

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. HON. FELICIANO BELMONTE, JUDGE OF THE COURT OF FIRST INSTANCE OF BAGUIO AND BENGUET AND ANITA PO ALIAS VERONICA PAO, ASSISTED BY HER...

G.R. No. L-32600. February 26, 1988

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

Can a petition for a change of name and the correction of certain entries in the civil registry be joined in the same proceeding? This is the issue posed in this petition for review of a decision of the Court of First Instance of Baguio and Benguet.[1]

The record of the case discloses that on August 28, 1968, the herein private respondent Anita Po alias Veronica Pao, a resident of Baguio City, filed with the then Court of First Instance of Baguio and Benguet a Petition for the change of her name from Anita Po to Veronica Pao.[2] For this purpose, she also sought court permission to have her birth records corrected in that her father's name appearing as PO YU be corrected to PAO YU and her mother's name recorded as PAKIAT CHAN be changed to HELEN CHAN. At the time the litigation was commenced, the petitioner was a 16-year old minor. Thus, she was assisted in the case by her mother. The suit was docketed as Special Proceeding Case No. 642.

The petitioner alleged before the trial court that the maiden name of her mother is Helen Chan and that the given name Pakiat written on her birth certificate is actually the given name of her maternal grandmother. The petitioner also asserted that the name of her father is Pao Yu and not Po Yu as erroneously written in her birth certificate and as such her real surname is Pao. She assigns these alleged errors to the common misunderstanding of Chinese names.

The petitioner also averred that she had been baptized by a Catholic priest and that she was christened as Veronica Pao, the first being her Christian given name and the latter being the correct spelling of her surname; that since her childhood up to the present, she had always been known and referred to as Veronica Pao and not Anita Po.

On the basis of these allegations, the petitioner asked the trial court to allow her change of name and to order the correction of her records in the Local Civil Registrar's Office at La Trinidad, Benguet to conform to the name Veronica Pao. She also asked the trial court order the correction of her father's name recorded in her birth certificate from Po Yu to Pao Yu, as well as her mother's name appearing as Pakiat Chan changed to Helen Chan.

At the hearing scheduled by the trial court on March 4, 1969, the Office of the Solicitor General presented its Opposition to the Petition and sought the dismissal of the same. The thrust of the said Opposition is that the remedies prayed for by the petitioner cannot be allowed by the mere submission of the said Petition. The pertinent portions of the written arguments in the Opposition are as follows --

"xxx. A petition for change name is filed under Rule 103 of the Rules of Court xxx and a petition for

correction or cancellation of entries in the Civil Register is filed under Rule 108 of the same Rules xxx. Rule 103 and Rule 108 distinct and separate from each other and each provides for different requirements that must be satisfied in order that a person may avail of any one of them. The present petition apparently satisfies the requirements of Rule 103 on change of name but fails insofar as the request for correction of certain entries concerned because the civil registrar concerned and the other parties affected by the corrections sought to be made have not been included in the petition as required by section 3 of Rule 108. And from the nature of the change sought to be made by herein petitioner in her surname, it seems that orderly and proper procedure requires that a correction be first made of the alleged errors in the names of the petitioner's parents to justify her petition for change of name. Thus, petitioner alleges that her father's name is correctly Pao Yu but the same is recorded in her birth certificate as Po Yu. However, in the said birth certificate, petitioner's name appears as Anita Po following the name of her father as registered in the same birth certificate, which is Po Yu. It therefore appears that until the name of the father is shown to have been registered erroneously, there is no justification for allowing the petitioner to use the surname Pao. The importance and necessity of first determining the propriety of the corrections sought to be made by the herein petitioner before allowing her to change her name is magnified when it is noted that the corrections sought involve the very identity of the parents of the herein petitioner, without a clear-cut clarification of which, the court may unwittingly allow itself to become an instrument in the substitution in a public record of the identities of certain persons.

"In view of these circumstances, it appears that considered as a petition for change of name, the present petition does not state a cause of action considering that on the basis of the data appearing in the birth certificate, petitioner's father is Po Yu and not Pao Yu. And the present petition can not be considered (sufficient) in form and substance as a petition for correction because it does not satisfy the requirements set forth by section 3 (Rules 108) of the Rules of Court and there is no allegation of how the alleged error was committed.

"xxx."[3]

In a Decision dated July 24, 1969, the trial court, with respondent Judge Feliciano Belmonte presiding therein, ruled in favor of the petitioner.[4] The petitioner was allowed to change her name from Anita Po to Veronica Pao. The court also allowed the correction of the names of her parents as prayed for in the Petition in the registry of birth. The Local Civil Registrar of La Trinidad, Benguet was ordered to implement the corresponding corrections.

On behalf of the Republic of the Philippines, the Office of the Solicitor General elevated the case to this Court by way of the instant Petition.[5] The Solicitor General raises the following issues --

(1) Whether or not the private respondent Anita Po alias Veronica Pao has presented a proper and reasonable cause for the change of her name; and

(2) Whether or not the names Po Yu and Pakiat Chan appearing in the birth certificate of Anita Po can be changed in the same proceeding for the change of name of Anita Po.

The parties having submitted their respective briefs, the case is now submitted for decision.

We have gone through the entire record of the case and We find merit in the instant Petition.

The allegations of the private respondent are not disputed by the petitioner. The respondent Judge rendered judgment in accordance with these undisputed facts. A conclusion of a court drawn from undisputed facts raises a question of law.[6] The issues raised in the instant Petition are directed against the conclusions arrived at by the respondent Judge and drawn from undisputed facts. Taking into account these observations and considering that the resolution of the issues raised herein would not require this Court to re-examine the evidence presented before the trial court, We hold that the two issues raised in this Petition are questions of law. Inasmuch as the two issues

are related to each other, they will be resolved together.

In fine, the petitioner maintains that her correct name is Veronica Pao inasmuch as Veronica is her Christian name and Pao is the surname of her father. She does not, however, deny that the name of her father appearing in her birth certificate is Po Yu and not Pao Yu. She assigns the discrepancy to mere clerical error.

An examination of her allegations reveal that her claim to the supposed correct name of Veronica Pao is predicated on the assumption that the correct name of her father is Pao Yu and not Po Yu as recited in her own birth certificate. The assumption is baseless, absent any proof that the name of her father in her birth certificate was entered erroneously. As correctly observed by the Office of the Solicitor General, until the name of her father is shown to have been registered in her birth certificate erroneously, there is no justification for allowing the petitioner to use the surname Pao. The corrections sought by the petitioner involve the very identity of her parents. Surely, the propriety of such corrections should first be determined in a different proceeding more adversary in character than the summary case instituted by the petitioner with the trial court. Aside from the change of her name, the petitioner seeks a correction of entries in the civil registry for the benefit of her parents. This she may not do through a summary proceeding. The summary procedure for correction of the civil register under Rule 108 is confined to innocuous or clerical errors and not to a material change in the spelling of a surname as prayed for by the petitioner.[7] A clerical error must be apparent on the face of the record and should be capable of being corrected by reference to the record alone.[8] The petitioner seeks more than just the correction of a clerical error.

Moreover, under Section 3 of Rule 108, 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 should be made parties to the proceeding. An inspection of all the pleadings filed by the petitioner with the trial court shows that the local civil registrar concerned was never made a party to the proceeding. Said civil registrar being an indispensable party, a final determination of the case cannot be made.[9]

The procedure recited in Rule 103 regarding change of name and in Rule 108 concerning the cancellation or correction of entries in the civil registry are separate and distinct. They may not be substituted one for the other for the sole purpose of expediency. To hold otherwise would render nugatory the provisions of the Rules of Court allowing the change of one's name or the correction of entries in the civil registry only upon meritorious grounds. If both reliefs are to be sought in the same proceedings all the requirements of Rules 103 and 108 must be complied with.

Accordingly, We hold that the Petition filed with the trial court is not sufficient in form and substance and should have been dismissed by the trial court for lack of merit.

WHEREFORE, in view of the foregoing, the Decision of the Court of First Instance of Baguio and Benguet in Special Proceeding Case No. 642 dated July 24, 1969 is hereby SET ASIDE and declared to be without force or effect. The entries in the local civil registry of La Trinidad, Benguet pertaining to the petitioner Anita Po and her parents Po Yu and Pakiat Chan stand as they were before such Decision. Let a copy of this Decision be furnished the Local Civil Registrar of La Trinidad, Benguet for his information and implementation. We make no pronouncement as to costs.

SO ORDERED.

Narvasa, Cruz, and Grino-Aquino, JJ., concur.
Teehankee, C.J., in the result.

- [1] The Courts of First Instance are now the Regional Trial Courts pursuant to Batas Pambansa Blg. 129.
- [2] Pages 23 and 24, Rollo.
- [3] Pages 27 and 28, Rollo.
- [4] Pages 29 and 30, Rollo.
- [5] Pages 18 and 22, Rollo.
- [6] *Hernandez v. Court of Appeals*, 149 SCRA 67 (1987); *Ramos v. Pepsi-Cola Bottling Co.*, 19 SCRA 289 (1967).
- [7] *Tan v. Civil Registrar of Cebu City*, 73 SCRA 548 (1976).
- [8] *Barretto v. Local Civil Registrar of Manila*, 74 SCRA 257 (1976).
- [9] Section 7, Rule 3, Rules of Court.

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