WALTER SIGUAN TY, PETITIONER-APPELLEE, VS. THE LOCAL CIVIL REGISTRAR OF THE CITY OF CEBU AND CIVIL REGISTRAR OF MANILA, RESPONDENTS-APPELLEES.

Ponente: INGLES, G. T., J.

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INGLES, G. T., J.:

Before us is an appeal seeking to annul and reverse the Decision[1] of the Regional Trial Court, 7[th] Judicial Region, Branch 10, Cebu City dated November 25, 2011 in SP. PROC. NO. 18181-CEB, entitled In the Matter of the Change of Name in the Certificate of Live Birth/Birth Records of Walter Ty from Baby Ligan to Walter Siguan Ty and for the Cancellation and Correction of Certain Entries Thereat: Walter Siguan Ty versus the Local Civil Registrar of the City of Cebu and The Civil Registrar, Manila, the dispositive portion of which reads as follows:

> "WHEREFORE, PREMISES CONSIDERED, this Court hereby RESOLVES:
>
> 1. To GRANT the petition for change of name in the records of birth of petitioner herein from BABY LIGAN to WALTER SIGUAN TY and for the correction of the civil status of of (sic) his parents from married to single, respectively and;
>
> 2. To DIRECT the Local Civil Registrar of Cebu City and the Civil Registrar General, National Statistics Office, Quezon City, to make the corresponding change of name and correction of entries in the birth records of Walter Siguan Ty.
>
> Let copies of this Decision be furnished to the Local Civil Registrar of Cebu City, the Office of the Solicitor General, the National Statistics Office, thru the Civil Registrar General, Carmelita N. Ericta, Prosecutor Raul V. Cristoria, and to the petitioner and his counsel.
>
> SO ORDERED."

The facts of the case as culled from the records are as follows:

The instant case originated from a Petition[2] dated December 3, 2010 filed by Walter Siguan Ty with the Regional Trial Court of Cebu City, Branch 10, docketed as SP Proc. No 18181-CEB entitled "In the Matter of the Change of Name in the Certificate of Live Birth/Birth Records of Walter Ty from Baby Ligan to Walter Siguan Ty and for the Cancellation and Correction of Certain Entries Thereat: Walter Siguan Ty versus the Local Civil Registrar of the City of Cebu and The Civil Registrar, Manila."

In an Order[3] dated March 3, 2011, the RTC, finding the petition to be sufficient in form and substance, directed that the Office of the Solicitor General (OSG) and the Local Civil Registrar (LCR) of Cebu City be furnished with a copy of the petition with its annexes, and that the petition be published in a newspaper of general circulation in the cities and province of Cebu for three (3) consecutive weeks, the last publication of which must be made at least four (4) months before the date of initial hearing which was set on September 20, 2011.

The Solicitor General, the Local Civil Registrar of Cebu City, the Civil Registrar General, National Statistics

Office (NSO), Prosecutor Raul V. Cristoria, petitioner and his counsel as well as Atty. Jeoffrey S. Joaquino of the Office of the Clerk of Court were subsequently furnished with copies of the March 3, 2011 Order as evidenced by the Notice of Order[4] dated March 14, 2011. A Notice of Appearance[5] dated April 4, 2011 was then filed by the Solicitor General and the Office of the City Prosecutor of Cebu City, was deputized[6] to assist the Office of the Solicitor General in the instant case.

As ordered by the court, publication of the petition was made in the newspaper "Banat News" in its issues of May 19, 26 and 30, 2011 per Affidavit of Publication[7] executed by Wenceslao S. Celendron, News Editor.

During the initial hearing of the case, the Court Interpreter announced the case three times to determine whether there is any oppositor thereto. No oppositor appeared during the said hearing hence, petitioner, through counsel, proceeded to present evidence establishing jurisdictional facts as follows:

Exhibit "A" "A-4"

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Petition

Exhibit "A-5"

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Signature of the Petitioner

Exhibit "B"

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Order dated March 3, 2011

Exhibit "C"

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Notice of Order dated March 14, 2011

Exhibit "C-1"

-

Notice sent to the petitioner

Exhibit "C-2"

-

Notice sent to the OSG

Exhibit "C-3"

-

Notice sent to the LCR of Cebu City

Exhibit "C-4"

-

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Notice sent to the NSO

Exhibit “C-5”

-

Notice sent to Pros. Raul V. Cristoria

Exhibit “C-6”

-

Notice sent to counsel for petitioner

Exhibit “C-7”

-

Notice sent to to the Office of the Clerk of Court, RTC-Cebu City

Exhibit “D”

-

Affidavit of Publication

Exhibit “D-1”

-

Newspaper clipping dated May 19, 2011

Exhibit “D-2”

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Newspaper clipping dated May 26, 2011

Exhibit “D-3”

-

Newspaper clipping dated May 30, 2011

Exhibit “E”

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Notice of Appearance from the OSG

Exhibit “E-1”

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Authority given to the City Prosecutor's Office of Cebu City

The Branch Clerk of Court was then designated as Commissioner who received further evidence, both documentary and testimonial, on September 21, 2011. On said date, petitioner and his mother testified and their testimonies are hereunder summarized by the RTC as follows:

“First presented as witness was the petitioner himself, who testified that he is Walter Siguan Ty, 51 years old,

married, a government employee and resident of 29 Bonifacio St., Cebu City. His parents are Felicidad Siguan Ty (now Felicidad Ty Bacay) and Vivencio Ligan, who were not legally married to each other at the time of his birth and never got married to each other thereafter. Being an illegitimate child, he is supposed to carry his mother's surname, which is TY. However, in his Certificate of Live Birth procured from the National Statistics Office,[8] his name was entered as BABY LIGAN and the civil status of his parents were indicated as MARRIED. Such entries are incorrect, because he never used and carried the name BABY LIGAN, nor were her parents legally married.

To support his claim, petitioner presented his Certificate of Baptism,[9] issued by Rev. Fr. Christopher Amores, Asst. Parish Priest of Santo Rosario Parish, Cebu City, wherein his name is clearly indicated as WALTER TY. Moreover, it can be noted that only his mother's name appears therein, while the father's name was left blank because he is an illegitimate child. When he started schooling, his mother enrolled him with the name WALTER TY, which name he consistently used until he finished the degree of Bachelor of Science in Commerce (B.S.C. - Business Administration) at the University of San Carlos, Cebu City, as certified to by Mr. Sencio Norberto P. Jayme,[10] University Registrar, and as clearly indicated in his official Transcript of Records.[11]

When he got married to Salvacion Suan Gerong on February 7, 1976, his true and correct name WALTER TY was indicated in their Certificate of Marriage,[12] issued by Msgr. Romualdo A. Kintanar, Parish Priest of the Archdiocesan Shrine of Sta. Teresa de Avila Parish, Talisay City, Cebu. This is likewise the same name he carried and used when he applied and eventually landed a job with Bangko Sentral ng Pilipinas, as indicated in his I.D. and likewise in the Government Service Insurance System I.D.,[13] respectively. All throughout his life, he had always been called and known as WALTER TY and has never used the name BABY LIGAN.

Petitioner added that he only came to know about the discrepancy regarding his name, when he was required to produce his birth certificate, in view of his coming retirement. Since he started schooling and until the present, he has only presented his baptismal certificate, when required to show proof of his birth. It is, thus, his prayer that the Court would grant his petition in order that his records of birth would be straightened.

Felicidad Ty Bacay was also presented and she testified that she is the biological mother of petitioner Walter Siguan Ty. She corroborated her son's statement that when the latter enrolled in the first grade, she only presented the baptismal certificate and she herself gave her son's name as WALTER TY. It is only recently that they learned and found out that what was entered in her son's records of birth is the name BABY LIGAN. She admitted that petitioner's natural father is Vivencio Ligan, with whom she was not legally married to and never lived with although there is no legal impediment for them to do so. In fact, she got married to Orlando Bacay in 1959, several years after petitioner's birth on September 5, 1951, at Emmanuel Maternity Clinic, then located at Mabolo, Cebu City. Since then and until the present, her son has always and consistently carried the name WALTER TY and is known among their family and relatives and in their community as well, by such name. Her son also used said name in all his personal and legal dealings. She was not the one who provided the data regarding the facts of birth of herein petitioner as she was still unconscious and weak and presumed that it was her son's paternal grandmother, who was then in attendance when she gave birth to Walter.

She admitted and identified her affidavit,[14] the statements of which she confirms and affirms to be true and correct."

Petitioner thereafter formally offered his exhibits and the same were all admitted without objection from the State. The State manifested that it has no contra-evidence to present, hence the RTC then issued an order pronouncing that the case is already submitted for decision.[15]

On November 25, 2011, the RTC rendered its decision granting the petition in the manner and tenor quoted above. The state moved[16] for the reconsideration thereof but the same was denied per Order[17] dated March 6, 2012.

A Notice of Appeal[18] was then filed by the Republic of the Philippines through the Office of the Solicitor General which was granted and given due course by the RTC.[19]

The following assignment of error was raised, to wit:

> THE COURT A QUO ERRED IN GRANTING PLAINTIFF-APPELLEE'S PETITION CONSIDERING THAT THE ENTRIES SOUGHT TO BE CORRECTED IN HIS CERTIFICATE OF BIRTH CAN ONLY BE GRANTED IN AN ADVERSARIAL PROCEEDING WHERE HIS FATHER, AN INDISPENSABLE PARTY, MUST BE NOTIFIED AND IMPLEADED AS A PARTY TO THE CASE.

The appeal is impressed with merit.

Appellant contends that the RTC erred in granting the petition for change/correction of entries in the birth records of Walter Siguan Ty inasmuch as the provision of Rule 108 of the Revised Rules of Court requiring an adversarial proceeding for substantial and controversial matters has not been complied with.

Appellant further posits that the desired corrections in petitioner's birth certificate, particularly the change in the civil status of his mother and father from married to single, is substantial. Hence, the petition cannot be granted except in an appropriate adversarial proceeding.

Appellant argued that the proceedings before the RTC was not adversarial in nature inasmuch as petitioner's father, who is an indispensable party in the instant case, was not impleaded.

Appellee, on the other hand, opined that since a general default was ordered by the court a quo after publication of the order of the RTC finding the petition to be meritorious in form and substance, then, there is no need to apply the rule on compulsory joinder of indispensable parties as each person having interest but failed to oppose at the proper time, is already covered by the order of general default. This is in accordance with the ruling of the Supreme Court in the case of ROSENDO ALBA, MINOR, REPRESENTED BY HIS MOTHER AND NATURAL GUARDIAN, ARMI A. ALBA, AND ARMI A. ALBA, IN HER PERSONAL CAPACITY VS. COURT OF APPEALS AND ROSENDO C. HERRERA,[20] to wit:

> “In Barco v. Court of Appeals, the trial court granted a petition for correction/change of entries in a minor's birth certificate to reflect the name of the minor's real father as well as to effect the corresponding change of her surname. In seeking to annul said decision, the other children of the alleged father claimed that they are indispensable parties to the petition for correction, hence, the failure to implead them is a ground to annul the decision of the trial court. The Court of Appeals denied the petition which was sustained by this Court on the ground, inter alia, that while petitioner is indeed an indispensable party, the failure to implead her was cured by the publication of the order of hearing. Thus -
>
> Undoubtedly, Barco is among the parties referred to in Section 3 of Rule 108. Her interest was affected by the petition for correction, as any judicial determination that June was the daughter of Armando would affect her ward's share in the estate of her father. It cannot be established whether Nadina knew of Mary Joy's existence at the time she filed the petition for correction. Indeed, doubt may always be cast as to whether a petitioner under Rule 108 would know of all the parties whose interests may be affected by the granting of a petition. For example, a petitioner cannot be presumed to be aware of all the legitimate or illegitimate offsprings of his/her spouse or paramour. The fact that Nadina amended her petition to implead Francisco and Gustilo indicates earnest effort on her part to comply with Section 3 as quoted above.
>
> Yet, even though Barco was not impleaded in the petition, the Court of Appeals correctly pointed out that the defect was cured by compliance with Section 4, Rule 108, which requires notice by publication, thus:
>
> Section 4. Upon the filing of the petition, the court shall, by 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 a week for three (3) consecutive weeks in a newspaper of general circulation in the province.

The purpose precisely of Section 4, Rule 108 is to bind the whole world to the subsequent judgment on the petition. The sweep of the decision would cover even parties who should have been impleaded under Section 3, Rule 108, but were inadvertently left out. The Court of Appeals correctly noted:

> The publication being ordered was in compliance with, and borne out by the Order of January 7, 1985. The actual publication of the September 22, 1983 Order, conferred jurisdiction upon the respondent court to try and decide the case. While "nobody appeared to oppose the instant petition" during the December 6, 1984 hearing, that did not divest the court from its jurisdiction over the case and of its authority to continue trying the case. For, the rule is well-settled, that jurisdiction, once acquired continues until termination of the case.

Verily, a petition for correction is an action in rem, an action against a thing and not against a person. The decision on the petition binds not only the parties thereto but the whole world. An in rem proceeding is validated essentially through publication. Publication is notice to the whole world that the proceeding has for its object to bar indefinitely all who might be minded to make an objection of any sort against the right sought to be established. It is the publication of such notice that brings in the whole world as a party in the case and vests the court with jurisdiction to hear and decide it.[21]”

The primary issue before us is whether or not the proceeding in the RTC was adversarial in nature that would warrant the correction of entry of the birth records of herein petitioner from his mother and father being “married” to “single.”

In the case of REPUBLIC OF THE PHILIPPINES VS. JULIAN EDWARD EMERSON COSETENG-MAGPAYO (A.K.A. JULIAN EDWARD EMERSON MARQUEZ-LIM COSETENG),[22] the Supreme Court ruled that:

> “Republic v. Labrador[23] mandates that "a petition for a substantial correction or change of entries in the civil registry should have as respondents the civil registrar, as well as all other persons who have or claim to have any interest that would be affected thereby." It cannot be gainsaid that change of status of a child in relation to his parents is a substantial correction or change of entry in the civil registry.
>
> Labayo-Rowe[24] highlights the necessity of impleading indispensable parties in a petition which involves substantial and controversial alterations. In that case, the therein petitioner Emperatriz Labayo-Rowe (Emperatriz) filed a petition for the correction of entries in the birth certificates of her children, Vicente Miclat, Jr. and Victoria Miclat, in the Civil Registry of San Fernando, Pampanga. Emperatriz alleged that her name appearing in the birth certificates is Beatriz, which is her nickname, but her full name is Emperatriz; and her civil status appearing in the birth certificate of her daughter Victoria as "married" on "1953 Bulan" are erroneous because she was not married to Vicente Miclat who was the one who furnished the data in said birth certificate.
>
> The trial court found merit in Emperatriz's petition and accordingly directed the local civil registrar to change her name appearing in her children's birth certificates from Beatriz to Emperatriz; and to correct her civil status in Victoria's birth certificate from "married" to "single" and the date and place of marriage to "no marriage."
>
> On petition before this Court after the Court of Appeals found that the order of the trial court involved a question of law, the Court nullified the trial court's order directing the change of Emperatriz' civil status and the filiation of her child Victoria in light of the following observations:
>
> x x x x Aside from the Office of the Solicitor General, all other indispensable parties should have been made respondents. They include not only the declared father of the child but the child as well, together with the paternal grandparents, if any, as their hereditary rights would be adversely affected thereby. All other persons

> who may be affected by the change should be notified or represented. The truth is best ascertained under an adversary system of justice.
>
> The right of the child Victoria to inherit from her parents would be substantially impaired if her status would be changed from "legitimate" to "illegitimate." Moreover, she would be exposed to humiliation and embarrassment resulting from the stigma of an illegitimate filiation that she will bear thereafter. The fact that the notice of hearing of the petition was published in a newspaper of general circulation and notice thereof was served upon the State will not change the nature of the proceedings taken. Rule 108, like all the other provisions of the Rules of Court, was promulgated by the Supreme Court pursuant to its rule-making authority under Section 13, Article VIII of the 1973 Constitution, which directs that such rules "shall not diminish, 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, without observing the proper proceedings as earlier mentioned, said rule would thereby become an unconstitutional exercise which would tend to increase or modify substantive rights. This situation is not contemplated under Article 412 of the Civil Code.
>
> As for the requirement of notice and publication, Rule 108 provides:
>
> 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 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.
>
> A reading of these related provisions readily shows that Rule 108 clearly mandates two sets of notices to different "potential oppositors." The first notice is that given to the "persons named in the petition" and the second (which is through publication) is that given to other persons who are not named in the petition but nonetheless may be considered interested or affected parties, such as creditors. That two sets of notices are mandated under the above-quoted Section 4 is validated by the subsequent Section 5, also above-quoted, which provides for two periods (for the two types of "potential oppositors") within which to file an opposition (15 days from notice or from the last date of publication).”[25]

In sum, as the instant petition involves substantial alteration involving a change of entry from legitimate to illegitimate, strict compliance with the requirements of Rule 108 of the Rules of Court is mandated.

WHEREFORE, the Republic’s appeal is GRANTED. The Decision dated November 25, 2011 of the Regional Trial Court, Branch 10, Cebu City, is ANNULLED and SET ASIDE. No pronouncement as to costs.

SO ORDERED.

Maxino, P.A.A., and Francisco, R. C., JJ., concur.

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[1] Records at pp. 47-51.

[2] Records at pp. 2-5.

[3] Records at p. 15.

[4] Records at p. 16.

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[5] Records at p. 17.

[6] Records at p. 18.

[7] Records at p. 22.

[8] Exhibit “F,” Records at p. 28.

[9] Exhibit “G,” Records at p. 10.

[10] Exhibit “H,” Records at p. 29.

[11]Exhibit “H-2” to “H-4,” Records at pp. 30-32.

[12]Exhibit “I,” Records at p. 13.

[13] Exhibit “J,” Records at p. 14.

[14] Exhibit “K,” Records at p. 8.

[15] Records at p. 46.

[16] Records at pp. 53-56.

[17] Records at p. 66.

[18] Records at pp. 68-69.

[19] Records at p. 73.

[20] G.R. No. 164041, July 29, 2005.

[21] Barco v. Court of Appeals, G.R. No. 120587, 20 January 2004.

[22] G.R. No. 189476, February 02, 2011.

[23] G.R. No. 132980, 305 SCRA 438 (1999).

[24] G.R. No. L-53417, December 8, 1988.

[25] Emphasis and underscoring original.

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