

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. THE COURT OF APPEALS, JAIME B. CARANTO, AND ZENAIDA P. CARANTO, RESPONDENTS.

G.R. No. 103695. March 15, 1996

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a petition for review on certiorari of the decision[1] of the Court of Appeals in CA-G.R. CV No. 24453 which affirmed in toto the decision of Branch XVI of the Regional Trial Court of Cavite City, granting private respondents' petition for the adoption of Midael C. Mazon with prayer for the correction of the minor's first name "Midael" to "Michael."

The petition below was filed on September 2, 1988 by private respondents spouses Jaime B. Caranto and Zenaida P. Caranto for the adoption of Midael C. Mazon, then fifteen years old, who had been living with private respondent Jaime B. Caranto since he was seven years old. When private respondents were married on January 19, 1986, the minor Midael C. Mazon stayed with them under their care and custody. Private respondents prayed that judgement be rendered:

- a) Declaring the child Michael C. Mazon the child of petitioners for all intents and purposes;
- b) Dissolving the authority vested in the natural parents of the child; and
- c) That the surname of the child be legally changed to that of the petitioners and that the first name which was mistakenly registered as "MIDAEEL" be corrected to "MICHAEL."

The RTC set the case for hearing on September 21, 1988, giving notice thereof by publication in a newspaper of general circulation in the Province of Cavite and by service of the order upon the Department of Social Welfare and Development and the Office of the Solicitor General.

The Solicitor General opposed the petition insofar as it sought the correction of the name of the child from "Midael" to "Michael." He argued that although the correction sought concerned only a clerical and innocuous error, it could not be granted because the petition was basically for adoption, not the correction of an entry in the civil registry under Rule 108 of the Rules of Court.

Thereafter the case was heard during which private respondents Zenaida Caranto, Florentina Mazon (natural mother of the child), and the minor testified. Also presented was Carlina Perez, social worker of the Department of Social Welfare and Development, who endorsed the adoption of the minor, being of the opinion that the same was in the best interest of the child.

On May 30, 1989, the RTC rendered its decision. The RTC dismissed the opposition of the Solicitor General. on the ground that Rule 108 of the Rules of Court (Cancellation or Correction of Entries in the Civil Registry) applies only to the correction of entries concerning the civil status of persons. It cited Rule 108, §1, which

provides that "any person interested in an act, event, order or decree concerning the civil status of the persons which has been recorded in the civil register, may file a verified petition for the cancellation or correction of any entry relating thereto." It held that the correction of names in the civil registry is not one of the matters enumerated in Rule 108, §2 as "entries subject to cancellation or correction." According to the trial court, the error could be corrected in the same proceeding for adoption to prevent multiplicity of actions, and inconvenience to the petitioners.

The dispositive portion of the RTC decision reads:

WHEREFORE, judgement is hereby rendered granting the herein petition and declaring that:

1. Michael C. Mazon is, for all legal intents and purposes, the son by adoption of petitioners Jaime B. Caranto and Zenaida P. Caranto;
2. Henceforth, the minor's name shall be Michael Caranto, in lieu of his original name of Michael Mazon, or Midael Mazon, as appearing in his record of birth;
3. The Local Civil Registrar of Cavite City, the birthplace of said minor, is hereby directed to accordingly amend (and) correct the birth certificate, of said minor; and
4. This judgement shall retroact to September 2, 1988, the date of filing of the herein petition.

The Solicitor General appealed to the Court of Appeals reiterating his contention that the correction of names cannot be affected in the same proceeding for adoption. As additional ground for his appeal, he argued that the RTC did not acquire jurisdiction over the Case for adoption because in the notice published in the newspaper, the name given was "Michael," instead of "Midael," which is the name of the minor given in his Certificate of Live Birth.

On January 23, 1992, the Court of Appeals affirmed in toto the decision of the RTC. The Court of Appeals ruled that the case of *Cruz v. Republic*,^[2] invoked by the petitioner in support of its plea that the trial court did not acquire jurisdiction over the case, was inapplicable because that case involved a substantial error. Like the trial court, it held that to require the petitioners to file a separate petition for correction of name would entail "additional time and expenses for them as well as for the Government and the Courts."

Hence this petition for review. Private respondents were required to comment. Despite opportunity given to them, however, they did not file any comment.

The first issue is whether on the facts stated, the RTC acquired jurisdiction over the private respondents' petition for adoption. Petitioner's contention is that the trial court did not acquire jurisdiction over the petition for adoption because the notice by publication did not state the true name of the minor child. Petitioner invokes the ruling in *Cruz v. Republic*.^[3] There the petition for adoption and the notice published in the newspaper gave the baptismal name of the child - ("Rosanna E. Cruz") instead of her name in the record of birth ("Rosanna E. Bucoy"). It was held that this was a "substantial defect in the petition and the published order of hearing." Indeed there was a question of identity involved in that case. Rosanna E. Cruz could very well be a different person from Rosanna E. Bucoy, as common experience would indicate.

The present case is different. It involves an obvious clerical error in the name of the child sought to be adopted. In this case the correction involves merely the substitution of the letters "ch" for the letter "d," so that what appears as "Midael" as given name would read "Michael." Even the Solicitor General admits that the error is a plainly clerical one. Changing the name of the child from "Midael C. Mazon" to "Michael C Mazon" cannot possibly cause any confusion, because both names "can be read and pronounced with the same rhyme (tugma) and tone

(tono, tunog, himig)." The purpose of the publication requirement is to give notice so that those who have any objection to the adoption can make their objection known. That purpose has been served by publication of notice in this case.

For this reason we hold that the RTC correctly granted the petition for adoption of the minor Midael C. Mazon and the Court of Appeals, in affirming the decision of the trial court, correctly did so.

With regard to the second assignment of error in the petition, we hold that both the Court of Appeals and the trial court erred in granting private respondents' prayer for the correction of the name of the child in the civil registry.

Contrary to what the trial court thought, Rule 108 of the Rules of Court applies to this case and because its provision was not complied with, the decision of the trial court, insofar as it ordered the correction of the name of the minor, is void and without force or effect.

The trial court was clearly in error in holding Rule 108 to be applicable only to the correction of errors concerning the civil status of persons. Rule 108, §2 plainly states:

§2. Entries subject to cancellation or correction. - Upon good and valid grounds, the following entries in the civil register may be cancelled or corrected:

- (a) births;
- (b) marriages;
- (c) deaths;
- (d) legal separation;
- (e) judgments of annulments of marriage;
- (f) judgments declaring marriages void from the beginning;
- (g) legitimations;
- (h) adoptions;
- (i) acknowledgments of natural children;
- (j) naturalization;
- (k) election, loss or recovery of citizenship;
- (l) civil interdiction;
- (m) judicial determination of filiation;
- (n) voluntary emancipation of a minor; and
- (o) changes of name.

This case falls under letter "(o)," referring to "changes of name." Indeed, it has been the uniform ruling of this Court that Art. 412 of the Civil Code - to implement which Rule 108 was inserted in the rules of Court in 1964 - covers "those harmless and innocuous changes, such as correction of a name that is clearly misspelled." [4] Thus, in *Yu vs. Republic* [5] it was held that "to change 'Sincio' to '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." In *Labayo-Rowe v. Republic* [6] it was held that "the change of petitioner's name from Beatriz Labayo/Beatriz Labayu to Emperatriz Labayo is a mere innocuous alteration wherein a summary proceeding is appropriate."

Rule 108 thus applies to the present proceeding. Now §3 of this Rule provides:

§ 3. Parties. - 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 shall be made parties to the proceeding.

The local civil registrar is thus required to be made a party to the proceeding. He is an indispensable party, without whom no final determination of the case can be had. [7] As he was not impleaded in this case much less given notice of the proceeding, the decision of the trial court, insofar as it granted the prayer for the correction of

entry, is void. The absence of an indispensable party in a case renders ineffectual all the proceeding subsequent to the filling of the complaint including the judgment.[8]

Nor was notice of the petition for correction of entry published as required by Rule 108, § 4 which reads:

§ 4. Notice and publication. - Upon filling 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.

While there was notice given by publication in this case, it was notice of the petition for adoption made in compliance with Rule 99, § 4. In that notice only the prayer for adoption of the minor was stated. Nothing was mentioned that in addition the correction of his name in the civil registry was also being sought. The local civil registrar was thus deprived of notice and, consequently, of the opportunity to be heard.

The necessary consequence of the failure to implead the civil registrar as an indispensable party and to give notice by publication of the petition for correction of entry was to render the proceeding of the trial court, so far as the correction of entry was concerned, null and void for lack of jurisdiction both as to party and as to the subject matter.[9]

WHEREFORE, in view of the foregoing, the decision of the Court of Appeals is MODIFIED by deleting from the decision of the Regional Trial Court the order to the local civil registrar to change the name "MIDAE" to "MICHAEL" in the birth certificate of the child. In other respects relating to the adoption of Midael C. Mazon, the decision appealed from is AFFIRMED.

SO ORDERED.

Regalado (Chairman), Romero, and Puno, JJ., concur.

[1] Per Justice Artemon D. Luna and concurred in by Justices Serafin E. Camilon, chairman, and Celso L. Magrino.

[2] 17 SCRA 693(1966).

[3] Id.

[4] *Ansaldo v. Republic*, 102 Phil. 1046 (1958); *Barillo v. Republic*, 113 Phil. 695 (1961); *Tan v. Republic*, 114 Phil. 1070 (1962); *Yu v. Republic*, 21 SCRA 1018 (1967); *Labayo-Rowe v. Republic*, 168 SCRA 294 (1988).

[5] *Supra* note 4 at 1020.

[6] *Supra* note 4 at 300.

[7] *Republic v. Belmonte*, 158 SCRA 173 (1988).

[8] *Galarosa v. Valencia*, 227 SCRA 728 (1993); *Espiritu v. Court of Appeals*, 58 SCRA 195(1974).

[9] *Lim Tanhu v. Ramolete*, 66 SCRA 425 (1975); *Director of Lands v. Court of Appeals*, 93 SCRA 238 (1974).

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