

AIDA ALAPAG BERON, PETITIONER-APPELLEE, VS. THE LOCAL CIVIL REGISTRAR OF PINTUYAN, SOUTHERN LEYTE, RESPONDENT-APPELLEE.

Ponente: INGLES, G. T., J.

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INGLES, G. T., J.:

Before us is an appeal seeking to annul and reverse the Decision[1] of the Regional Trial Court, 8th Judicial Region, Branch 39, Sogod, Southern Leyte dated February 4, 2012 in SP. PROC. NO. R-246, entitled In the Matter of the Petition for Change/Correction of Entries in the Birth Records of Aida Alapag Beron: Aida Alapag Beron vs. the Local Civil Registrar of Pintuyan, Southern Leyte, in Her Official Capacity, the dispositive portion of which reads as follows:

“WHEREFORE, as prayed for, judgment is hereby rendered GRANTING the petition.

ACCORDINGLY, the Local Civil Registrar (LCR) of Pintuyan, Southern Leyte and the National Statistics Office (NSO), Quezon City are hereby ordered to effect the necessary changes/corrections in the Registry of Birth of AIDA ALAPAG BERON, as follows:

- To change/correct therein her First Name from “RAUL” to “AIDA” under column First Name of the child;
- To change/correct therein her SEX entry from “M” or “MALE” to “F” or “FEMALE” under column SEX of the child;
- To change/correct therein the Date of Marriage of her Parents from “MAY 7, 19/NOVEMBER 10, 1959” to “NOVEMBER 5, 1958” under column Date of Marriage of the Parents of the child; and
- To supply/fill in therein the Place of Marriage of her Parents from “BLANK” to “PINTUYAN, SOUTHERN LEYTE” under column Place of Marriage of the Parents of the child.

SO ORDERED.”

The facts of the case as culled from the records are as follows:

The instant case originated from a Petition[2] dated May 10, 2011 filed by Aida Alapag Beron with the Regional Trial Court of Sogod, Southern Leyte, Branch 39, docketed as SP Proc. No R-246 entitled “In the Matter of the Petition for Change/Correction of Entries in the Birth Records of Aida Alapag Beron: Aida Alapag Beron vs. the Local Civil Registrar of Pintuyan, Southern Leyte, in her Official Capacity.”

In an Order[3] dated June 27, 2011, the RTC, finding the petition to be sufficient in form and substance, directed that the Office of the Solicitor General, the Provincial Prosecutor's Office, the Local Civil Registrar of Pintuyan, Southern Leyte and the National Statistics Office be furnished a copy of the petition, and that the petition be published in a newspaper of general circulation in the Province of Southern Leyte once a week for three (3) consecutive weeks.

The Solicitor General and the Local Civil Registrar of Pintuyan, Southern Leyte were subsequently furnished with

copies of the petition as evidenced by the registry receipts attached to the records of the case. A Notice of Appearance[4] dated June 9, 2011 was then filed by the Solicitor General and the Office of the Provincial Prosecutor of Sogod, Southern Leyte, was deputized to assist the Office of the Solicitor General in the instant case.

As ordered by the court, publication of the petition was made in the newspaper “The Southern Leyte Times” in its issues of July 16-22, 2011; July 23-29, 2011; and July 30-August 5, 2011 per Affidavit of Publication[5] executed by Antonio M. Reyes, Publisher.

During the initial hearing of the case, petitioner, through counsel, presented evidence establishing jurisdictional facts and formally offered the same which were all admitted without objection from the State. No oppositor appeared during the said hearing hence, the RTC issued an order of general default against the whole world except the State.[6]

The presentation of evidence ex-parte was thereafter conducted. Petitioner testified in her behalf and her testimony[7] is hereunder summarized as follows:

She is the same Aida Alapag Beron who is the petitioner in this case. She filed the instant petition to correct errors on certain entries in her Birth Certificates from the NSO and from LCR-Pintuyan. What appeared in the LCR copy of her Birth Certificate[8] as the date of marriage of her parents was November 10, 1959 but the correct date of marriage of her parents is November 5, 1958.

The NSO copy of her Birth Certificate[9] also contained erroneous entries as follows: her first name was erroneously entered as Raul when it should have been Aida; her sex was erroneously entered as male when it should have been female; and the entry on the place of marriage of her parents was left blank.

To prove the correct information that should have been entered in her birth certificates, she presented and identified the Marriage Contract[10] of her parents where it was indicated that the date of marriage was on November 5, 1958 and that they were married at Pintuyan, Southern Leyte.

She also presented and identified the Birth Certificate of her sister Charlita Alapag Beron[11] reflecting the correct date of marriage of their parents.

To prove that she is indeed female, she also presented and identified a medical certificate[12] signed by the Municipal Health Officer of Pintuyan, Southern Leyte certifying that petitioner was physically examined and was found to be genetically female.

She also presented and identified her Baptismal Certificate[13] to prove that her first name is Aida and not Raul, as well as her Secondary Student's Permanent Record[14] and NBI Clearance.[15]

On cross examination, she averred that she does not know Raul Alapag Beron. She also stated that the Birth Certificate she secured from the NSO is hers because of her date of birth (April 1, 1978) that appeared thereat as well the name of her parents.

Based on the foregoing, the RTC found that there exists valid grounds to correct the birth certificates and held that the petition was well supported by law and the duly established facts. The RTC then rendered its decision in the manner and tenor quoted above.

A Notice of Appeal[16] was then filed by the Republic of the Philippines through the Office of the Solicitor General which was granted and given due course by the RTC.[17]

The following assignments of errors were raised, to wit:

I

THE COURT A QUO ERRED IN TAKING COGNIZANCE OF THE PETITION TO CHANGE THE NAME OF PETITIONER-APPELLEE FROM “RAUL” TO “AIDA” - A PETITION WHICH FALLS WITHIN THE PROVISIONS OF RULE 103 OF THE REVISED RULES OF COURT – DESPITE SUBSTANTIAL DEFECT IN THE PETITION.

II

ASSUMING ARGUENDO THAT PETITIONER-APPELLEE AVAILED OF THE REMEDIES UNDER RULE 108 OF THE RULES OF COURT, THE COURT A QUO ERRED IN GRANTING PETITIONER-APPELLEE'S PETITION CONSIDERING THAT THE ENTRY SOUGHT TO BE CORRECTED IN HER CERTIFICATE OF LIVE BIRTH CAN ONLY BE GRANTED IN AN ADVERSARIAL PROCEEDING WHEREIN INDISPENSABLE PARTIES MUST BE NOTIFIED AND IMPEADED AS PARTIES TO THE CASE.

The appeal does not merit this Court’s consideration.

Appellant contends that the RTC erred in granting the petition for change/correction of entries in the birth records of Aida Alapag Beron inasmuch as the provisions of Rule 103 of the Revised Rules of Court on change of name have not been complied with, the petition having been decided under Rule 108 of the Revised Rules of Court.

We are not persuaded.

The Supreme Court in the case of *REPUBLIC OF THE PHILIPPINES vs. MERLYN MERCADERA* through her Attorney-in-Fact, *EVELYN M. OGA*,^[18] has ruled that:

“It appears from these arguments that there is, to some extent, confusion over the scope and application of Rules 103 and Rule 108. Where a “change of name” will necessarily be reflected by the corresponding correction in an entry, as in this case, the functions of both rules are often muddled. While there is no clear-cut rule to categorize petitions under either rule, this Court is of the opinion that a resort to the basic distinctions between the two rules with respect to alterations in a person’s registered name can effectively clear the seeming perplexity of the issue. Further, a careful evaluation of circumstances alleged in the petition itself will serve as a constructive guide to determine the propriety of the relief prayed for.

The “change of name” contemplated under Article 376 and Rule 103 must not be confused with Article 412 and Rule 108. A change of one’s name under Rule 103 can be granted, only on grounds provided by law. In order to justify a request for change of name, there must be a proper and compelling reason for the change and proof that the person requesting will be prejudiced by the use of his official name. To assess the sufficiency of the grounds invoked therefor, there must be adversarial proceedings.^[19]

In petitions for correction, only clerical, spelling, typographical and other innocuous errors in the civil registry may be raised. Considering that the enumeration in Section 2, Rule 108^[20] also includes “changes of name,” the correction of a patently misspelled name is covered by Rule 108. Suffice it to say, not all alterations allowed in one’s name are confined under Rule 103. Corrections for clerical errors may be set right under Rule 108.

This rule in “names,” however, does not operate to entirely limit Rule 108 to the correction of clerical errors in civil registry entries by way of a summary proceeding. As explained above, *Republic v. Valencia* is the authority for allowing substantial errors in other entries like citizenship, civil status, and paternity, to be corrected using Rule 108 provided there is an adversary proceeding. “After all, the role of the Court under Rule 108 is to ascertain the truths about the facts recorded therein.”^[21]

A perusal of the petition filed before the RTC would reveal that the same was filed in contemplation of Rule 108 and not Rule 103 of the Revised Rules of Court. Petitioner alleged thereat that she had been using the name Aida Alapag Beron continuously and was habitually known by such name, however, it was recently discovered that in

her birth certificate, the name RAUL was erroneously entered. From the allegations in the petition, Beron clearly intended to remove the error from her registered given name “RAUL,” and to make it conform to the one she grew up to, which is “AIDA.” It never appeared in the said petition that the change of name was for any of the grounds under Rule 103.

A person can effect a change of name under Rule 103 (CHANGE OF NAME) using valid and meritorious grounds including (a) when the name is ridiculous, dishonorable or extremely difficult to write or pronounce; (b) when the change results as a legal consequence such as legitimation; (c) when the change will avoid confusion; (d) when one has continuously used and been known since childhood by a Filipino name, and was unaware of alien parentage; (e) a sincere desire to adopt a Filipino name to erase signs of former alienage, all in good faith and without prejudicing anybody; and (f) when the surname causes embarrassment and there is no showing that the desired change of name was for a fraudulent purpose or that the change of name would prejudice public interest.[22]

We also note that the instant petition does not involve substantial and controversial alterations including those on citizenship, legitimacy of paternity or filiation, or legitimacy of marriage, which would require a strict compliance with the requirements of Rule 108 of the Rules of Court.

With regard the correction of entry in the birth records of petitioner from male to female, we find the same proper under the circumstances of this case. She has duly proven that the name RAUL appearing in her NSO record is erroneous as shown by her LCR-Pintuyan record, baptismal certificate, school records and NBI clearance. RAUL is a name commonly attributed to males, hence it is understandable that an error was also committed on the gender entry of petitioner's NSO record. We note though that her LCR-Pintuyan record also indicates her sex as female and her school record also indicates that her sex is female. Petitioner was likewise able to present a Certification from the Municipal Health Officer who has physically examined her and concluded that she has female external genitalia, hence, clearly female.

Anent appellant's second assignment of error to the effect that the RTC erred in granting the petition considering that the entry sought to be corrected can only be granted in an adversarial proceeding only wherein indispensable parties must be notified and impleaded, we find the same bereft of merit.

Instructive is the ruling of the Supreme Court in the above cited case of Republic vs. Mercadera,[23] to wit:

“Besides, granting that Rule 103 applies to this case and that compliance with the procedural requirements under Rule 108 falls short of what is mandated, it still cannot be denied that Mercadera complied with the requirement for an adversarial proceeding before the lower court. The publication and posting of the notice of hearing in a newspaper of general circulation and the notices sent to the OSG and the Local Civil Registry are sufficient indicia of an adverse proceeding. The fact that no one opposed the petition, including the OSG, did not deprive the court of its jurisdiction to hear the same and did not make the proceeding less adversarial in nature. Considering that the OSG did not oppose the petition and the motion to present its evidence ex parte when it had the opportunity to do so, it cannot now complain that the proceedings in the lower court were procedurally defective. Indeed, it has become unnecessary to further discuss the reasons why the CA correctly affirmed the findings of the lower court especially in admitting and according probative value to the evidence presented by Mercadera.”

Moreover, REPUBLIC ACT NO. 10172, otherwise known as AN ACT FURTHER AUTHORIZING THE CITY OR MUNICIPAL CIVIL REGISTRAR OR THE CONSUL GENERAL TO CORRECT CLERICAL OR TYPOGRAPHICAL ERRORS IN THE DAY AND MONTH IN THE DATE OF BIRTH OR SEX OF A PERSON APPEARING IN THE CIVIL REGISTER WITHOUT NEED OF A JUDICIAL ORDER, AMENDING FOR THIS PURPOSE REPUBLIC ACT NUMBERED NINETY FORTY-EIGHT now allows clerical or

typographical errors in the sex/gender and birth date appearing in civil registry entries to be corrected without going to court.

WHEREFORE, the Republic's appeal is DENIED. The Decision dated February 4, 2012 of the Regional Trial Court, Branch 39 of Sogod, Southern Leyte, is AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Maxino, P.A., and Francisco, R.C., JJ., concur.

[1] Records at pp. 35-39.

[2] Records at pp. 1-3.

[3] Records at pp. 17-18.

[4] Records at p. 19.

[5] Records at p. 24.

[6] Records at pp. 26-27.

[7] Transcript of Stenographic Notes dated January 21, 2012.

[8] Exh. "J," Records at p. 5.

[9] Exh. "K," Records at p. 6.

[10] Exh. "L," Records at p. 31.

[11] Exh. "M," Records at p. 32.

[12] Exh. "N," Records at p. 10.

[13] Exh. "O," Records at p. 7.

[14] Exh. "P," Records at pp. 8-9.

[15] Exh. "Q," Records at p. 12.

[16] Records at pp. 40-42.

[17] Records at p. 44.

[18] G.R. No. 186027, December 8, 2010.

[19] "One having opposing parties, contested, as distinguished from an ex parte application, one [in] which the party seeking relief has given legal warning to the other party, and afforded the latter an opportunity to contest it. xxx," cited in *Republic of the Philippines v. Labrador*, 364 Phil. 934 (1999).

[20] Section 2, Rule 108 x x x (a) births; (b) marriages; (c) deaths; (d) legal separations; (e) judgments of annulments of marriage; (f) judgments declaring marriages void from the beginning; (g) legitimations; (h) adoptions; (i) acknowledgments of natural children; (j) naturalization; (k) election, loss or recovery of citizenship; (l) civil interdiction; (m) judicial determination of filiation; (n) voluntary emancipation of a minor; and (o) changes of name.

[21] Hubert Tan Co and Arlene Tan Co v. The Civil Register of Manila, 467 Phil. 904 (2004).

[22] REPUBLIC OF THE PHILIPPINES vs. JULIAN EDWARD EMERSON COSETENG-MAGPAYO (A.K.A. JULIAN EDWARD EMERSON MARQUEZ-LIM COSETENG), G.R. No. 189476, February 2, 2011.

[23] Supra.

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