

IN THE MATTER OF THE CORRECTION OF AN ENTRY IN THE CIVIL REGISTER OF THE CITY OF MANILA. RE: BIRTH CERTIFICATE OF PAZ SCHULTZ. PAZ SCHULTZ, PETITIONER AND APPELLANT, VS. REPUBLI...

G. R. No. L-10055. September 30, 1950

Ponente: BENGZON, J.

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BENGZON, J.:

In the Manila court of first instance, Paz Schultz, married, filed a petition alleging, in shorty that she was born here on May 15, 1910, the legitimate child of John R. Schultz, an American citizen, and that her birth was registered in the Local Civil Registrar with the following erroneous data:

Name of Child: Maria R. Schuttz.

Nationality: Filipino.

Name of father: John R. Schuttz.

Wherefore, she asked for an order to the Registrar for the correction of the entries so that they will read:

Name of Child: Paz Schuttz.

Nationality: American.

Name of father: John R. Schuttz.

Required to answer, the Civil Registrar of Manila said he had "no sufficient knowledge to form a belief as to the truth of the averments contained in the petition but does not interpose any objection as to the correction prayed for provided that a judicial order as required by Article 412 of the Civil Code of the Philippines be first obtained by the petitioner."

The Solicitor General opposed the petition.

After a hearing, the Hon. Julio Villamor, judge ordered the correction of petitioner's registered surname, having become convinced that it had been mistakenly spelled "Schuttz" when it should have been "Schultz." But he declined to order the change of "Maria" to "Paz" and "Filipino" to "American."

The petitioner appealed.

In refusing to approve the "correction" of petitioner's nationality, His Honor quoted and followed our opinion (Re Ty Kong Tin, 50 Off. Gaz. [3] 1077; 94 Phil., 321), that proceedings under Art. 412 of the New Civil Code—like the instant petition—do not contemplate changes or corrections in the civil register affecting "the civil status or the nationality or citizenship of the persons involved." Through Mr. Justice Bautista Angelo, this Court explained, as entries in such Register were prima facie evidence of the facts therein stated, to permit corrections of important

data, e.g. citizenship, through a mere summary proceeding, might open the door to fraud. Anyway, we added, the change could be effected in appropriate proceedings wherein parties adversely interested may be duly heard.

In her brief, appellant tried to distinguish her situation from that discussed in the aforesaid decision pointing out that in Ty Kong Ting, one registered as alien wanted to be "Filipino," whereas here one registered as Filipino desired to become alien. We perceive no difference: if the latter petition could be permitted under Art. 412 New Civil Code, the former should also be permitted, since both involve the same matter: correction of entry concerning citizenship.

A new decision reiterated our Ty Kong Ting views and through Mr. Justice Montemayor we added:

"For the information of the parties concerned, and for the guidance of the public in general, we may venture the opinion that the clerical errors which might be corrected through judicial sanction under Article 412 of the New Civil Code, would be those harmless and innocuous changes, such as, correction of a name that is clearly misspelled, occupation of the parents, etc., but for changes involving the civil status of the parents, their nationality or citizenship, those are grave and important matters which may have a bearing and effect on the citizenship and nationality not only of said parents, but of the offspring, and to seek changes, it is necessary to file a proper suit wherein not only the State, but also parties concerned and affected should be made parties defendants or respondents, and evidence should be submitted. * * *" (Ansaldo vs. Republic of the Philippines, 54 Off. Gaz., 5886; 102 Phil., 1046.)

As to the change of name or the alleged error, the trial judge declared:

"Petitioner was born on May 15, 1910, and the midwife gave "Maria" as the name of the child. In fact, she made an affidavit to that effect at the bottom of Exhibit A. She got the name from the mother; but the father, in his testimony in open court, said that the midwife could have made a mistake. Nonetheless, there is quite a difference between the names "Maria" and "Paz", and one cannot easily be confused with the other. It is true that the petitioner's baptismal name is "Paz" (Exhibit F); but she was baptized on June 5, 1910, or twenty days after birth. And, as the Solicitor-General's representative has rightly observed, it was possible that petitioner's parents might have changed their minds in the meantime as to her name. It is again true that this is but a conjecture; yet, petitioner's father made no more and no less when he testified that the midwife might have made a mistake when she reported the name of herein petitioner upon birth. Be that as it may, the evidence is not convincing that there was nothing more than mere clerical error in the name "Maria" as given in the birth certificate Exhibit A."

Thus, the court practically found no error as to the name written in the birth certificate. What happened was that the parents subsequent to the registration, changed their mind and decided to give their child another name ("Paz") when she was baptized. The legal situation is on all fours with Chomi vs. Local Civil Registrar, 52 Off. Gaz. (15) 6541; 99 Phil., 1004 wherein we approved the lower court's action declining to order a correction of the name "Apolinario Arellano" registered for a boy in the Registry into "Alberto". We said.

"* * *As to the claim that his name should have been Alberto we also find that its appearance in the civil register could not have been a mistake. It was occasioned by the fact that upon baptism he was given a different name and this baptismal name has since then been given to the petitioner and used by him. We, therefore, find that there was no mistake or error in the record of petitioner's entry of birth which justifies a change in said entry. If error there can be, it is on the part of the parents of the petitioner in giving him a name different from that which they registered or ordered to be registered."

Wherefore, the appealed judgment will be affirmed, with costs against appellant

Paras C. J., Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

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