, from "legitimate" to "Illegiti-mate," upon the ground that the entries sought to be corrected were due to her misapprehension she having furnished the pertinent data - "that being a common-law wife of Yu Se Guan, alias Johnny Yu, conferred upon her children legitimate status and the Chinese citizenship of their Chinese father."

After due trial, said court rendered judgment for the petitioner, despite the opposition of the Solicitor General, who, accordingly, interposed the present appeal.

The decisions appealed from in the foregoing three (3) cases are manifestly erroneous and contrary to a doctrine well-established in our legal system, as well as settled in a long line of decisions of this Court since as early as the year 1954.[1] In *Chan Chin vs. The Local Civil Registrar of Manila*,[2] We quoted with approval the statement, made in *Baybayan vs. Republic*,[3] to the effect that:

"It has been the uniform jurisprudence of this Court, since *Ty Kong Tin vs. Republic* (1954), 94 Phil. 321, that substantial alterations, such as those affecting the status and, citizenship of a person in the CM 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 (*Black vs. Republic*, L-10869, November 28, 1958; *Ansaldo vs. Republic*, L-10226, February 14, 1958; *Tan Su vs. Republic*, L-12140, April 29, 1959; *Bentoto vs. Republic*, L-14978, May 23, 1961; *De Castro vs. Republic*, L-17431, April 30, 1963; *Lui Lin vs. Republic*, L-18213, December 24, 1963)."[4]

Indeed, in *Reyes vs. Republic*,[5] it was pointed out that:

"* * * we have invariably held, only mistakes that are clerical in nature may be ordered corrected under Article 412 of the Civil Code of the Philippines. The procedure contemplated under this provision of law is summary in nature.

"If the petition, on the other hand, pursues the correction of entries that are substantial, the erroneous entry may be corrected by the Court by means of a proper action according to the nature of the issues in controversy and wherein all the parties who may be affected by the entries are notified or represented and evidence submitted to

prove the allegations of the complaint, and proof to the contrary admitted.

"* * * * *

"It may be stated at this juncture that Rule 108 of the Revised Rules of Court provides for the cancellation or correction of the entries in the Civil Registry relating to civil status. Any person interested in any act, event, order or decree concerning the civil status of persons which has been recorded in the Civil Registry, may file a verified petition for the cancellation or correction of any entry relating thereto. The entries which may be cancelled or corrected are specifically enumerated. While 'birth' is mentioned as one of the entries that may be corrected or cancelled, this includes only such particulars as are attendant to birth. Other details, such as a nationality or citizen-ship are not included. Rule 108 also covers citizenship but only as regards its election, loss or recovery. But this certainly has no relevance to the instant petition, * * *."

In not adhering to the view taken in *Ty Kong Tin* and subsequent cases, the trial court maintained, in L-25621, that said cases had merely construed Article 412 of our Civil Code[6] - beyond the ambit of which it impliedly conceded the case to be — and are not controlling in the application of Rule 108 of the Revised Rules of Court, which, said court intimated, enlarged by implication the judicial power under said Article 412. This theory is, however, inconsistent with Our ruling in *Chua Wee vs. Republic*,[7] from which We quote:

"Article 412 of the New Civil Code is the only substantive law covering the alteration or correction of entries in the civil register which alteration or correction can only be effected through a judicial order.

"The uniform and emphatic construction of Article 412 of the New Civil Code before and after Rule 108 of the Revised Rules of Court which took effect on January 1, 1964, until the last case of *Tan Pong vs. Republic* (L-21010, Nov. 28, 1969), is that the changes or corrections - authorized under said Article 412, which envisions a summary procedure therefor, relate only to harmless and innocuous alterations such as mis-spellings or errors that are visible to the eyes or obvious to the understanding and that changes in the citizenship of a person or in his status from legitimate to illegitimate or from married to not married are substantial as well as controversial, which can only be established in an appropriate adversary proceeding as a remedy for the adjudication of real and justiciable controversies involving actual conflict of rights the final determination of which depends upon the resolution of the issues of nationality, paternity, filiation or legitimacy of the marital status for which existing substantive and procedural laws as well as other rules of court amply provide.

"From the time the New Civil Code took effect on August 30, 1950 until the promulgation of the Revised Rules of Court on January 1, 1964, there was no law nor rule of court prescribing the procedure to secure judicial authorization to effect the desired innocuous rectifications or alterations in the civil register pursuant to Article 412 of the New Civil Code. Rule 108 of the Revised Rules of Court now provides for such a procedure which should be limited solely to the implementation of Article 412, the substantive law on the matter of correcting entries in the civil register. 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 Sec. 13 of Art. VIII of the Constitution, which directs that such rules of court 'shall not diminish or increase or modify substantive rights.' If Rule 108 were to be extended beyond innocuous or harmless changes or corrections of errors which are visible to the eye or obvious to the understanding, so as to comprehend substantial and controversial alterations concerning citizenship, legitimacy of paternity or filiation, or legitimacy of marriage, said Rule 108 would thereby become unconstitutional for it would be increasing or modifying substantive rights, which changes are not authorized under Article 412 of the New Civil Code."

Hence, in *Go vs. Civil Registrar of Malabon*,[8] this Court stressed that:

"* * * We have repeatedly reiterated the view that only 'clerical errors of a harmless or innocuous nature,' not those 'involving civil status, nationality or citizenship, which are substantial and/or controversial,' may be corrected under the provisions of said Art. 412 of the Civil Code, in relation to Rule 108 of the Revised Rules

of Court."

Appellees herein have not adduced any plausible reason, and We have not found any, to warrant a reversal of the foregoing views or even a reexamination thereof.

WHEREFORE, the decisions appealed from should be, as they are hereby, reversed, and the petitions in the above-entitled cases dismissed, with costs against the respective appellees.

SO ORDERED.

Reyes, J.B.L., Makalintal, Zaldivar, Castro, Fernando, Teehankee, Antonio, and Esguerra, JJ., concur.

Barredo and Makasiar, JJ., took no part.

[1] Ty Kong Tin vs. Republic, 94 Phil. 321.

[2] L-27159, September 17, 1969.

[3] L-20717, March 18, 1966.

[4] See, also, Beduya vs. Republic, L-17639, May 29, 1964; Reyes vs. Republic, L-17642, November 27, 1964; David vs. Republic L-21316, November 29, 1965; Chug Siu vs. Local Civil Registrar of Manila, L-20649, July 31, 1967; Jaime Lim vs. Civil Local Registrar of Manila, L-24284, February 28, 1968.

[5] L-17642, November 27, 1964 *Italics ours*. See, also, Chua Tan Chuan vs. Republic L-25439, March 28, 1969 Viray vs. Republic L-26588, September 30, 1970.

[6] "No entry in a civil register shall be changed or corrected, without a judicial order."

[7] L-27731, April 21, 1971. *Italics supplied*.

[8] L-29544, and five (5) other cases, all promulgated May 31, 1971, *Italics supplied*.

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