

**IN RE: CORRECTION OF ENTRIES IN THE LOCAL CIVIL REGISTRAR OF QUEZON CITY, ANACLETA BARILLO, PETITIONER AND APPELLANT, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLEE.***G.R. No. L-14823. December 28, 1961*

Ponente: PADILLA, J.

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**PADILLA, J.:**

In a verified petition filed on 24 July 1958 in the Court of First Instance of Rizal, Branch V, Quezon City, the petitioner Anacleta Barillo claims and alleges that she has been known by the nickname "Etang"; that on 27 December 1937 at the Independent Church in Sampaloc, Manila, she was married to Ngan Hu, by whom she begot four children, namely, Leticia, Julieta, Arturo and Araceli, all surnamed Gan; and that by usage, response and tolerance to the appellation "Etang" her friends, neighbors and distant relatives had mistaken her name to be Vicenta, appearing in the birth certificates of her children, instead of Anacleta Barillo, her true and real name, appearing in her marriage contract and alien certificate of registration; and prays that the name Vicenta be corrected and changed to Anacleta in the aforesaid birth certificates of her children and in "any and all other public or private entries or records that may exist bearing the name of 'Vicenta Barillo.'" On 25 July, the Court ordered the publication in the Manila Chronicle of the notice of hearing. On 6 October, the Solicitor General filed a motion to dismiss the petition upon the ground that it states no cause of action for the reason that what is sought to be corrected is not clerical and the correction sought is not only her first name but also that of her husband, a Chinese national. On 17 October, the petitioner objected to the motion to dismiss. On 18 October, the Court dismissed the petition, on the ground that the correction sought is substantial and not within the purview of the provisions of article 412 of the Civil Code. On 29 October, the petitioner filed a motion for reconsideration. On 8 November, the motion for reconsideration was denied. From the dismissal of her petition, she has appealed.

The issue is whether correcting or changing the name Vicenta to Anacleta in the birth certificates of the petitioner's children in the civil registry of Quezon City involves a mere clerical error that may be corrected by a summary proceedings provided for in article 412 of the Civil Code,[1] or whether it is a substantial mistake that should be corrected in an appropriate proceeding other than that provided for in article 412.

The correction would necessarily affect the identity of the father Ngan Hu and the mother Anacleta Barillo, for the reason that the father's name registered in the birth certificates in question is not Ngan Hu but Tomas Gan. Although it is claimed that Ngan Hu and Tomas Gan refer to one and the same person, yet such fact should be established and determined in an appropriate proceeding. The error sought to be corrected and its implications are substantial that cannot be had by a summary proceedings under article 412 of the Civil Code. Corrections contemplated therein are "harmless and innocuous changes of a name that is clearly misspelled." [2]

The second prayer of the petition is clearly beyond the power of the Court to grant under the provisions of article 412 of the Civil Code.

The order appealed from is affirmed, with costs against the appellant.

Bengzon, C.J., Bautista Angelo, Labrador, Reyes, J.B.L., Barrera, Paredes, Dizon, and De Leon, JJ., concur.

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[1] Ty Kong Tin vs. Republic of the Philippines, 94 Phil., 321; 50 Off. Gaz., 1077.

[2] Ansaldo vs. Republic of the Philippines, 102 Phil., 1046; 54 Off. Gaz., 5886.

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