

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. HON. NAPOLEON R. FLOJO, AS PRESIDING JUDGE OF COURT OF FIRST INSTANCE OF CAGAYAN, SECOND BRANCH, AND INOCENCIO P. CARAG, RESPONDENTS.

G.R. No. L-49703. July 31, 1987

Ponente: PADILLA, J.

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PADILLA, J.:

Review on certiorari of the Order issued by the respondent Judge on 27 October 1978 in Sp. Proc. No. II-401 of the Court of First Instance of Cagayan, entitled: "In the matter of the Petition to Correct the Entry in the Civil Registry of Aparri, Cagayan: Inocencio P. Carag, petitioner versus The Local Civil Registrar of Aparri, Cagayan, respondent", which directed the respondent therein to change the entry in the register of birth of Inocencio Carag Tan from "Chinese" to "Filipino".

It appears that the herein private respondent Inocencio P. Carag filed a verified petition with the Court of First Instance of Cagayan, docketed therein as Sp. Proc. No. II-401, to correct an entry in his register of birth wherein he was erroneously registered as a "Chinese" instead of a Filipino citizen. Named respondent was the Local Registrar of Aparri, Cagayan.

After due notice to the Solicitor General and publication of the notice of hearing, dated 22 August 1978, in the Cagayan Valle Weekly Journal, the parties were heard. At the hearing, it was established that the petitioner therein, Inocencio P. Carag was born in Aparri, Cagayan on 15 March 1947, to the spouses Vicente Carag Tan, a natural child of Eugenia Baquiran who is a Filipino citizen, and Anastacia Pe. Accordingly, the respondent Judge found, and so ruled, that Inocencio P. Carag is a Filipino citizen so that the necessary correction should be made in his record of birth.[1]

The Republic of the Philippines now questions the Order on the ground that it is "contrary to the well-settled doctrine that the only mistakes in the entries in the Civil Register which can be corrected under Art. 412 of the Civil Code and Rule 108 of the Revised Rules of Court are those that are merely clerical in nature and not those which affect the civil status or citizenship of the person involved. In support thereof, the petitioner cites the ruling of the Court in the cases of *Ty Kong Tin vs. Republic*,[2] *Chua Wee vs. Republic*,[3] and *Republic vs. Castaneda*. [4]

The contention is without merit. While the Court has, indeed, previously ruled that the changes or corrections authorized under Art. 412 of the Civil Code, which envisions a summary procedure, relate only to harmless and innocuous alterations, such as misspellings or errors that are visible to the eyes or obvious to the understanding and that changes in the citizenship of a person or his civil status are substantial as well as controversial, which can only be established in appropriate adversary proceedings, the rule has been relaxed. In *Republic vs. Valencia*,[5] the Court said:

"It is undoubtedly true that if the subject matter of a petition is not for the correction of clerical errors of a harmless and innocuous nature, but one involving nationality or citizenship, which is indisputably substantial as well as controverted, affirmative relief cannot be granted in a proceeding summary in nature. However, it is also true that a right in law may be enforced and a wrong may be remedied as long as the appropriate remedy is used. This Court adheres to the principle that even substantial errors in a civil registry may be corrected and the true facts established provided the parties aggrieved by the error avail themselves of the appropriate adversary proceeding. As a matter of fact, the opposition of the Solicitor General dated February 20, 1970 while questioning the use of Article 412 of the Civil Code in relation to Rule 108 of the Revised Rules of Court admits that 'the entries sought to be corrected should be threshed out in an appropriate proceeding.'

"What is meant by 'appropriate adversary proceeding?' Black's Law Dictionary defines 'adversary proceeding' as follows:

'One having opposing parties; contested, as distinguished from an ex parte application, one of which the party seeking relief has given legal warning to the other party, and afforded the latter an opportunity to contest it. Excludes an adoption proceeding.' (Platt v. Magagnini, 187, p. 716, 718, 110 Was. 39).

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"The court's role in hearing the petition to correct certain entries in the civil registry is to ascertain the truth about the facts recorded therein. Under our system of administering justice, truth is best ascertained or approximated by trial conducted under the adversary system.

x x x

"Provided the trial court has conducted proceedings where all relevant facts have been fully and properly developed, where opposing counsel have been given opportunity to demolish the opposite party's case, and where the evidence has been thoroughly weighed and considered, the suit or proceeding is 'appropriate.'

"The pertinent sections of Rule 108 provide:

'SEC. 3. Parties. - When cancellation or correction of an entry in the civil register is sought, the civil registrar and all persons who have or claim any interest which would be affected thereby shall be made parties to the proceeding.

'SEC. 4. Notice and publication. - Upon the filing of the petition, the court shall, by an order, fix the time and place for the hearing of the same, and cause reasonable notice thereof to be given to the persons named in the petition. The Court shall also cause the order to be published once in a week for three (3) consecutive weeks in a newspaper of general circulation in the province.

'SEC. 5. Opposition. - The civil registrar and any person having or claiming any interest under the entry whose cancellation or correction is sought may, within fifteen (15) days from notice of the petition, or from the last date of publication of such notice, file his opposition thereto.'

"Thus, the persons who must be made parties to a proceeding concerning the cancellation or correction of an entry in the civil register are - (1) the civil registrar, and (2) all persons who have or claim any interest which would be affected thereby. Upon the filing of the petition, it becomes the duty of the court to (1) issue an order fixing the time and place for the hearing of the petition, and (2) cause the order for hearing to be published once a week for three (3) consecutive weeks in a newspaper of general circulation in the province. The following are likewise entitled to oppose the petition: (1) the civil registrar, and (2) any person having or claiming any interest under the entry whose cancellation or correction is sought.

"If all these procedural requirements have been followed, a petition for correction and/or cancellation of entries

in the record of birth even if filed and conducted under Rule 108 of the Revised Rules of Court can no longer be described as 'summary.' There can be no doubt that when an opposition to the petition is filed either by the Civil Registrar or any person having or claiming any interest in the entries sought to be cancelled and/or corrected and the opposition is actively prosecuted, the proceedings thereon become adversary proceedings.

x x x

"We are of the opinion that the petition filed by the respondent in the lower court by way of a special proceeding for cancellation and/or correction of entries in the civil register with the requisite notice and publication and the recorded proceedings that actually took place thereafter could very well be regarded as that proper suit or appropriate action."

This ruling was reiterated in Antonio Chiao Ben Lim vs. Hon. Mariano A. Zosa.[6]

In the instant case, there is no doubt or question that the proceeding conducted in the lower court was an adversary proceeding and "appropriate" in that "all relevant facts have been fully and properly developed, where the opposing counsel have been given opportunity to demolish the opposite party's case, and where the evidence has been thoroughly weighed and considered." The questioned Order states in part:

"After the required publication of the order of Notice of hearing dated August 22, 1978 in the Cagayan Valley Weekly Journal, Exhibits 'B', 'B-1' and 'B-2', has been complied with and notice to the Solicitor General, petitioner adduced evidence on October 17, 1978. No written opposition was interposed by the respondent but at the hearing, Assistant Provincial Fiscal Arsenio Gonzales appeared for and in behalf of the Solicitor General." [7]

In view of the foregoing, the respondent judge had jurisdiction to order the correction of the subject defective entry in the civil register.

WHEREFORE, the petition is denied for lack of merit. Without costs.

SO ORDERED.

Yap, (Chairman), Melencio-Herrera, Paras, and Sarmiento, JJ., concur.

[1] Rollo, p. 17

[2] 94 Phil. 321

[3] G.R. No. L-27731, April 21, 1971, 38 SCRA 409

[4] G.R. No. L-36769, Oct. 28, 1977, 80 SCRA 111

[5] G.R. No. L-32181, March 5, 1986, 141 SCRA 462

[6] G.R. No. L-40252, Dec. 29, 1986

[7] Rollo, p. 17

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