

IN THE PETITION TO RECTIFY THE CERTIFICATE OF BIRTH ENTERED UNDER REGISTRY NO. 845 (E45) OF THE LOCAL CIVIL REGISTRAR OF MANILA.

G.R. No. 10598. February 14, 1958

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

On January 7, 1956, appellant Joaquin P. Roces filed, with the Court of First Instance of Manila, a petition alleging that he is married to Pacita Carvajal; that on November 4, 1955, he came to know of the existence of a birth certificate registered with the Local Civil Registrar of Manila, certified true copy of which is attached to said complaint, mentioning him as the father of one Ricardo Joaquin V. Roces, an illegitimate child; that said birth certificate shows, on its face, that it had been executed with neither the knowledge nor the consent of the petitioner; and that said information with regard to the alleged paternity of Ricardo Joaquin V. Roces is false, and contrary to the provisions of Act No. 3753 and Article 280 of the Civil Code of the Philippines. The prayer in said petition is of the following tenor:

"WHEREFORE, in accordance with the provision of Article 412 of the Civil Code, it is respectfully prayed unto this Honorable Court that an order be issued directing the Local Civil Registrar of the City of Manila to rectify the original of the Certificate of Birth represented by Annex 'A' of this petition and the entry made under Registry No. 845 (E-52) of his office, by striking out from the said documents all informations having reference to the herein petitioner as the father of the child mentioned therein, and that the surname "ROCES" appended to the name 'Ricardo Joaquin V. Roces' be also stricken from the aforesaid records.

"Petitioner further prays for any other and further relief which this Honorable Court may deem just and equitable in the premises."

The Local Civil Registrar of Manila filed an answer stating that he had no knowledge or information sufficient to form a belief as to the truth of the averments contained in the petition and that, if ordered by the court, pursuant to Article 412 of said Code, he would effect the correction prayed for in the petition.

Later on, Ricardo Joaquin V. Roces, represented by his mother and natural guardian, Carmen O. Valdellon, intervened and opposed the petition upon the ground that it "involves, not merely correction of clerical errors, but controversial matter" and that "there is another pending action involving the name question." After appropriate proceedings, the lower court subsequently issued an order, dated February 11, 1956, dismissing the petition upon the authority of *Ty Kong Tin vs. Republic of the Philippines*, 94 Phil. 321, 50 Off. 1077. A reconsideration of said order having been denied, petitioner now seeks a review thereof by record on appeal.

The *Ty Kong Tin* case is not in point. *Ty Kong Tin* sought an amendment of the entry in the record of birth of his children relative to his and their political status, so that it may state that all of them are citizens of the Philippines instead of "Chinese", as set forth in the birth certificate of said children and in the records of the local civil registrar. On appeal, we reversed the decision of the Court of First Instance of Manila granting this relief, upon

the ground that the corrections authorized under Article 412 of the Civil Code of the Philippines are purely "clerical in nature", not those "which may affect the civil status of the nationality or citizenship of the persons involved, and that "the procedure contemplated" in said Article 412 "is summary in nature" and "cannot cover cases involving controversial issues." Indeed, the point in controversy in the Ty Kong Tin case was whether or not petitioner and his children were Chinese citizens, as stated in the corresponding certificates of birth and record of birth, or Filipino citizens, as contended by Ty Tong Tin.

The issue in the case at bar is, however, entirely different in nature. The legal status of Ricardo Joaquin V. Roces is not in dispute. The pleadings and his birth certificate show that he was born outside wedlock. The only questions before Us are whether the statements in said birth certificate identifying the alleged father of said child are valid and whether the Local Civil Registrar was justified in making the corresponding entry in the records of his office.

It should be noted, in this connection, that according to said birth certificate, the mother of Ricardo Joaquin V. Roces is one Carmen O. Valdellon, whose civil status is said to be "single". The certificate is signed by the physician of a local hospital and, apart from naming Joaquin P. Roces as the father of the child, it states that said petitioner is "married". On the back of the instrument there is a sworn statement of Carmen O. Valdellon about the truth of the data therein contained. Petitioner Joaquin P. Roces did not subscribe either the birth certificate or the aforementioned verified statement or any other declaration of similar import. Upon the other hand, section 5 of Act No. 3753, specifically ordains, in the penultimate paragraph thereof, that:

"In the case of an illegitimate child, the birth, certificate shall be signed and sworn to jointly by the parents of the infant or only by the mother if the father refuses. In the latter case, it shall not be permissible to state or reveal in the document the name of the father who refuses to acknowledge the child, or to give therein any information by which such father could be identified."

Similarly, Article 280 of the Civil Code of the Philippines provides:

"When the father or the mother makes the recognition separately, he or she shall not reveal the name of the person with whom he or she had the child; neither shall he or she state any circumstance whereby the other parent may lie identified."

Thus, both legal provisions explicitly prohibit, not only the naming of the father of a child born outside wedlock, when the birth certificate, or the recognition, is not filed or made by him, but, also, the statement of "any information" or "circumstance" by which he "could be identified." Accordingly, in *Crisolo vs. Macadaeg*[*] (G.R. No. L-7017, decided April 29, 1954), we held that "the Local Civil Registrar had no authority to make of record the paternity" of an illegitimate child "upon the information of a third person"; that "records of public officers which are admissible 'are limited to those matters which the public officer has authority to record,'" that "it is essential to authorize admission of a copy of the record of a private instrument that such instrument 'be made in accordance with the statutory requirement'" (see also, 20 Am. Jur., p. 880) ; and that the certificate of birth of an illegitimate child, was signed by the mother of the latter, "is undoubtedly incompetent evidence of fathership of said child."

It appearing on the face of the birth certificate of Ricardo Joaquin V. Roces, that the alleged father of this child has not signed the instrument, it is clear that the statements therein relative to the identity of the father of said child were, and are, an open violation of the law. Consequently, the local civil registrar—who is duty bound to comply with said law and is partly charged with its enforcement—had no authority to incorporate said unlawful statements in the corresponding entry made by him in the records of his office, and that the entry, insofar as the identity of the father of Ricardo Joaquin V. Roces, is null and void, and should be cancelled or corrected.

Wherefore, the order appealed from is reversed and the relief prayed for in appellant's petition hereby granted, without special pronouncement as to costs.

It is so ordered.

Paras, C.J., Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador , Reyes, J.B.L., Endencia, and Felix, JJ., concur.

[*] 94 Phil., 862.

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