

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. THE HONORABLE FERNANDO BARTOLOME, PRESIDING JUDGE, COURT OF FIRST INSTANCE OF PAMPANGA, DOMINADOR P. DIZON AND THE CIVIL REGISTRAR O...*G.R. No. L-38109. September 06, 1985*

Ponente: MAKASIAR, C.J.

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In this petition for review on certiorari, the State seeks to annul the order dated November 2, 1973, of respondent Honorable Fernando M. Bartolome, Presiding Judge of the then Court of First Instance of Pampanga, in Special Proceedings Case No. 2350, granting the petition of respondent Dominador P. Dizon for correction and/or cancellation of entries in the Civil Registry, and the order dated December 11, 1973, denying the State's motion for reconsideration.

The dispositive portion of the questioned order dated November 2, 1973 of the respondent Judge reads:

"WHEREFORE, in the light of the foregoing, the Court hereby grants the instant petition and orders the Local Civil Registrar of Arayat, Pampanga, to make the necessary correction of the entries in the record of birth of herein petitioner from the name 'Domingo Patawaran' to 'Dominador P. Dizon' and opposite the words 'Name of Father' from 'Unknown' to 'Policarpio Dizon'" (p. 24, rec.).

On September 7, 1973, respondent Dominador P. Dizon filed a petition for correction and/or cancellation of entries in the Civil Registry (pursuant to Rule 108, Rules of Court, in relation to Article 412, Civil Code) before the then Court of First Instance of Pampanga, docketed as Special Proceedings Case No. 2350.

In his petition, respondent Dominador P. Dizon alleged, among others, that he is a Filipino, of legal age, widower, with residence and postal address at 717 I. Tolentino, Grace Park, Caloocan City; that he was born on September 15, 1908 in Arayat, Pampanga, of the late spouses Policarpio Dizon of Bacolor, Pampanga and Anselma Patawaran, of Arayat, Pampanga; that on July 22, 1962; when he secured his certificate of birth from the local civil registrar of Arayat, Pampanga, he discovered that his name appears therein as "Domingo Patawaran" and after the column "Name of Father" is typewritten the word "Unknown", which both entries are incorrect; that his real name is Dominador P. Dizon by which he is known since childhood up to the present; that on September 16, 1939, he was baptized at the Parish Church of Espiritu Santo in Manila, with the name Dominador P. Dizon and his father's name, Policarpio Dizon; and that in view of the said inaccurate entries in his record of birth, he will suffer inconvenience in securing passport and visas in going abroad. He prayed that respondent Judge authorize the local civil registrar of Arayat, Pampanga, to change his, name in his record of birth from "Domingo Patawaran" to "Dominador P. Dizon" and to delete the word "Unknown" after the column "Name of Father", and in lieu thereof, place "Policarpio Dizon" (p. 18, rec.).

Finding the petition to be sufficient in form and substance, the court a quo issued an order setting the same for hearing on October 4, 1973 and caused the order to be published once a week for three (3) consecutive weeks in a

newspaper of general circulation in the province of Pampanga (p. 25, rec.).

The hearing set on October 4 was postponed to October 27, 1973 and when the same was called on that day, nobody interposed an objection to the granting of the petition. Consequently, respondent Judge appointed Atty. Pedro Lagman as special counsel to represent the Office of the Local Civil Registrar of Arayat, Pampanga, whose only objection to the petition was that if the petition will be considered as one for a change of name, the petition should be denied on the ground that the publication of the notice of hearing was not properly made for such an action. However, if it is considered as a petition for correction of entries in the civil registry, then he withdraws his objection (p. 23, rec.).

On November 2, 1973, after due hearing, the lower court issued an order directing the local civil registrar of Arayat, Pampanga, to make the necessary correction of entries in the record of birth of respondent-petitioner Dominador P. Dizon (p. 20, rec.).

On November 9, 1973, the State, through the Provincial Fiscal of Pampanga, filed a motion for reconsideration on the grounds that the lower court did not acquire jurisdiction over the petition, and that the errors sought to be corrected are substantial and therefore not in the contemplation of Article 412 of the Civil Code, in relation to Rule 108 of the Rules of Court (p. 25, rec.).

On December 11, 1973, respondent Judge issued an order denying the motion for reconsideration filed by the provincial fiscal of Pampanga (p. 28, rec.).

Hence, this petition for review on certiorari by the State.

The petition should be granted.

In a long line of decisions, starting from the 1954 case of *Ty Kong vs. Republic* (94 Phil. 321) to the case of *Rosales vs. Castillo Rosales* (132 SCRA 132, September 28, 1984), this Court laid to rest the question as to whether or not substantial corrections and/or alterations can be made in the civil registry pursuant to Rule 108 of the Rules of Court in relation to Article 412 of the Civil Code.

It is a settled doctrine that under the summary procedure contemplated in Article 412 of the Civil Code, as implemented by Rule 108 of the Rules of Court, entries which can be corrected "x x x refer to those mistakes that are clerical in nature or changes that are harmless and innocuous, such as the correction of a misspelled name or occupation of the parents (*Ansaldo vs. Republic*, 102 Phil. 1046), or those that are visible to the eyes or obvious to the understanding, or 'errors made by a clerk or transcriber, a mistake in copying or writing'" (*Wong vs. Republic*, 115 SCRA 500, July 30, 1982).

In the instant case, there is no doubt that the alteration sought by respondent Dominador P. Dizon is not legally possible under Rule 108 of the Rules of Court in relation to Article 412 of the Civil Code, since it is substantial and controversial in nature.

But even granting that the petition is one for change of name under Rule 103 of the Rules of Court, still the alteration sought cannot be granted because publication as required by law was not properly made. Section 3 of Rule 103 provides that the court shall direct that its order fixing the date and place for the hearing of the petition be published before the hearing at least once a week for three (3) consecutive weeks in a newspaper of general circulation published in the province. Section 3 further provides that "the date set for hearing shall not be within thirty (30) days prior to an election nor within four (4) months after the last publication of the notice.

The Provincial Fiscal as well as all the heirs of the late Policarpio Dizon should be notified.

Moreover, in a petition for change of name, the Solicitor General must be notified by service of a copy of the

petition which in the instant case was not done.

A change in the entry from "Domingo Parawaran" to "Dominador P. Dizon", and the alteration of the word "Unknown" after the column "Name of Father" to "Policarpio Dizon", do not only partake of the nature of a change of name, but also principally involve the issue of paternity and filiation.

Respondent Dominador P. Dizon, in his answer, admits that he was born on September 15, 1908 as an illegitimate son of the late Policarpio Dizon, married, of Bacolor, Pampanga, and the late Anselma Patawaran, single, of Arayat, Pampanga (p. 43, rec.). From this fact, it is obvious that his purpose in this proceeding he filed on September 7, 1973 — after about 65 years — is an audacious indirect attempt to establish his filiation with the late Policarpio Dizon through the simple expedient of changing the entries in his record of birth in the civil registry and his right to inherit. This is plainly not possible.

WHEREFORE, THE ORDER OF THE TRIAL COURT DATED NOVEMBER 2, 1973 IS HEREBY SET ASIDE AND THE PETITION DISMISSED, WITH COSTS AGAINST THE RESPONDENT DOMINADOR P. DIZON.

SO ORDERED.

Concepcion, Jr., (Acting Chairman), Escolin, Cuevas, and Alampay, JJ., concur.

Abad Santos, J., on leave.

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