

IN THE MATTER OF THE PETITION TO CORRECT ENTRY IN THE LOCAL CIVIL REGISTRY. SINCIO C. YU, PETITIONER-APPELLANT, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLEE.

G.R. No. L-20752. November 25, 1967

Ponente: DIZON, J.

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DIZON, J.:

In Civil Case No. 46525 of the Court of First Instance of Manila the Court denied appellant's petition to have his name as recorded in the Local Civil Registry of the City of Manila corrected so as to make it read SENCIO YU instead of SINCIO C. YEE, on the ground that the correction sought was substantial and not within the meaning of the provisions of Article 412 of the Civil Code. Hence this appeal.

Appellant's verified petition alleged that he was born on May 16, 1967 in the City of Manila, Chinese citizens Yu Cho Koo and Tiu Oh Yek being his parents; that he was re-registered in the Bureau of Immigration under the name of Sincio C. Yu; that the fact of his birth had been entered in the Office of the Local Civil Registrar for the City of Manila under Registry No. 1543 (e37) under the name of Sin-cio Yee; that a mistake was committed in said entry as a result of the report made by the Chinese midwife who as-sisted in his delivery who wrote his name as "Sincio", instead of "Sencio", and spelled his surname as "Yee", instead of as "Yu". Attached to the petition were a cer-tified true copy of appellant's birth certificate and the affidavits of his father and the aforementioned midwife.

The Republic of the Philippines filed an opposition alleging that the desired correction did not partake of the nature of a clerical error but was substantial in character, and, therefore, did not fall within the meaning of Article 412 of the New Civil Code.

During the hearing, the Solicitor representing appellee withdrew his objection to the change of the family name of appellant from "Yee" to "Yu" since it appeared from appellant's original record of birth that his surname was not "Yee" but "Yu" - his father's surname - (trans. of August 10, 1961, p. 2).

It is obvious that the only issue in the instant case is whether the change of appellant's name from "Sincio" to "Sencio" involves a mere clerical error or, as the lower court held, it involves "already a change of name" and must therefore, be obtained in "another petition".

Upon the facts setforth above, We are of the opinion, and so hold, that what is involved in this case is merely the correction of a mistake in appellant's christian named. To change "Sincio" into "Sencio", which merely involves the substitution of the first vowel "i" in the first name into the vowel "e" amounts merely to the righting of a clerical error.

A clerical error has been defined as one made "in copying or writing" (Black's Law Dictionary; In re - Stewart N.Y.S. 957, 966). It has also been held that a misspelled word is a clerical error (Amicon vs. Holtc 160 N.E. 482 – 483).

In the case of *Ansaldo vs. Republic of the Philippines*; 102 Phil. 1046; 540 Off. Gaz., 5886, We held the clerical errors correctible 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; etc." And in *Barillo vs. Republic of the Philippines*, G.R. No. L-14823, December 23, 1961, We reiterated the same view to the effect that the correction authorized under Article 412 of the New Civil Code are harmless and innocuous changes, such as the correction of a name that is clearly misspelled.

WHEREFORE, the decision appealed from is reversed and set aside and, as a consequence, appellant's petition is granted so that he may heretofore use the name "SENCIO YU", and with the further result that his name appearing in the Office of the Local Civil Registrar for the City of Manila under Registry No. 1543 should also be changed correspondingly. Without costs.

Makalintal, Bengzon, Zaldivar, Sanchez, Castro, Angeles, and Fernando, JJ., concur.
Concepcion, C.J., and Reyes, J., are on official leave of absence.

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