

IN THE MATTER FOR THE CORRECTION OF AN ENTRY IN THE CIVIL REGISTER OF THE MUNICIPALITY OF JOLO AFFECTING THE CERTIFICATE OF LIVE BIRTH OF MINOR BIO HEONG WING, KUMALA SALIM WING...

G.R. No. L-25168. January 31, 1981

Ponente: FERNANDO, C.J.

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FERNANDO, C.J.:

A reversal of a lower court decision is sought by appellant Civil Registrar on the allegation that a grave procedural defect was committed. The judgment ordered the "Civil Registrar of Jolo, Sulu, Philippines, to make the necessary correction in the certificate of live birth of minor Bio Heong Wing by changing the letter 'M' appearing on the space for sex 'F' to mean female which is the true sex of said minor child * * * ."[1] It is contended that to justify the correction of such an entry in the Civil Registry, there must be an adversary proceeding, not one summary in nature.

There appears to be misapprehension of what did transpire in the lower court. After a petition thereafter amended was filed, the lower court issued an order directing not only the Civil Registrar of the Municipality of Jolo, Sulu, the Provincial Fiscal of Sulu and the Solicitor General, but likewise the Alien Control Aide Office of Jolo and the Bureau of Immigration of Manila, of the hearing scheduled on September 30, 1963.[2] There was on August 16, 1963, an opposition on the part of the Provincial Fiscal in representation of the Solicitor General's Office. Thereafter, hearings were held, the first on July 24, 1964, the second on October 5, 1964 and the third on February 26, 1965. There were seventy pages of stenographic notes all in all.[3] Then the lower court rendered the appealed decision consisting of thirteen pages on July 12, 1965,[4] ordering the correction sought by minor Bio Heong Wing as above indicated. There were five witnesses presented by petitioner.

The findings of fact follow: "Kumala Salim Wing, petitioner herein, a Muslim woman and Filipino citizen, married sometime in 1955 to Wing Siong, 47 years old, Chinese citizen, resident of Jolo, Sulu, in a Muslim ceremony held at a certain house in Tulay, Jolo, Sulu, but that they married again on September 28, 1958 before the Justice of the Peace, Ricardo T. Garcia, in Jolo, Sulu for the reason that the Immigration Office of Jolo, Sulu, refused to register their Muslim marriage. After the registration of their civil marriage; the petitioner as wife of Wing Siong, was issued an alien certificate of registration No. A-130057. The couple have been married for almost ten (10) years now and that during this length of time, they have six (6) children, including the newly born child, namely: (1) Bio Cheng, 9 years old, female; (2) Man Way, 7 years old, Male; (3) Bio Heong, 6 years old, female; (4) Seo Ming, 4 years old, male; (5) Bio Chan, 3 years old, female and (6) Wa Sang, 9 months old, male; and all these children are living and none had died. The third child, Bio Heong, whose sex is sought to be corrected in this petition, was born in Tulay, Jolo, Sulu, on November 20, 1958. The couple had all their children registered with the Immigration Office as aliens but that in the case of Bio Heong, their third female child, a mistake as to her sex was committed in the issuance of the child's certificate of live birth after the child, Bio Heong was delivered from the womb of its mother, petitioner herein assisted by the attending nurse, Hadji

Kimjiok Donesa, who due to a confusion created by other deliveries she attended the same day when Bio Heong was also delivered, instructed Andami Labbay, her clerk, to prepare the Certificate of Live Birth of the newly born child, Bio Heong, and dictated the entries to be filled up in said document. It is not clear whether it was Andami Labbay's inadvertence or wrong reception of dictation or the attending nurse's confused dictation that led to the filling up in the space for sex of 'M' to mean male instead of 'F' to mean female, the latter being the correct sex of the child, Bio Heong. This erroneous document was then filed with the Office of the Local Civil Registrar of Jolo, Sulu, without the attending nurse nor the parents of the child having discovered its mistake before registration. The couple had not discovered the mistake because both had no formal schooling and does not read nor understand English. However, when the couple wanted to register their child, Bio Heong, with the Immigration Office in Jolo, Sulu, sometime before 1960, the error or mistake in the child's certificate of live birth was discovered by the Immigration Office. Despite the discovery, the couple had the child, Bio Heong, registered in the Immigration Office with the data used as appearing in said certificate of live birth without correction. However, the Immigration Officer advised the couple to see a lawyer to have the mistake corrected." [5]

Then came this portion of the appealed decision: "The fact that Bio Heong, the daughter of the petitioner with Wing Siong, is a female child and not a male child is supported by corroborative oral testimonies, besides documents, which this Court holds as credible. Hadji Kimjiok Donesa, a registered nurse, who had attended to the petitioner in the latter's deliveries of the first five (5) children personally found out that the sex of the child, Bio Heong, one of the said five (5) children, is female. Kurais Mundaris, 38 years old, was employed since ten (10) years ago as laborer of the Hip Siong Bakery in Jolo, Sulu, owned by Wing Siong and the petitioner, and during the period of his employment, he came to know the name and sexes of the children of his employers, having seen oftentimes the children play within the premises of the bakery wherein Bio Heong used to be naked when she played and he saw the said child possessing the 'parts of woman.' Alex Kho, a public relations officer of the Chinese Chamber of Commerce of Jolo, Sulu, explained that the Chinese characters representing 'Bio' means wonderful or beautiful while that of 'Heong' means sweet or fragrant, or sweet smelling; and that when the Chinese characters representing 'Bio' and 'Heong' are combined, they mean young girl, beautiful and sweet like perfume (Exhibit 'H'), and that under no circumstances is the name 'Bio Heong' used for a male child 'because it is very clear that Bio Heong means beautiful and young lady.' Dr. Virginia M. Villanueva, an attending physician in Jolo, Sulu, examined Bio Heong on June 11, 1964, and found her 'to be a female in every aspect' (Exhibit 'B'). Bio Heong finished kindergarten class at the Norte Dame School, Jolo, Sulu, on April 24, 1965, and the program-invitation issued for their commencement exercises listed Bio Heong among the girls graduates (Exhibits 'C', 'C-1' and 'C-2'), furthermore, all the first five children of the couple, namely, Bio Cheng, May Way, Bio Heong, Seo Ming, and Bio Chan, with the exception of the newly born Wa Sang, were presented in open Court. This Court observed that the five children have the correct sequence of age from the eldest to the youngest; that the five children looked alike, possessing similar features to that of their parents, petitioner and Wing Siong; and that Bio Heong is truly a girl." [6] It was further stated in such decision: "There could be no question that an appropriate proceeding was conducted in the hearing of this petition whereby all parties concerned, including the government and its agencies, whose interest may be affected were either heard or given their opportunity to oppose said petition. Considering the publication made, the appearance of the parties concerned either personally or through their competent representatives and the presentation of the evidence during the hearing, this petition is not summary in nature, but it is undoubtedly an appropriate proceeding, where the matter proved was threshed out in a regular trial on the merits." [7]

The persuasive quality of the decision is thus apparent. No effort was spared to ascertain the truth of the matter. What is clearly discernible is that an error was committed and all that the Court did in accordance with law was to have it corrected. It would be unwarranted under the circumstances, to reverse such a decision. It must be

affirmed.

1. Its conformity to the settled rule first set forth in the leading case of *Ty Kong Tin v. Republic of the Philippines*,^[8] a 1954 decision, is quite clear. The matter therein involved was the citizenship not only of the petitioner but of his children. This Court, through Justice Bautista Angelo, in interpreting Article 412 of the Civil Code, held: "After a mature deliberation, the opinion was reached that what was contemplated therein are mere corrections of mistakes that are clerical in nature and not those which may affect the civil status or the nationality or citizenship of the persons involved. If the purpose of the petition is merely to correct a clerical error then the court may issue an order in order that the error or mistake may be corrected. If it refers to a substantial change, which affects the status or citizenship of a party, the matter should be threshed out in a proper action depending upon the nature of the issue involved."^[9] By the time *Chug Siu v. Local Civil Registrar*^[10] was decided, it had been reiterated in at least twelve cases, starting from *Ansaldo v. Republic*^[11] and ending with *Tan v. Republic*.^[12] One of the latest cases, a 1977 decision, *Republic v. Castañeda, Jr.*,^[13] reaffirmed such a doctrine, citing eight other decisions starting from *Dy Oliva v. Republic*^[14] and ending with *Republic v. Amores*.^[15]

2. Nor would it be the first time that a procedure of this character did suffice for the correction of an error in the records of the Civil Registrar. In *Malicden v. Republic*,^[16] this Court held that testimonial evidence may override an erroneous entry. Thereafter, in *Alisoso v. Lastimoso*,^[17] this Court ruled that an unauthorized false entry may be cancelled by the Court through an action of this nature. *Matias v. Republic*,^[18] the opinion being penned by then Acting Chief Justice J.B.L. Reyes, is even more in point. Thus: "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 v. Republic*, 94 Phil. 321, and subsequent adjudications predicated thereon, 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."^[19]

WHEREFORE, the appealed decision is affirmed. No costs.

Aquino, Concepcion, Jr., Abad Santos, and De Castro, JJ., concur.

Barredo, J., did not take part.

[1] Decision, Dispositive Portion, Record on Appeal, 49.

[2] Record on Appeal, 1-17.

[3] T.s.n., of July 24, 1964, October 5, 1964 and February 26, 1965.

[4] Record on Appeal, 38-49.

[5] Decision, Record on Appeal, 39-41.

[6] *Ibid*, 41-43.

[7] *Ibid*, 46-47.

[8] 94 Phil. 321.

[9] *Ibid*, 323.

[10] L-20649, July 31, 1967, 20 SCRA 877.

[11] 102 Phil. 1046 (1958).

[12] L-19647, April 29, 1966, 16 SCRA 661.

[13] L-36769, October 28, 1977, 80 SCRA 111.

[14] L-21806, August 17, 1967, 20 SCRA 1070.

[15] L-35232, January 31, 1973, 49 SCRA 361. Cf. Republic v. Court of First Instance, L-31748, August 20, 1979, 92 SCRA 632 and Republic v. Barbers, L-48720, October 30, 1979, 93 SCRA 846.

[16] L-19141, October 31, 1964, 12 SCRA 313.

[17] L-19659, May 31, 1965, 14 SCRA 210.

[18] L-26982, May 8, 1969, 28 SCRA 31.

[19] Ibid, 33.

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