

**SERAFIA G. TOLENTINO, PETITIONER, VS. HON. EDGARDO L. PARAS,
MARIA CLEMENTE AND THE LOCAL CIVIL REGISTRAR OF
PAOMBONG, BULACAN, RESPONDENTS.**

G.R. No. L-43905. May 30, 1983

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

The reversal of respondent Court's Order, dismissing petitioner's suit for her "declaration . . . as the lawful surviving spouse of deceased Amado Tolentino and the correction of the death certificate of the same", is sought in this Petition for Review on Certiorari.

The records disclose that Amado Tolentino had contracted a second marriage with private respondent herein, Maria Clemente, at Paombong, Bulacan, on November 1, 1948 (Annex "C", Petition), while his marriage with petitioner, Serafia G. Tolentino, celebrated on July 31, 1943, was still subsisting (Annex "A", Petition).

Petitioner charged Amado with Bigamy in Criminal Case No. 2768 of the Court of First Instance of Bulacan, Branch II, which Court, upon Amado's plea of guilty, sentenced him to suffer the corresponding penalty. After Amado had served the prison sentence imposed on him, he continued to live with private respondent until his death on July 25, 1974. His death certificate carried the entry "Name of Surviving Spouse—Maria Clemente."

In Special Proceedings No. 1587-M for Correction of Entry, petitioner sought to correct the name of the surviving spouse in the death certificate from "Maria Clemente" to "Serafia G. Tolentino", her name. The lower Court dismissed the petition "for lack of the proper requisites under the law" and indicated the need for a more detailed proceeding.

Conformably thereto, petitioner filed the case below against private respondent and the Local Civil Registrar of Paombong, Bulacan, for her declaration as the lawful surviving spouse, and the correction of the death certificate of Amado. In an Order, dated October 21, 1975, respondent Court, upon private respondent's instance, dismissed the case, stating:

"The Motion to Dismiss filed by the defendants in this case, thru counsel Atty. Hermin E. Arceo, for the reasons therein mentioned, is hereby GRANTED. Further: (1) the correction of the entry in the Office of the Local Civil Registrar is not the proper remedy because the issue involved is marital relationship; (2) the Court has not acquired proper jurisdiction because as prescribed under Art. 108, read together with Art. 412 of the Civil Code—publication is needed in a case like this, and up to now, there has been no such publication; and (3) in a sense, the subject matter of this case has been aptly discussed in Special Proceeding No. 1587-M, which this Court has already dismissed, also for lack of the proper requisites under the law.

"In view of the above dismissal, all other motions in this case are hereby considered MOOT and ACADEMIC.

SO ORDERED."[1]

Thus, petitioner's present recourse mainly challenging the grounds relied upon by respondent Court in ordering

dismissal.

We rule for petitioner.

First, for the remedy. Although petitioner's ultimate objective is the correction of entry contemplated in Article 412 of the Civil Code and Rule 108 of the Rules of Court, she initially seeks a judicial declaration that she is the lawful surviving spouse of the deceased, Amado, in order to lay the basis for the correction of the entry in the death certificate of said deceased. The suit below is a proper remedy. It is of an adversary character as contrasted to a mere summary proceeding. A claim of right is asserted against one who has an interest in contesting it. Private respondent, as the individual most affected, is a party defendant, and has appeared to contest the petition and defend her interests. The Local Civil Registrar is also a party defendant. The publication required by the Court below pursuant to Rule 108 of the Rules of Court is not absolutely necessary for no other parties are involved. After all, publication is required to bar indifferently all who might be minded to make an objection of any sort against the right sought to be established.[2] Besides, even assuming that this is a proceeding under Rule 108, it was the Court that was called upon to order the publication[3], but it did not. In the ultimate analysis, Courts are not concerned so much with the form of actions as with their substance.[4]

Second, for the merits. Considering that Amado, upon his own plea, was convicted for Bigamy, that sentence furnishes the necessary proof of the marital status of petitioner and the deceased. There is no better proof of marriage than the admission by the accused of the existence of such marriage.[5] The second marriage that he contracted with private respondent during the lifetime of his first spouse is null and void from the beginning and of no force and effect.[6] No judicial decree is necessary to establish the invalidity of a void marriage.[7] It can be safely concluded, then, without need of further proof nor remand to the Court below, that private respondent is not the surviving spouse of the deceased Amado, but petitioner. Rectification of the erroneous entry in the records of the Local Civil Registrar may, therefore, be validly made.

Having arrived at the foregoing conclusion, the other issues raised need no longer be discussed.

In fine, since there is no question regarding the invalidity of Amado's second marriage with private respondent and that the entry made in the corresponding local register is thereby rendered false, it may be corrected.[8] While documents, such as death and birth certificates, are public and entries therein are presumed to be correct, such presumption is merely disputable and will have to yield to more positive evidence establishing their inaccuracy.[9]

WHEREFORE, the Order, dated October 21, 1975, of respondent Court is hereby set aside and petitioner, Serafia G. Tolentino, hereby declared the surviving spouse of the deceased Amado Tolentino. Let the corresponding correction be made in the latter's death certificate in the records of the Local Civil Registrar of Paombong, Bulacan.

No costs.

SO ORDERED.

Teehankee (Chairman), Plana, Vasquez and Gutierrez, Jr., JJ., concur.
Relova, J., is on leave.

[1] p. 54, Rollo.

[2] *Uy Sioco vs. Republic*, 16 SCRA 692 (1966).

[3] Rule 108, Sec. 4.

[4] *City of Manila vs. Gawkee*, 71 Phil. 195, 199 (1940).

[5] *People vs. Samson*, 7 SCRA 478 (1963).

[6] Art. 80 (4), Civil Code; *People vs. Aragon*, 100 Phil. 1033 (1957).

[7] *People vs. Aragon*, *supra*.

[8] *Alisoso vs. Lastimosa*, 14 SCRA 210 (1965).

[9] *In re Florencio Mallare*, 59 SCRA 45 (1974).

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