

LEONCIA SAN ROQUE, PETITIONER-APPELLEE VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.

G.R. No. L-22035. April 30, 1968

Ponente: DIZON, J.

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DIZON, J.:

This is an appeal taken by the Republic of the Philippines from the decision of the Court of First Instance of Bulacan in Civil Case No. 2137 allowing petitioner Leoncia San Roque to change her name — Lucia - appearing in the Local Civil Registry of the .municipality of Polo, Bulacan, to “Leoncia”, on the ground that said court erred in applying to this case the provisions of the Rules of Court regarding petitions for a change of name (Rule 103), this case being in truth, a petition for correction of an entry in the civil registry under Article 412 of the Civil Code in relation to Rule 108 of the Rules of Court.

On February 26, 1960, appellee (under the name Leoncia San Roque) filed with the abovenamed court a verified petition captioned "In RE: Petition To Correct Name In The Birth Certificate Of Leoncia San Roque", alleging, among other tilings, that she was born on October 22, 1935 at Lingunan, Polo, Bulacan; that the name appearing on her birth certificate on file with the office of the Local Civil Registrar of Polo, Bulacan, is Lucia San Roque: that since birth, she had been using, and had always been known by the name of Leoncia San Roque and not as Lucia San Roque, and praying that her name appearing in said civil registry be corrected so as to read “Leoncia San Roque”. Thereupon, the court issued an order setting the petition for hearing on April 20, 1960 at 8:30 o'clock in the morning and requiring the publication of said order in the Central Luzon Post — a newspaper edited and published in Cabanatuan City and of general circulation in the province of Bulacan, once a week for three successive weeks before the date set for the hearing. This order was duly complied with.

The office of the Provincial Fiscal of Bulacan, in representation of the Solicitor General, filed an opposition to the petition contending that, as it did not allege that a clerical error had been committed in the recording of the name “Lucia” in the civil registry, its correction could not be made in the proceedings commenced by the petitioner.

Considering the opposition not to be well founded, the court, on the date set for the hearing of the petition, allowed appellee to adduce her evidence in the absence of oppositor who failed to appear. Subsequently, it rendered the decision appealed from.

On the basis of the evidence presented by appellee, the lower court found that she is the legitimate daughter of the spouses Damian San Roque (now deceased) and Trinidad Papa; that since her birth on October 22, 1935 up to the rendition of the decision, she had continuously used and had always been known under the name LEONCIA San Roque; that in her private as well as public transaction she had always used the name Leoncia, as evidenced by her marriage contract, residence certificate and Transfer Certificate of Title No. T-6013 issued by the Register of Deeds of Bulacan (Exhibits B, C and D).

It is likewise not denied that her name appearing in the Registry of Births of the Municipality of Polo, Bulacan is not Leoncia but Lucia.

It is obvious from all the foregoing that the present case does not concern appellee's civil status, much less her citizenship. In fact, the opposition filed by the Office of the Solicitor General does not deny appellee's citizenship nor the fact that she is married. This notwithstanding, appellant claims that the change or correction of appellee's name in her birth record is substantial and, therefore, cannot be done in the proceeding at bar, relying in support of this contention mainly upon our decision in *Ty Con Ting vs. Republic* 50 O.G. 1077 and *Chomi vs. Local Civil Registrar etc.*, 52 O.G. p. 6541. We find no merit in this contention.

In the *Ty Con Ting* case We held that the procedure contemplated in Article 412 of the Civil Code is summary in nature and does not cover cases involving controversial issues; that said article contemplates mere corrections of mistakes, clerical in nature, and not those which may affect the civil status or the citizenship of the persons involved; that if the purpose of the petition is merely to correct a clerical error, the Court may issue an order for the correction thereof, but that if the petition prays for a substantial change that affects the status or citizenship of the petitioner, the matter should be threshed out in a proper action depending upon the nature of the issue involved, and such action may be found "at random in our substantive and remedial law, the implementation of which will naturally depend upon the factors and circumstances that might arise affecting the interested parties."

On the other hand, in the *Chomi* case We also held that the real name of a person is that given him in the Civil Register, not the name by which he was baptized in his church or by which he has been known in the community, or which he has adopted; that the only way to change that name legally is for the interested party "to file the special proceedings outlined in Act No. 1386 and now embodied in Rule 103 of the Rules of Court". This is, substantially, what appellee herein did.

The petition with which the present proceedings were commenced was, of course, entitled as one "to correct name in the birth certificate of Leoncia San Roque" and prayed that petitioner's name appearing in her birth certificate be corrected and the same be made to appear as Leoncia San Roque, but the body of the petition affirmatively alleged that while her name appearing on her birth certificate on file with the office of the Local Civil Registrar of Polo, Bulacan was Lucia San Roque, petitioner "since her birth has been using and has always been known as Leoncia San Roque and not as Lucia San Roque; even in the performance of important civil actions like marriage". Essentially, therefore, the petition admitted that appellee's real name was Lucia San Roque which according to the *Chomi* case, was her true name because it was the one appearing in the Civil Register, but that this notwithstanding, she had been using continuously since birth and had been known under the name of Leoncia San Roque. These allegations were not only not denied by the oppositor but were duly proven during the hearing. Ultimately, therefore, notwithstanding the imperfection of language employed, the petition was, in essence, one to secure judicial authority for appellee to change her name from Lucia to Leoncia - a petition which falls reasonably within the provisions of Rule 103. That the petition was entitled one "to correct name in the birth certificate of Leoncia San Roque" and prayed that petitioner's name appearing in her birth certificate be corrected accordingly did not necessarily make the petition fall under the provisions of Rule 108, because even under the provisions of Rule 103 the judgment or order rendered in connection with said Rule shall be furnished the Civil Registrar of the municipality or city where the Court who issued the same is situated, who shall forthwith enter the same in the civil register (Section 6).

The record discloses, upon the other hand, that the provisions of Rule 103 — similar to those of Rule 108 - had been strictly and fully complied with and that the State had been given ample opportunity to state and prove its case.

We, therefore, conclude: .that no reversible error was committed by the trial court in considering the petition as one filed under the provisions of Rule 103 of the Rules of Court.

HAVING ARRIVED AT THE ABOVE CONCLUSION, We hereby render judgment affirming the decision appealed from, without costs.

Reyes, J.B.L., (Acting C.J.), Makalintal, Bengzon, J.P., Zaldivar, Sanchez, Ruiz Castro, Angeles and Fernando, JJ., concur.

Judgment affirmed.

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