

BENITO GO AND JUANITO GO, PETITIONERS-APPELLANTS, VS. CIVIL REGISTRAR OF THE MUNICIPALITY OF MALABON, RIZAL, RESPONDENT-APPELLEE, REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLEE.

G.R. No. L-29544. May 31, 1971

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PER CURIAM:

The above-entitled cases are being jointly decided, the issues therein raised being, from the legal standpoint, substantially the same.

L-29544 is an appeal, taken by Benito and Juanito Go, from an order of the Court of First Instance of Rizal denying their petition in Special Proceeding No. 195 of said court, against the local civil registrar of Malabon, Rizal. In said petition, appellants allege that they, as well as Anita, Rosalinda, Mercedes and Alberto, all surnamed Go, are the children of Saw Chui — better known, they say, as Jesus Go — a Chinese citizen, and Cristeta Miranda, a Filipino citizen, both single when they began to live together as husband and wife, without the benefit of marriage; that, except as regards Ernesto Miranda, the third child of the couple, the following errors were committed in their birth certificates, as regards their family name, citizenship and legitimacy, and the number of children born of their mother, namely:

- Benito Go should be named Benito Miranda, and his citizenship should be "Filipino," instead of "Chinese";
- Juanito Go should be named Juanito Miranda; his citizenship should be "Filipino," instead of "Chinese"; and his filiation should be "illegitimate," instead of "legitimate";
- Anita Go (Go So Eng) should be named Anita Miranda; her citizenship should be "Filipino," instead of "Chinese"; and she should be designated as the "fourth," not the "fifth" child of her mother;
- Rosalinda Go should be named Rosalinda Miranda; her citizenship should be "Filipino," instead of "Chinese"; and her filiation should be "illegitimate," instead of "legitimate";
- Mercedes Go should be named Mercedes Miranda; her citizenship should be "Filipino," instead of "Chinese"; her filiation should be "illegitimate," instead of "legitimate"; and she should be designated as the "sixth," not the "seventh," child of her mother; and
- Alberto Diangson Go should be named Alberto Miranda; his citizenship should be "Filipino," instead of

"Chinese"; and he should be designated as the "seventh," not the "eighth," child of his mother.

It is further averred that these errors should be corrected to conform to the truth and that the petition has been filed pursuant to Rule 108 of the Rules of Court, in relation to Arts. 412 and/or 413 of our Civil Code. After appropriate proceedings, the lower court issued the appealed order, denying the petition, upon the ground that the same embraces, not merely clerical errors, but "controversial matters" concerning "citizenship and civil status," which should be "threshed out in an appropriate action," not in this summary proceeding, under the Rule 108 of the Rules of Court. Hence, this ; appeal by Benito and Juanito Go.

L-29637 is an appeal taken by Jose Go, Jr., from an order of the Court of First Instance of Cebu dismissing his petition in Special Proceeding No. 2853-R of said court, against the Civil Registrar of Cebu City, and Jose Go and Restituta Paciencia Bacsal, allegedly known, also, as Paciencia Uy. In said petition, appellant alleges that his parents are said Jose Go and Restituta Paciencia Bacsal, also known as Paciencia Uy; that petitioner's birth record erroneously states that he is a "Chinese," although he is a Filipino, and that he is a "legitimate" child, although he is but an "illegitimate" offspring of said couple, who are unmarried, not "married," as stated in said record, and that his true surname is Bacsal, not Go, as likewise set forth in said record. He prayed, therefore, that the same be corrected so as to state that his family name is Bacsal, not Go; that he is Filipino, not Chinese; that he is an illegitimate, not legitimate, child of the aforementioned respondents; that his mother's name is Restituta Paciencia Bacsal, not Paciencia Uy; and that her civil status is "single," not "married." In due course, the lower court issued the order of dismissal appealed from, upon the ground that the case does not come within the purview of Rule 108 of the Rules of Court, under which it was filed.

L-30227 is an appeal, taken by the Solicitor General, from an order of the Court of First Instance of Cebu, in Special Proc. No. 2400-R thereof, granting the petition therein, in which appellee Demetna Deiparine alleges that she is the mother of Carmen Leong, Corazon Deiparine Leong, Lionel Bacacao Deiparine and Ruel Bacacao Deiparine; that their respective records of birth erroneously state that they are "Chinese," although, in fact, they are "Filipino" citizens; that Carmen Leong, Corazon Deiparine Leong and Lionel Bacacao Deiparine are "legitimate" children of said petitioner and one Leong Lod, or Lod Gong Leong or Leong Gong Deiparine, and the couple are married, although the truth is that Carmen, Corazon and Lionel are "illegitimate" children of the petitioner, who was not married to their father; and that Ruel Bacacao Deiparine is the legitimate son of one Feliciano Echavez Deiparine and Demetna Rabaya Bacacao, although the true name of said child is Ruel Deiparine, who is not a legitimate son of said Feliciano Echavez Deiparine, and is an illegitimate son of petitioner, Demetria Deiparine. Petitioner prayed, therefore, that "to avoid possible confusion in the future as to the names and other personal circumstances of said children," the corresponding corrections be made in their respective records of birth in the office of the civil registrar of Cebu City.

L-30228 is another appeal by the Solicitor General from an order of the Court of First Instance of Cebu granting the petition filed by Felicidad, Castaneda, in her own behalf and as the legal guardian of Melita Castaneda, in Sp. Proc. No. 2826-R of said court. It is alleged in said petition that the minor, Melita Castarleda, is the illegitimate child of Prudencio Gumba and appellee Felicida Castaneda, who was single "before and during the conception" of Melita Castaneda; that the latter's record of birth, in the office of the local civil registrar of Mandawe, Cebu, erroneously states that her name is Melita Gumba, that she is a "legitimate" daughter of Prudencio Gumba, and that her mother is "married"; and that these errors were committed by the unlicensed midwife who attended Melita's birth. Petitioner, accordingly, prayed that judgment be rendered ordering said local civil registrar to correct Melita's record of birth so as to state that her name is Melita "Castaneda" (not Melita Gumba), that she is an "illegitimate" (not legitimate) child, and that her mother is "single" (not married), and to eliminate the entries regarding the name, citizenship, occupation and age of her father.

L-30991 is an appeal by the Government from a decision of the Court of First Instance of Manila, granting the petition in Civil Case No. 74003 thereof, filed by Miguelito, Edmundo, Jorge, Lolita, Susana, Bienvenido and Dick, all sumamed Ang, represented by their mother and natural guardian, Natividad Lee. It is alleged in said petition that "prior to 1947, Enrique Ang, a Chinese national, and Natividad Lee, a Filipina, started to live as husband and wife without the benefit of marriage"; that "said couple are still living as such up to the present"; that, out of said relationship, the above-named petitioners were born; that being "illegitimate children," they followed the nationality of their Filipina mother; and that, owing to "some mistakes, inadvertence and/or clerical error on the part of the persons who accomplished the Birth Certificates of the petitioners," it was erroneously stated therein, not only that said petitioners are "legitimate" children of Enrique Ang and Natividad Lee, but also, that they are "Chinese" citizens. The prayer in said petition is that the local civil registrar of Manila be ordered to make the corresponding corrections in the certificates of birth of the petitioners so as to state therein that they are Filipino citizens. Judgment having been rendered directing said officer "to make the corresponding corrections by marginal notations" in said birth certificates, stating "that petitioners are the illegitimate children of Enrique Y. H. Ang and Natividad Lee" and "that petitioners are Filipino citizens," the Solicitor General interposed the present appeal by certiorari.

L-31075 is an appeal by certiorari, taken by the Solicitor General, from a decision of the Court of First Instance of Iloilo granting the petition in Sp. Proc. No. 2124 thereof. Petitioner Pilar Capalla alleged therein that she is, "the common-law wife of Mr. Kaw Quiong, a Chinese," whom she begot six (6) children, namely, "Francisco, Juanita, Eduardo, Salvador, Vicenta, and Nenita, all surnamed Kaw," whose birth certificates erroneously state that Francisco, Eduardo, Salvador and Vicenta are "Chinese" and that petitioner is "married" and "that the birth certificates of Vicenta Kaw even states that petitioner (Pilar Capalla) is "Chinese," although, in fact, she is a "Filipino" citizen, her parents being both Filipinos; and that soon after Francisco Kaw became of age, he elected Philippine citizenship and took the requisite oath of allegiance. She prayed, therefore, that the local civil registrar of Iloilo be ordered to make the corresponding corrections in the records of birth of her aforementioned children, as regards their nationality and her civil status, and that the election of Philippine citizenship made by Francisco Kaw be cancelled and considered as "not filed." Judgment having, in due course, been rendered as prayed for, the Solicitor General filed the present petition for review on certiorari, which was given due course.

Art. 412 of the Civil Code provides that "(n)o entry in a civil register shall be changed or corrected, without a judicial order." Interpreting this provision, We held, as early as February, 1954, that-

"x x x 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. Such action can be found at random in our substantive and remedial laws the implementation of which will naturally depend upon the factors and circumstances that might arise affecting the interested parties. This opinion is predicated upon the theory that the procedure contemplated in Article 412 is summary in nature which cannot cover cases involving controversial issues.

"It is our opinion that the petition under consideration does not merely call for a correction of a clerical error. It involves a matter which concerns the citizenship not only of petitioner but of his children. It is therefore an important controversial matter which can and should only be threshed out in an appropriate action. The philosophy behind this requirement lies in the fact that 'the books making up the civil register and all documents relating thereto shall be considered public documents and shall be prima facie evidence of the facts therein contained' (Article 410, New Civil Code), and if the entries in the civil register could be corrected or changed through a mere summary proceeding, and not through an appropriate action wherein all parties who

may be affected by the entries are notified or represented, we would set wide open the door to fraud or other mischief the consequence of which might be detrimental and far reaching. It is for these reasons that the law has placed the necessary safeguards to forestall such eventuality that even on matters which call for a correction of clerical mistakes the intervention of the courts was found necessary. This is an innovation not originally found in the law which placed this matter exclusively upon the sound judgment and discretion of the civil registrars. This was found by Congress unwise and risky in view of the far reaching importance of the subject covered by the civil register. And under the present innovation the law even exacts civil liability from the civil registrar for any unauthorized alteration, which shows the concern of Congress in maintaining the integrity and genuineness of the entries contained in our civil registers (Article 411, New Civil Code)."[1]

In the language of Justice Montemayor:

"For the information of the parties concerned, and for the guidance of the public in general, We may venture the opinion that the clerical errors which might be corrected through judicial sanction under Article 412 of the New Civil Code, would be those harmless and innocuous changes, such as, correction of a name that is clearly misspelled, occupation of the parents, etc.; but for changes involving the civil status of the parents, their nationality or citizenship, these are grave and important matters which may have a bearing and effect on the citizenship and nationality not only of said parents, but of the offsprings, and to seek said changes, it is necessary to file a proper suit wherein not only the State, but also all parties concerned and affected should be made parties defendants or respondents, and evidence should be submitted, either to support the allegations of the petition or complaint, or also to disprove the same so that any order or decision in the case may be made with due process of law and on the basis of facts proven. Then and only then may the change or changes be made in the entry in a civil register that will affect or even determine conclusively the citizenship or nationality of a person therein involved."[2]

The foregoing views have been consistently adhered to in subsequent cases.[3] Hence, it is now well-settled that Art. 412 of the Civil Code sanctions the correction of mere "clerical errors of a harmless or innocuous nature," not "changes involving civil status, nationality or citizenship which are substantial and/or controversial."

It is urged, however, in some of the cases under consideration, that Rule 108 of the Revised Rules of Court, governing the "cancellation or correction of entries in the Civil Registry," was promulgated precisely to permit corrections other than those authorized in said provision of the Civil Code. This pretense is manifestly untenable. Said Rule 108 did not and cannot expand, enlarge or broaden the class of corrections permitted by the Civil Code, for the simple reason that this would entail an amendment of a substantive law, which is beyond the authority of the Supreme Court. Indeed, its rule-making power is limited by the Constitution to matters of "pleading, practice and procedure" and "shall not diminish or increase or modify substantive rights." As pointed out in *Chua Wee and Pacita Topeno vs. Republic*: [4]

"From the time the New Civil Code took effect on August 30, 1950 until the promulgation of the Revised Rules of Court on January 1, 1964, there was no law nor rule of court prescribing the procedure to secure judicial authorization to effect the desired innocuous rectifications or alterations in the civil register pursuant to Article 412 of the New Civil Code. Rule 108 of the Revised Rules of Court now provides for such a procedure which should be limited solely to the implementation of Article 412, the substantive law on the matter of correcting entries in the civil register. Rule 108, like all the other provisions of the Rules Court, was promulgated by the Supreme Court pursuant to its rule-making authority under Sec. 13 of Art. VIII of the Constitution, which directs that such rules of court 'shall not diminish or increase or modify substantive rights.' If Rule 108 were to be extended beyond innocuous or harmless changes or corrections of errors which are visible to the eye or obvious to the understanding, so as to comprehend substantial and controversial alterations concerning citizenship, legitimacy of paternity or filiation, or legitimacy of marriage, said Rule 108 would thereby become unconstitutional for it would be increasing or modifying substantive rights, which changes are not authorized under Article 412 of the New Civil Code."

Indeed, subsequently to the effectivity of the Revised Rules of Court, We have repeatedly reiterated the view that only "clerical errors of a harmless or innocuous nature," not those "involving civil status, nationality or citizenship, which are substantial and/ or controversial," may be corrected under the provisions of said Art. 412 of the Civil Code, in relation to Rule 108 of the Revised Rules of Court.⁵

In the light of the foregoing, it is clear that the petitions in L-29544 and L-29637 were properly dismissed, and that the appealed orders and decisions granting the petitions in L-30227, L-30228, L-30991 and L-31075 are contrary to law.

WHEREFORE, the appealed orders in L-29544 and L-29637 are hereby affirmed, with costs against the appellants therein, and the appealed orders and decisions in L-30227, L-30228, L-30991 and L-31075 should be and are, accordingly, reversed and the petitions therein dismissed, with costs against the respective petitioners-appellees.

IT IS SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Fernando, Teehankee and Villamor, JJ., concur.

Ruiz Castro, Barredo and Makasiar, JJ., did not take part.

[1] Ty Kong Tin vs. Republic, L-5609, Feb. 5, 1954.

[2] Ansaldo vs. Republic, L-10226, Feb. 14, 1958.

[3] Black vs. Republic, L-10869, Nov. 28, 1958; Tan Su vs. Republic, L-12140, April 29, 1959; Chua Tian vs. Republic, L-15101, Sept. 30, 1960; Bantoto Co v. Republic, L-14978, May 23, 1961; Balet v. Republic, L-17332, Nov. 29, 1961; Barillo vs. Republic, L-14823, Dec. 28, 1961; De Castro vs. Republic, L-17431, April 30, 1963; Liu Lin vs. Jainudin Nuno, L-18213, Dec. 24, 1963; Dy Kim Liong vs. Republic, L-18608, Dec. 26, 1963; Beduya vs. Republic, L-17639, May 29, 1964; Reyes vs. Republic, L-17642, Nov. 27, 1964; David vs. Republic, L-21316, Nov. 29, 1965; Baybayan vs. Republic, L-20717, Mar. 18, 1966; Ng Yao Siong v. Republic, L-20307, Mar. 31, 1966; Tan vs. Republic, L-19847, April 29, 1966; Chung Siu vs. Local Civil Registrar, L-20649, July 31, 1967; Dy Olivia vs. Republic, L-21806, Aug. 17, 1967.

[4] L-27731, April 30, 1971.

[5] Lim vs. Local Civil Registrar, L-24284, Feb. 28, 1968; Lee vs. Lee Hian Tiu, L-24540, April 25, 1968; Dy En Siu Co vs. Local Civil Registrar, L-20794, July 29, 1968; Chua Tan Chuan vs. Republic, L-25439, Mar. 28, 1969; Chan Chin vs. Local Civil Registrar, L-27159/Sept. 17, 1969; Tan Pong vs. Republic, L-21010, Nov. 28, 1969; Chua Wee vs. Republic, L-27731, April 30, 1971.

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