

**DR. POLICARPIO C. ALISOSO, PETITIONER AND APPELLE, VS.
TARCELA LASTIMOSO, ET AL., RESPONDENTS AND APPELLANTS.***G. R. No. L-19659. May 31, 1965*

Ponente: BAUTISTA ANGELO, J.

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Policarpio C. Alisoso, a physician by profession, filed a petition before the Court of First Instance of Cebu praying that an order be issued striking out his name from the record of birth of one Leonilo Lastimoso appearing in the Office of the Local Civil Registrar of Pinarnungajan, Cebu, to the end that he may not be associated with the paternity of said child.

The petition recites that on January 28, 1960, a child by the name of Leonilo Lastimoso was reported to the Local Civil Registrar of Pinamungajan, Cebu by one Lucila Q. Lastimoso as the child of petitioner and was entered as such in the registry of birth of said office. After having been informed of said false entry, petitioner immediately contacted Tarcela Lastimoso, mother of Leonilo, to ascertain if said entry was made with her knowledge and consent. Tarcela, in an affidavit, declared that she had not authorized anyone to register said child the office of the above civil registrar, nor did she personally register, nor caused to have said child registered in said office. Said Lucila Q. Lastimoso was not the midwife nor the nurse who attended the delivery of Tarcela Lastimoso, nor did she have any authority to report to the local civil registrar the false statement abovementioned. Petitioner was never married to Tarcela Lastimoso as was made to appear in said entry, for the truth is that he is already married to one Irene Hermosisima whom he married on March 25, 1951. The record of the parish church of Pinamungajan, Cebu also discloses that while the mother appearing therein of said child is Tarcela Lastimoso the father appears recorded as "no conocido" (unknown).

A representative of the Solicitor General appeared for respondents who moved for the dismissal of the petition on the ground that it does not state a cause of action because the correction sought to be made does not partake of a clerical error as contemplated in Article 412 of the new Civil Code.

The court a quo, after hearing, granted the petition ordering the Local Civil Registrar of Pinamungajan to strike out from his record the name of petitioner as the alleged father of minor Leonilo Lastimoso and state in lieu thereof that his father is unknown. Seasonably, the government has appealed.

The Solicitor General maintains that the court a quo erred in entertaining the petition by ordering the Local Civil Registrar of Pinamungajan to strike out the name of petitioner from the birth record of minor Leonilo Lastimoso as his father and in lieu thereof state that his father is unknown for the reason that the correction sought to be made is not merely clerical but involves a change that affects the paternity and filiation of both petitioner and the child Leonilo Lastimoso. Specifically, he lay stress on some rulings laid down by this Court wherein it was stated that what is contemplated in Article 412 of the new Civil Code "are mere correction of mistakes that are clerical in nature and not those that which may affect the civil status or the nationality or the citizenship of the persons involved" for "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" (Ty Kong Tin vs. Republic, 94 Phil. 321). In short, Article 412 authorizes not more than "harmless and innocuous changes such as correction of a name that is clearly misspelled, occupation of parents, etc." (Ansaldo vs. Republic, 102 Phil. 1046).

But considering the peculiar facts obtaining in this case which are not disputed, to the effect that petitioner is not the father of minor Leonilo Lastimoso, nor has he any amorous relation with his mother Tarcela, as admitted in her affidavit, and that the one who reported that false entry, one Lucila Q. Lastimoso, is a mere interloper or one bereft of any authority to make such entry, which are parallel to the facts obtaining in the case of Roces vs. The Local Civil Registrar, of Manila (102 Phil. 1050), the court a quo granted the petition on the strength of the ruling laid down in the case abovementioned.

The pertinent portion of the Roces case which needs to be mentioned here is as follows:

"On January 7, 1956, appellant Joaquin P. Roces filed, the Court of First Instance of Manila, a petition alleging that he is married to Pacita Carvajal; that on November 1, 1955, he came to know of the existence of a birth certificate registered with the Local Civil Registrar of Manila, certified true copy of which is attached to said complaint, mentioning him as the father of Ricardo Joaquin V. Roces, an illegitimate child; that said birth certificate shows, on its face, that it had been executed with neither the knowledge nor the consent of the petitioner; and that said information with regard to the alleged paternity of Ricardo Joaquin V. Roces is false, and contrary to the provisions of Act No. 3753 and Article 230 of the Civil Code of the Philippines.

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"The issue in the case at bar is, however, entirely different in nature. The legal status of Ricardo Joaquin V. Roces is not in dispute. The pleadings and his birth certificate show that he was born outside wedlock. The only questions before us whether the statements in said birth certificates identifying the alleged father of said child are valid and whether the Local Civil Registrar was justified in making the corresponding entry in the records of his office.

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"It appearing on the face of the birth certificate of Ricardo Joaquin V. Roces, that the alleged father of this child has not signed the instrument, it is clear that the statements therein relative to the identity of the father of this said child were, and are an open violation of the law. Consequently, the local civil registrar—who is duty bound to comply with said law and is partly charged with its enforcement—had no authority to incorporate said unlawful statements in the corresponding entry made by him in the records of his office, and that the entry, insofar as the identity of the father of Ricardo Joaquin V. Roces, is null and void, and should be cancelled or corrected."

Since the facts obtaining in both cases are parallel and are undisputed and show that the entry made in the corresponding local registrar is false and as such it should be corrected or deleted, we find no justifiable reason for adopting a different ruling insofar as this case is concerned. In this sense, we agree with the views expressed by the court a quo.

Wherefore, the order appealed from is affirmed. No costs.

Bengzon, C. J., Reyes, J. B. L., Barrera, Paredes, Dizon, Regala, Makalintal, Bengzon, J.P. and Zaldivar, concur.

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