

ROSALINDA MATIAS, PETITIONER-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.

G.R. No. L-26982. May 08, 1969

Ponente: REYES, J.B.L., Acting C.J.

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REYES, J.B.L., Acting C.J.:

Appeal by the State from a decision of the Court of First Instance of Rizal, dated 14 August 1961, directing the Civil Registrar of Malabon, Rizal, to insert the name of the petitioner in the apposite space left blank in the certificate of birth.

Petitioner had filed in the court of first instance above named a petition averring that she was born in Malabon, Rizal, on 28 February 1941; that when she needed a copy of her birth certificate in connection with her designation as exchange student it was discovered that in her birth certificate the space destined for the name of the child being registered had been left blank; that the particulars stated in the certificate, such as date, time and place of birth, names and domicile of parents, etc., corresponded with her own. Wherefore, she prayed that, after hearing, the court direct the insertion of her name in the corresponding blank in the birth certificate records of the Civil Registrar of Malabon.

Her petition, by direction of the court, was published by posting copies thereof in the provincial capitol building in Pasig as well as in the municipal building of Malabon for at least two weeks, and by service of the same upon the Solicitor General and the Civil Registrar of Malabon, Rizal.

In due time, the officers last named opposed the granting of the petition on the ground that a petition for correction of entries in the Civil Register under Article 412 of the Civil Code of the Philippines could only refer to clerical errors, and that the amendment sought by the petitioner was not of this kind, and could not be granted by the court.

At the hearing, the petitioner presented the testimony of the nurse midwife who attended her birth on the date stated in the birth certificate; and said nurse attested to petitioner's identity with the child referred to in the birth certificate and affirmed to the court that the lack of name was due to omission by over-sight. The nurse was corroborated by petitioner's father. Her baptismal certificate, giving her name as Rosalinda Matias, coinciding with the recorded certificate of birth as to date of birth and parentage of the child, was, likewise, introduced and admitted in evidence.

The court of first instance granted the petition on 14 August 1961, and the Solicitor General duly appealed. Without questioning the probative value of petitioner's evidence, the State insists that the correction sought is not allowable under the law and jurisprudence on the subject.

We believe the appeal to be untenable. From the official certificate of birth itself (Exhibit "A"), it appears that the name of a newly born child need not be made to appear at the time the birth is entered in the record of the Civil Register but may be subsequently inserted. In fact, the birth certificate itself, after the blank provided for the name

of the new-born child, recites the following instruction:

"If the child is not yet named make a supplemental report as directed."

"Si al recién nacido no se le ha puesto nombre todavía envíese un report suplementario según instrucciones."

It can thus be seen that the name of the child does not necessarily have to appear in the record of birth at the time it is entered, but may be supplied later. And if the name may be recorded subsequently on the strength of a supplemental report, there is no reason why the same may not be done upon a judicial order, issued after proper hearing.

Granting that the supplying of a name that was left blank in the original recording of the birth does not constitute, as contended by the Solicitor General, a rectification of a mere clerical error, it is well to observe that the doctrine of the case of *Ty Kong Tin vs. Republic*, 94 Phil. 321, and subsequent adjudications predicated thereon,^[1] forbade only the entering of material corrections or amendments in the record of birth by virtue of a judgment in a summary action against the Civil Registrar. In the case of petitioner herein; however, the proceedings were not summary, considering the publication of the petition made by order of the court in order to give notice to any person that might be interested, including direct service on the Solicitor General himself. Considering the peculiar circumstances of this particular case, the fact that no doubt is cast on the truth of petitioner's allegations, or upon her evidence in support thereof, the absence of any showing that prejudice would be caused to any party interested (since petitioner's own father testified in her favor), and the publicity given to the petition, we are of the opinion that the *Ty Kong Tin* doctrine is not controlling in this case.

WHEREFORE, the decision under appeal is affirmed. No costs.

Dizon, Makalintal, Zaldivar, Sanchez, Fernando, Capistrano, and Teehankee, JJ., concur.

Barredo, J., did not take part.

Concepcion, C.J., and Ruiz Castro, J., on official leave, did not take part.

[1] *Ansaldo vs. Republic*, 54 OG 5886; *Chord vs. Local Civil Registrar*, 52 OG 6541; *Brown vs. Republic*, 52 OG 6564.

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