MARCELO LEE, ALBINA LEE-YOUNG, MARIANO LEE, PABLO LEE, HELEN LEE, CATALINO K. LEE, EUSEBIO LEE, EMMA LEE, AND TIU CHUAN, PETITIONERS, VS. COURT OF APPEALS AND HON. LORENZO B. VE...

G.R. No. 118387. October 11, 2001

Ponente: DE LEON, JR., J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-118387/

DE LEON, JR., J.:

This Petition for Review on Certiorari, with Prayer for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction, seeks the reversal of the Decision[1] of the Court of Appeals dated October 28, 1994 in CA-G.R. SP NO. 31786[2]. The assailed decision of the Court of Appeals upheld the Orders issued by respondents Judges Hon. Lorenzo B. Veneracion[3] and Hon. Jaime T. Hamoy[4] taking cognizance of two (2) separate petitions filed by private respondents before their respective salas for the cancellation and/or correction of entries in the records of birth of petitioners pursuant to Rule 108 of the Revised Rules of Court.

This is a story of two (2) sets of children sired by one and the same man but begotten of two (2) different mothers. One set, the private respondents herein, are the children of Lee Tek Sheng and his lawful wife, Keh Shiok Cheng. The other set, the petitioners herein, are allegedly children of Lee Tek Sheng and his concubine, Tiu Chuan.

Rita K. Lee, Leoncio Lee Tek Sheng, Rosa K. Lee-Vanderlek, Melody K. Lee-Chin, Lucia K. Lee Tek Sheng-Ong, Julian K. Lee, Henry K. Lee, Martin K. Lee, Victoriano K. Lee, Natividad K. Lee-Miguel and Thomas K. Lee (hereinafter referred to as private respondents) filed two (2) separate petitions for the cancellation and/or correction of entries in the records of birth of Marcelo Lee, Albina Lee-Young, Mariano Lee, Pablo Lee, Helen Lee, Catalino K. Lee, Eusebio Lee, and Emma Lee (hereinafter referred to as petitioners). On December 2, 1992, the petition against all petitioners, with the exception of Emma Lee, was filed before the Regional Trial Court (RTC) of Manila and docketed as SP. PROC. NO. 92-63692[5] and later assigned to Branch 47 presided over by respondent Judge Lorenzo B. Veneracion. On February 3, 1993, a similar petition against Emma Lee was filed before the RTC of Kalookan and docketed as SP. PROC. NO. C-1674[6] and assigned to the sala of respondent Judge Jaime T. Hamoy of Branch 130.

Both petitions sought to cancel and/or correct the false and erroneous entries in all pertinent records of birth of petitioners by deleting and/or canceling therein the name of "Keh Shiok Cheng" as their mother, and by substituting the same with the name "Tiu Chuan", who is allegedly the petitioners' true birth mother.

The private respondents alleged in their petitions before the trial courts that they are the legitimate children of spouses Lee Tek Sheng and Keh Shiok Cheng who were legally married in China sometime in 1931. Except for Rita K. Lee who was born and raised in China, private respondents herein were all born and raised in the Philippines.

Sometime in October, 1948, Lee Tek Sheng, facilitated the arrival in the Philippines from China of a young girl

named Tiu Chuan. She was introduced by Lee Tek Sheng to his family as their new housemaid but far from becoming their housemaid, Tiu Chuan immediately became Lee Tek Sheng's mistress. As a result of their illicit relations, Tiu Chuan gave birth to petitioners.

Unknown to Keh Shiok Cheng and private respondents, every time Tiu Chuan gave birth to each of the petitioners, their common father, Lee Tek Sheng, falsified the entries in the records of birth of petitioners by making it appear that petitioners' mother was Keh Shiok Cheng.

Since the birth of petitioners, it was Tiu Chuan who gave maternal care and guidance to the petitioners. They all lived in the same compound Keh Shiok Cheng and private respondents were residing in. All was well, therefore, before private respondents' discovery of the dishonesty and fraud perpetrated by their father, Lee Tek Sheng.

The tides turned after Keh Shiok Cheng's demise on May 9, 1989. Lee Tek Sheng insisted that the names of all his children, including those of petitioners', be included in the obituary notice of Keh Shiok Cheng's death that was to be published in the newspapers. It was this seemingly irrational act that piqued private respondents' curiosity, if not suspicion.[7]

Acting on their suspicion, the private respondents requested the National Bureau of Investigation (NBI) to conduct an investigation into the matter. After investigation and verification of all pertinent records, the NBI prepared a report that pointed out, among others, the false entries in the records of birth of petitioners, specifically the following:

> - As per Birth Certificate of MARCELO LEE (Annex F-1), their father, LEE TEK SHENG made it appear that he is the 12[th] child of Mrs. KEH SHIOK CHENG, but upon investigation, it was found out that her Hospital Records, the mother who gave birth to MARCELO LEE had given birth for the 1[st] time, as per diagnosis of the attending physician, Dr. R. LIM, it was "GRAVIDA I, PARA I" which means "first pregnancy, first live birth delivery" (refer to: MASTER PATIENT'S RECORDS SUMMARY - Annex I). Also, the age of the mother when she gave birth to MARCELO LEE as per record was only 17 years old, when in fact and in truth, KEH SHIOK CHENG's age was then already 38 years old. The address used by their father in the Master Patient record was also the same as the Birth Certificate of MARCELO LEE (2425 Rizal Avenue, Manila). The name of MARCELO LEE was recorded under Hospital No. 221768, page 73.
>
> - As per Birth Certificate of ALBINA LEE (Annex F-2), it was made to appear that ALBINA LEE was the third child which is without any rationality, because the 3[rd] child of KEH SHIOK CHENG is MELODY LEE TEK SHENG (Annex E-2). Note also, that the age of the mother as per Hospital Records jump (sic) from 17 to 22 years old, but the only age gap of MARCELO LEE and ALBINA LEE is only 2 years.
>
> - As per Birth Certificate of MARIANO LEE (Annex F-3), it was made to appear that MARIANO LEE was the 5[th] child, but the truth is, KEH SHIOK CHENG's 5[th] child is LUCIA LEE TEK SHENG (Annex E-4). As per Hospital Record, the age of KEH SHIOK CHENG was only 23 years old, while the actual age of KEH SHIOK CHENG, was then already 40 years old.
>
> - As per Birth Certificate of PABLO LEE (Annex F-4), it was made to appear that PABLO LEE was the 16[th] child of KEH SHIOK CHENG which is impossible to be true, considering the fact that KEH SHIOK CHENG have stopped conceiving after her 11[th] child. Also as per Hospital Record, the age of the mother was omitted in the records. If PABLO LEE is the 16[th] child of KEH SHIOK CHENG, it would only mean that she have (sic) given birth to her first born child at the age of 8 to 9 years, which is impossible to be true.
>
> Based on the birth record of MARIANO LEE in 1953, the recorded age of KEH SHIOK CHENG was 23 years old. Two years after PABLO LEE was born in 1955, the difference is only 2 years, so it is impossible for PABLO LEE to be the 16[th] child of KEH SHIOK CHENG, as it will only mean that she have (sic) given birth at that impossible age.

> - As per Birth Certificate of HELEN LEE (Annex F-5), it was made to appear that she is the 6[th] child of KEH SHIOK CHENG, but as per Birth Certificate of JULIAN LEE (Annex E-5), he is the true 6[th] child of KEH SHIOK CHENG. Per Hospital Record, KEH SHIOK CHENG is only 28 years old, while KEH SHIOK CHENG'S true age at that time was 45 years old.
>
> - EMMA LEE has no record in the hospital because, as per complainant's allegation, she was born at their house, and was later admitted at Chinese General Hospital.
>
> - As per Birth Certificate of CATALINO LEE (Annex F-7), it was made to appear that he is the 14[th] child of KEH SHIOK CHENG, and that the age of KEH SHIOK CHENG a.k.a. Mrs. LEE TEK SHENG, jumped from 28 years old at the birth of HELEN LEE on 23 August 1957 to 38 years old at the birth of CATALINO LEE on 22 April 1959.
>
> - As per Birth Certificate of EUSEBIO LEE, the alleged last son of KEH SHIOK CHENG, the age of the mother is 48 years old. However, as per Hospital Record, the age of Mrs. LEE TEK SHENG, then was only 39 years old. Considering the fact, that at the time of MARCELO's birth on 11 May 1950. KEH SHIOK CHENG's age is 38 years old and at the time of EUSEBIO's birth, she is already 48 years old, it is already impossible that she could have given birth to 8 children in a span of only 10 years at her age. As per diagnosis, the alleged mother registered on EUSEBIO's birth indicate that she had undergone CEASARIAN SECTION, which Dr. RITA K. LEE said is not true.
>
> In view of the foregoing facts, the NBI concluded that:
>
> - In conclusion, as per Chinese General Hospital Patients Records, it is very obvious that the mother of these 8 children is certainly not KEH SHIOK CHENG, but a much younger woman, most probably TIU CHUAN. Upon further evaluation and analysis by these Agents, LEE TEK SHENG, is in a quandary in fixing the age of KEH SHIOK CHENG possibly to conform with his grand design of making his 8 children as their own legitimate children, consequently elevating the status of his 2[nd] family and secure their future. The doctor lamented that this complaint would not have been necessary had not the father and his 2[nd] family kept on insisting that the 8 children are the legitimate children of KEH SHIOK CHENG.[8]

It was this report that prompted private respondents to file the petitions for cancellation and/or correction of entries in petitioners' records of birth with the lower courts.

The petitioners filed a motion to dismiss both petitions - SP. PROC. NO. 92-63692 and SP. PROC. NO. C-1674 - on the grounds that: (1) resort to Rule 108 is improper where the ultimate objective is to assail the legitimacy and filiation of petitioners; (2) the petition, which is essentially an action to impugn legitimacy was filed prematurely; and (3) the action to impugn has already prescribed.[9]

On February 12, 1993, respondent Judge Veneracion denied the motion to dismiss SP. PROC. NO. 92-63692 for failure of the herein petitioners (defendants in the lower court) to appear at the hearing of the said motion.[10] Then on February 17, 1993, Judge Veneracion issued an Order, the pertinent portion of which, reads as follows:

> Finding the petition to be sufficient in form and substance, the same is hereby given due course. Let this petition be set for hearing on March 29, 1993 at 8:30 in the morning before this Court located at the 5[th] Floor of the City Hall of Manila.
>
> Notice is hereby given that anyone who has any objection to the petition should file on or before the date of hearing his opposition thereto with a statement of the grounds therefor.
>
> Let a copy of this Order be published, at the expense of the petitioners, once a week for three (3) consecutive weeks in a newspaper of general circulation in the Philippines.
>
> Let copies of the verified petition with its annexes and of this Order be served upon the Office of the Solicitor

> General, and the respondents, and be posted on the Bulletin Board of this Court, also at the expense of the petitioners.
>
> SO ORDERED.[11]

On the other hand, respondent Judge Hamoy issued an Order dated April 15, 1993 taking cognizance of SP. PROC. No. C-1674, to wit:

> It appearing from the documentary evidence presented and marked by the petitioners that the Order of the Court setting the case for hearing was published in "Media Update" once a week for three (3) consecutive weeks, that is on February 20, 27, and March 6, 1993 as evidenced by the Affidavit of Publication and the clippings attached to the affidavit, and by the copies of the "Media Update" published on the aforementioned dates; further, copy of the order setting the case for hearing together with copy of the petition had been served upon the Solicitor General, City Prosecutor of Kalookan City, Civil Registrar of Kalookan City and the private respondents, the Court holds that the petitioners have complied with the jurisdictional requirements for the Court to take cognizance of this case.
>
> x x x x x x x x x.
>
> SO ORDERED.[12]

Petitioners' attempts at seeking a reconsideration of the above-mentioned orders of Judge Veneracion and Judge Hamoy failed, hence their recourse to the Court of Appeals via a Petition for Certiorari and Prohibition with Application for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction. Petitioners averred that respondents judges had acted with grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the assailed orders allowing the petitions for the cancellation and/or correction of entries in petitioners' records of birth to prosper in the lower courts.

In their petition before the Court of Appeals, the petitioners raised the following arguments: (1) Rule 108 is inappropriate for impugning the legitimacy and filiation of children; (2) Respondents judges are sanctioning a collateral attack against the filiation and legitimacy of children; (3) Respondents judges are allowing private respondents to impugn the legitimacy and filiation of their siblings despite the fact that their undisputed common father is still alive; (4) Respondents judges are entertaining petitions which are already time-barred; and (5) The petitions below are part of a forum-shopping spree.[13]

Finding no merit in petitioners' arguments, the Court of Appeals dismissed their petition in a Decision dated October 28, 1994.[14] Petitioners' Motion for Reconsideration of the said decision was also denied by the Court of Appeals in a Resolution dated December 19, 1994.[15]

Hence, this petition.

I. Petitioners contend that resort to Rule 108 of the Revised Rules of Court is improper since private respondents seek to have the entry for the name of petitioners' mother changed from "Keh Shiok Cheng" to "Tiu Chuan" who is a completely different person. What private respondents therefore seek is not merely a correction in name but a declaration that petitioners were not born of Lee Tek Sheng's legitimate wife, Keh Shiok Cheng, but of his mistress, Tiu Chuan, in effect a "bastardization of petitioners."[16] Petitioners thus label private respondents' suits before the lower courts as a collateral attack against their legitimacy in the guise of a Rule 108 proceeding.

Debunking petitioners' above contention, the Court of Appeals observed:

> x x x x x x x x x.
>
> As correctly pointed out by the private respondents in their comment x x x, the proceedings are simply aimed

> at establishing a particular fact, status and/or right. Stated differently, the thrust of said proceedings was to establish the factual truth regarding the occurrence of certain events which created or affected the status of persons and/or otherwise deprived said persons of rights.[17]
>
> x x x x x x x x x.

It is precisely the province of a special proceeding such as the one outlined under Rule 108 of the Revised Rules of Court to establish the status or right of a party, or a particular fact.[18] The petitions filed by private respondents for the correction of entries in the petitioners' records of birth were intended to establish that for physical and/or biological reasons it was impossible for Keh Shiok Cheng to have conceived and given birth to the petitioners as shown in their birth records. Contrary to petitioners' contention that the petitions before the lower courts were actually actions to impugn legitimacy, the prayer therein is not to declare that petitioners are illegitimate children of Keh Shiok Cheng, but to establish that the former are not the latter's children. There is nothing to impugn as there is no blood relation at all between Keh Shiok Cheng and petitioners.[19]

Further sanctioning private respondents' resort to Rule 108, the Court of Appeals adverted to our ruling in the leading case of Republic vs. Valencia[20] where we affirmed the decision of Branch XI of the then Court of First Instance (CFI) of Cebu City ordering the correction in the nationality and civil status of petitioner's minor children as stated in their records of birth from "Chinese" to "Filipino", and "legitimate" to "illegitimate", respectively. Although recognizing that the changes or corrections sought to be effected are not mere clerical errors of a harmless or innocuous nature, this Court, sitting en banc, held therein that even substantial errors in a civil register may be corrected and the true facts established provided the parties aggrieved by the error avail themselves of the appropriate adversary proceeding.[21] In the said case, we also laid down the rule that a proceeding for correction and/or cancellation of entries in the civil register under Rule 108 ceases to be summary in nature and takes on the characteristics of an appropriate adversary proceeding when all the procedural requirements under Rule 108 are complied with. Thus we held:

> "Provided the trial court has conducted proceedings where all relevant facts have been fully and properly developed, where opposing counsel have been given opportunity to demolish the opposite party's case, and where the evidence has been thoroughly weighed and considered, the suit or proceeding is `appropriate.'
>
> The pertinent sections of rule 108 provide:
>
> `SEC. 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.'
>
> `SEC. 4. Notice and publication. - Upon the filing 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 in a week for three (3) consecutive weeks in a newspaper of general circulation in the province.'
>
> `SEC. 5. Opposition. - The civil registrar and any person having or claiming any interest under the entry whose cancellation or correction is sought may, within fifteen (15) days from notice of the petition, or from the last date of publication of such notice, file his opposition thereto.'

"Thus, the persons who must be made parties to a proceeding concerning the cancellation or correction of an entry in the civil register are - (1) the civil registrar, and (2) all persons who have or claim any interest which would be affected thereby. Upon the filing of the petition, it becomes the duty of the court to - (1) issue an order fixing the time and place for the hearing of the petition, and (2) cause the order for hearing to be published once a week for three (3) consecutive weeks in a newspaper of general circulation in the province. The following are likewise

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

entitled to oppose the petition: - (1) the civil registrar, and (2) any person having or claiming any interest under the entry whose cancellation or correction is sought.

"If all these procedural requirements have been followed, a petition for correction and/or cancellation of entries in the record of birth even if filed and conducted under Rule 108 of the Revised Rules of Court can no longer be described as "summary". There can be no doubt that when an opposition to the petition is filed either by the Civil Registrar or any person having or claiming any interest in the entries sought to be cancelled and/or corrected and the opposition is actively prosecuted, the proceedings thereon become adversary proceedings."[22] (Underscoring supplied.)

To the mind of the Court of Appeals, the proceedings taken in both petitions for cancellation and/or correction of entries in the records of birth of petitioners in the lower courts are appropriate adversary proceedings.

We agree. As correctly observed by the Court of Appeals:

> In the instant case, a petition for cancellation and/or correction of entries of birth was filed by private respondents and pursuant to the order of the RTC-Manila, dated February 17, 1993, a copy of the order setting the case for hearing was ordered published once a week for three (3) consecutive weeks in a newspaper of general circulation in the Philippines. In the RTC-Kalookan, there was an actual publication of the order setting the case for hearing in "Media Update" once a week for three (3) consecutive weeks. In both cases notices of the orders were ordered served upon the Solicitor General, the Civil Registrars of Manila and Kalookan and upon the petitioners herein. Both orders set the case for hearing and directed the Civil Registrars and the other respondents in the case below to file their oppositions to the said petitions. A motion to dismiss was consequently filed by herein petitioners Marcelo, Mariano, Pablo, Helen, Catalino and Eusebio, all surnamed Lee, and Albina Lee-Young in the RTC-Manila, and an opposition was filed by Emma Lee in the RTC-Kalookan.
>
> In view of the foregoing, we hold that the petitions filed by the private respondents in the courts below by way of a special proceeding for cancellation and/or correction of entries in the civil registers with the requisite parties, notices and publications could very well be regarded as that proper suit or appropriate action.[23] (Underscoring supplied.)

The petitioners assert, however, that making the proceedings adversarial does not give trial courts the license to go beyond the ambit of Rule 108 which is limited to those corrections contemplated by Article 412 of the New Civil Code or mere clerical errors of a harmless or innocuous nature.[24] The petitioners point to the case of Labayo-Rowe vs. Republic,[25] which is of a later date than Republic vs. Valencia,[26] where this Court reverted to the doctrine laid down in earlier cases,[27] starting with Ty Kong Tin vs. Republic,[28] prohibiting the extension of the application of Rule 108 beyond innocuous or harmless changes or corrections. Petitioners contend that as held in Go, et al. vs. Civil Registrar,[29] allowing substantial changes under Rule 108 would render the said rule unconstitutional as the same would have the effect of increasing or modifying substantive rights.

At the outset, it should be pointed out that in the cited case of Labayo-Rowe vs. Republic,[30] the reason we declared null and void the portion of the lower court's order directing the change of Labayo-Rowe's civil status and the filiation of one of her children as appearing in the latter's record of birth, is not because Rule 108 was inappropriate to effect such changes, but because Labayo-Rowe's petition before the lower court failed to implead all indispensable parties to the case.

We explained in this wise:

> "x x x. An appropriate proceeding is required wherein all the indispensable parties should be made parties to

> the case as required under Section 3, Rule 108 of the Revised Rules of Court.
>
> "In the case before Us, since only the Office of the Solicitor General was notified through the Office of the Provincial Fiscal, representing the Republic of the Philippines as the only respondent, the proceedings taken, which is summary in nature, is short of what is required in cases where substantial alterations are sought. Aside from the Office of the Solicitor General, all other indispensable parties should have been made respondents. They include not only the declared father of the child but the child as well, together with the paternal grandparents, if any, as their hereditary rights would be adversely affected thereby. All other persons who may be affected by the change should be notified or represented x x x.
>
> x x x x x x x x x.
>
> "The right of the child Victoria to inherit from her parents would be substantially impaired if her status would be changed from `legitimate' to `illegitimate'. Moreover, she would be exposed to humiliation and embarrassment resulting from the stigma of an illegitimate filiation that she will bear thereafter. The fact that the notice of hearing of the petition was published in a newspaper of general circulation and notice thereof was served upon the State will not change the nature of the proceedings taken. Rule 108, like all the other provisions of the Rules of Court, was promulgated by the Supreme Court pursuant to its rule-making authority under Section 13, Article VIII of the 1973 Constitution, which directs that such rules `shall not diminish, increase or modify substantive rights.' If Rule 108 were to be extended beyond innocuous or harmless changes or corrections of errors which are visible to the eye or obvious to the understanding, so as to comprehend substantial and controversial alterations concerning citizenship, legitimacy of paternity or filiation, or legitimacy of marriage, without observing the proper proceedings as earlier mentioned, said rule would thereby become an unconstitutional exercise which would tend to increase or modify substantive rights. This situation is not contemplated under Article 412 of the Civil Code."[31] (Underscoring supplied).

Far from petitioners' theory, this Court's ruling in Labayo-Rowe vs. Republic[32] does not exclude recourse to Rule 108 of the Revised Rules of Court to effect substantial changes or corrections in entries of the civil register. The only requisite is that the proceedings under Rule 108 be an appropriate adversary proceeding as contra-distinguished from a summary proceeding. Thus:

> "If the purpose of the petition [for cancellation and/or correction of entries in the civil register] is merely to correct the clerical errors which are visible to the eye or obvious to the understanding, the court may, under a summary procedure, issue an order for the correction of a mistake. However, as repeatedly construed, changes which may affect the civil status from legitimate to illegitimate, as well as sex, are substantial and controversial alterations which can only be allowed after appropriate adversary proceedings depending upon the nature of the issues involved. Changes which affect the civil status or citizenship of a party are substantial in character and should be threshed out in a proper action depending upon the nature of the issues in controversy, and wherein all the parties who may be affected by the entries are notified or represented and evidence is submitted to prove the allegations of the complaint, and proof to the contrary admitted. x x x."[33] (Underscoring supplied.)

It is true that in special proceedings formal pleadings and a hearing may be dispensed with, and the remedy granted upon mere application or motion. But this is not always the case, as when the statute expressly provides.[34] Hence, a special proceeding is not always summary. One only has to take a look at the procedure outlined in Rule 108 to see that what is contemplated therein is not a summary proceeding per se. Rule 108 requires publication of the petition three (3) times, i.e., once a week for three (3) consecutive weeks (Sec. 4). The Rule also requires inclusion as parties of all persons who claim any interest which would be affected by the cancellation or correction (Sec. 3). The civil registrar and any person in interest are also required to file their opposition, if any, within fifteen (15) days from notice of the petition, or from the last date of publication of such notice (Sec. 5). Last, but not the least, although the court may make orders expediting the proceedings, it is after

hearing that the court shall either dismiss the petition or issue an order granting the same (Sec. 7).

Thus, we find no reason to depart from our ruling in Republic vs. Valencia,[35] that Rule 108, when all the procedural requirements thereunder are followed, is the appropriate adversary proceeding to effect substantial corrections and changes in entries of the civil register. It must be conceded, however, that even after Republic vs. Valencia[36] there continues to be a seesawing of opinion on the issue of whether or not substantial corrections in entries of the civil register may be effected by means of Rule 108 in relation to Article 412 of the New Civil Code. The more recent cases of Leonor vs. Court of Appeals[37] and Republic vs. Labrador[38] do seem to signal a reversion to the Ty Kong Tin ruling which delimited the scope of application of Article 412 to clerical or typographical errors in entries of the civil register.

In Republic vs. Labrador, the Court held that Rule 108 cannot be used to modify, alter or increase substantive rights, such as those involving the legitimacy or illegitimacy of a child. We ruled thus:

> "This issue has been resolved in Leonor vs. Court of Appeals. In that case, Respondent Mauricio Leonor filed a petition before the trial court seeking the cancellation of the registration of his marriage to Petitioner Virginia Leonor. He alleged, among others, the nullity of their legal vows arising from the "non-observance of the legal requirements for a valid marriage." In debunking the trial court's ruling granting such petition, the Court held as follows:
>
> `On its face, the Rule would appear to authorize the cancellation of any entry regarding "marriages" in the civil registry for any reason by the mere filing of a verified petition for the purpose. However, it is not as simple as it looks. Doctrinally, the only errors that can be canceled or corrected under this Rule are typographical or clerical errors, not material or substantial ones like the validity or nullity of a marriage. A clerical error is one which is visible to the eyes or obvious to the understanding; error made by a clerk or a transcriber; a mistake in copying or writing (Black vs. Republic, L-10869, Nov. 28, 1958); or some harmless and innocuous change such as a correction of name that is clearly misspelled or of a misstatement of the occupation of the parent (Ansalada vs. Republic, L-10226, Feb. 14, 1958).'
>
> `Where the effect of a correction in a civil registry will change the civil status of petitioner and her children from legitimate to illegitimate, the same cannot be granted except only in an adversarial x x x.'
>
> `Clearly and unequivocally, the summary procedure under Rule 108, and for that matter under Article 412 of the Civil Code cannot be used by Mauricio to change his and Virginia's civil status from married to single and of their three children from legitimate to illegitimate. x x x'
>
> "Thus, where the effect of a correction of an entry in a civil registry will change the status of a person from "legitimate" to "illegitimate," as in Sarah Zita's case, the same cannot be granted in summary proceedings."[39]

It is, therefore, high time that we put an end to the confusion sown by pronouncements seemingly in conflict with each other, and perhaps, in the process, stem the continuing influx of cases raising the same substantial issue.

The basis for the pronouncement that extending the scope of Rule 108 to substantial corrections is unconstitutional is embodied in the early case of Ty Kong Tin vs. Republic[40] that first delineated the extent or scope of the matters that may be changed or corrected pursuant to Article 412 of the New Civil Code. The Supreme Court ruled in this case that:

> "x x x. After a mature deliberation, the opinion was reached that what was contemplated therein are mere corrections of mistakes that are clerical in nature and not those that may affect the civil status or the nationality or citizenship of the persons involved. If the purpose of the petition is merely a clerical error then the court may issue an order in order that the error or mistake may be corrected. If it refers to a substantial change, which affects the status or citizenship of a party, the matter should be threshed out in a proper action depending

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

> upon the nature of the issue involved. Such action can be found at random in our substantive and remedial laws the implementation of which will naturally depend upon the factors and circumstances that might arise affecting the interested parties. This opinion is predicated upon the theory that the procedure contemplated in article 412 is summary in nature which cannot cover cases involving controversial issues."[41]

This doctrine was taken a step further in the case of Chua Wee, et al. vs. Republic[42] where the Court said that:

> "From the time the New Civil Code took effect on August 30, 1950 until the promulgation of the Revised Rules of Court on January 1, 1964, there was no law nor rule of court prescribing the procedure to secure judicial authorization to effect the desired innocuous rectifications or alterations in the civil register pursuant to Article 412 of the New Civil Code. Rule 108 of the Revised Rules of Court now provides for such a procedure which should be limited solely to the implementation of Article 412, the substantive law on the matter of correcting entries in the civil register. Rule 108, like all the other provisions of the Rules of Court, was promulgated by the Supreme Court pursuant to its rule-making authority under Section 13 of Art. VIII of the Constitution, which directs that such rules of court `shall not diminish or increase or modify substantive rights.' If Rule 108 were to be extended beyond innocuous or harmless changes or corrections of errors which are visible to the eye or obvious to the understanding, so as to comprehend substantial and controversial alterations concerning citizenship, legitimacy of paternity or filiation, or legitimacy of marriage, said Rule 108 would thereby become unconstitutional for it would be increasing or modifying substantive rights, which changes are not authorized under Article 412 of the New Civil Code."[43] (Underscoring supplied).

We venture to say now that the above pronouncements proceed from a wrong premise, that is, the interpretation that Article 412 pertains only to clerical errors of a harmless or innocuous nature, effectively excluding from its domain, and the scope of its implementing rule, substantial changes that may affect nationality, status, filiation and the like. Why the limited scope of Article 412? Unfortunately, Ty Kong Tin does not satisfactorily answer this question except to opine that the procedure contemplated in Article 412 is summary in nature and cannot, therefore, cover cases involving controversial issues. Subsequent cases have merely echoed the Ty Kong Tin doctrine without, however, shedding light on the matter.

The flaw in Ty Kong Tin lies in its theory that Article 412 contemplates a summary procedure.

First of all, Article 412 is a substantive law that provides as follows:

> "No entry in a civil register shall be changed or corrected, without a judicial order."

It does not provide for a specific procedure of law to be followed except to say that the corrections or changes must be effected by judicial order. As such, it cannot be gleaned therefrom that the procedure contemplated for obtaining such judicial order is summary in nature.

Secondly, it is important to note that Article 412 uses both the terms "corrected" and "changed". In its ordinary sense, to correct means "to make or set right"; "to remove the faults or errors from"[44] while to change means "to replace something with something else of the same kind or with something that serves as a substitute".[45] The provision neither qualifies as to the kind of entry to be changed or corrected nor does it distinguish on the basis of the effect that the correction or change may have. Hence, it is proper to conclude that all entries in the civil register may be changed or corrected under Article 412. What are the entries in the civil register? We need not go further than Articles 407 and 408 of the same title to find the answer.

> "Art. 407. Acts, events and judicial decrees concerning the civil status of persons shall be recorded in the civil register."
>
> "Art. 408. The following shall be entered in the civil register:
>
> (1) Births; (2) marriages; (3) deaths; (4) legal separations; (5) annulments of marriage; (6) judgments declaring

> marriages void from the beginning; (7) legitimations; (8) adoptions; (9) acknowledgments of natural children; (10) naturalization; (11) loss, or (12) recovery of citizenship; (13) civil interdiction; (14) judicial determination of filiation; (15) voluntary emancipation of a minor; and (16) changes of name."

It is beyond doubt that the specific matters covered by the preceding provisions include not only status but also nationality. Therefore, the Ty Kong Tin pronouncement that Article 412 does not contemplate matters that may affect civil status, nationality or citizenship is erroneous. This interpretation has the effect of isolating Article 412 from the rest of the articles in Title XVI, Book I of the New Civil Code, in clear contravention of the rule of statutory construction that a statute must always be construed as a whole such that the particular meaning to be attached to any word or phrase is ascertained from the context and the nature of the subject treated.[46]

Thirdly, Republic Act No. 9048[47] which was passed by Congress on February 8, 2001 substantially amended Article 412 of the New Civil Code, to wit:

> "SECTION 1. Authority to Correct Clerical or Typographical Error and Change of First Name or Nickname.- No entry in a civil register shall be changed or corrected without a judicial order, except for clerical or typographical errors and change of first name or nickname which can be corrected or changed by the concerned city or municipal civil registrar or consul general in accordance with the provisions of this Act and its implementing rules and regulations."

The above law speaks clearly. Clerical or typographical errors in entries of the civil register are now to be corrected and changed without need of a judicial order and by the city or municipal civil registrar or consul general. The obvious effect is to remove from the ambit of Rule 108 the correction or changing of such errors in entries of the civil register. Hence, what is left for the scope of operation of Rule 108 are substantial changes and corrections in entries of the civil register. This is precisely the opposite of what Ty Kong Tin and other cases of its genre had said, perhaps another indication that it was not sound doctrine after all.

It may be very well said that Republic Act No. 9048 is Congress' response to the confusion wrought by the failure to delineate as to what exactly is that so-called summary procedure for changes or corrections of a harmless or innocuous nature as distinguished from that appropriate adversary proceeding for changes or corrections of a substantial kind. For we must admit that though we have constantly referred to an appropriate adversary proceeding, we have failed to categorically state just what that procedure is. Republic Act No. 9048 now embodies that summary procedure while Rule 108 is that appropriate adversary proceeding. Be that as it may, the case at bar cannot be decided on the basis of Republic Act No. 9048 which has prospective application. Hence, the necessity for the preceding treatise.

II. The petitioners contend that the private respondents have no cause of action to bring the cases below as Article 171 of the Family Code allows the heirs of the father to bring an action to impugn the legitimacy of his children only after his death.[48]

Article 171 provides:

> "The heirs of the husband may impugn the filiation of the child within the period prescribed in the preceding article only in the following cases:
>
> "(1) If the husband should die before the expiration of the period fixed for bringing this action;
>
> "(2) If he should die after the filing of the complaint, without having desisted therefrom; or
>
> "(3) If the child was born after the death of the husband."

Petitioners' contention is without merit.

In the recent case of Babiera vs. Catotal,[49] we upheld the decision of the Court of Appeals that affirmed the judgment of the RTC of Lanao del Norte declaring the birth certificate of one Teofista Guinto as null and void ab initio, and ordering the Local Civil Registrar of Iligan City to cancel the same from the Registry of Live Births. We ruled therein that private respondent Presentacion Catotal, child of spouses Eugenio Babiera and Hermogena Cariñosa, had the requisite standing to initiate an action to cancel the entry of birth of Teofista Babiera, another alleged child of the same spouses because she is the one who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit.[50]

We likewise held therein that:

> "x x x Article 171 of the Family Code is not applicable to the present case. A close reading of the provision shows that it applies to instances in which the father impugns the legitimacy of his wife's child. The provision, however, presupposes that the child was the undisputed offspring of the mother. The present case alleges and shows that Hermogena did not give birth to petitioner. In other words, the prayer therein is not to declare that petitioner is an illegitimate child of Hermogena, but to establish that the former is not the latter's child at all. x x x."[51]

Similarly, we ruled in Benitez-Badua vs. Court of Appeals[52] that:

> "Petitioner's insistence on the applicability of Articles 164, 166, 170 and 171 of the Family Code to the case at bench cannot be sustained. x x x.
>
> x x x x x x x x x.
>
> "A careful reading of the above articles will show that they do not contemplate a situation, like in the instant case, where a child is alleged not be the child of nature or biological child of a certain couple. Rather, these articles govern a situation where a husband (or his heirs) denies as his own a child of his wife. Thus, under Article 166, it is the husband who can impugn the legitimacy of said child by proving: (1) it was physically impossible for him to have sexual intercourse, with his wife within the first 120 days of the 300 days which immediately preceded the birth of the child; (2) that for biological or other scientific reasons, the child could not have been his child; (3) that in case of children conceived through artificial insemination, the written authorization or ratification by either parent was obtained through mistake, fraud, violence, intimidation or undue influence. Articles 170 and 171 reinforce this reading as they speak of the prescriptive period within which the husband or any of his heirs should file the action impugning the legitimacy of said child. Doubtless then, the appellate court did not err when it refused to apply these articles to the case at bench. For the case at bench is not one where the heirs of the late Vicente are contending that petitioner is not his child by Isabel. Rather, their clear submission is that petitioner was not born to Vicente and Isabel. Our ruling in Cabatbat-Lim vs. Intermediate Appellate Court, 166 SCRA 451, 457 cited in the impugned decision is apropos, viz:
>
> `Petitioners' recourse to Article 263 of the New Civil Code [now Art. 170 of the Family Code] is not well taken. This legal provision refers to an action to impugn legitimacy. It is inapplicable to this case because this is not an action to impugn the legitimacy of a child, but an action of the private respondents to claim their inheritance as legal heirs of their childless deceased aunt. They do not claim that petitioner Violeta Cabatbat Lim is an illegitimate child of the deceased, but that she is not the decedent's child at all. Being neither legally adopted child, nor an acknowledged natural child, nor a child by legal fiction of Esperanza Cabatbat, Violeta is not a legal heir of the deceased.'"[53]

III. Petitioners claim that private respondents' cause of action had already prescribed as more than five (5) years had lapsed between the registration of the latest birth among the petitioners in 1960 and the filing of the actions in December of 1992 and February of 1993.[54]

We disagree. As correctly pointed out by the Court of Appeals, inasmuch as no law or rule specifically prescribes

a fixed time for filing the special proceeding under Rule 108 in relation to Article 412 of the New Civil Code, it is the following provision of the New Civil Code that applies:

> "Art. 1149. All other actions whose periods are not fixed in this Code or in other laws must be brought within five years from the time the right of action accrues."

The right of action accrues when there exists a cause of action, which consists of three (3) elements, namely: a) a right in favor of the plaintiff by whatever means and under whatever law it arises or is created; b) an obligation on the part of the defendant to respect such right; and c) an act or omission on the part of such defendant violative of the right of the plaintiff. It is only when the last element occurs or takes place that it can be said in law that a cause of action has arisen.[55]

It is indubitable that private respondents have a cause of action. The last element of their cause of action, that is, the act of their father in falsifying the entries in petitioners' birth records, occurred more than thirty (30) years ago. Strictly speaking, it was upon this occurrence that private respondents' right of action or right to sue accrued. However, we must take into account the fact that it was only sometime in 1989 that private respondents discovered that they in fact had a cause of action against petitioners who continue to use said falsified birth records.

Hence, it would result in manifest injustice if we were to deprive private respondents of their right to establish the truth about a fact, in this case, petitioners' true mother, and their real status, simply because they had discovered the dishonesty perpetrated upon them by their common father at a much later date. This is especially true in the case of private respondents who, as their father's legitimate children, did not have any reason to suspect that he would commit such deception against them and deprive them of their sole right to inherit from their mother's (Keh Shiok Cheng's) estate. It was only sometime in 1989 that private respondents' suspicions were aroused and confirmed. From that time until 1992 and 1993, less than five (5) years had lapsed.

Petitioners would have us reckon the five-year prescriptive period from the date of the registration of the last birth among the petitioners-siblings in 1960, and not from the date private respondents had discovered the false entries in petitioners' birth records in 1989. Petitioners base their position on the fact that birth records are public documents, hence, the period of prescription for the right of action available to the private respondents started to run from the time of the registration of their birth certificates in the Civil Registry.

We cannot agree with petitioners' thinking on that point.

It is true that the books making up the Civil Register and all documents relating thereto are public documents and shall be prima facie evidence of the facts therein contained.[56] Petitioners liken their birth records to land titles, public documents that serve as notice to the whole world. Unfortunately for the petitioners, this analogy does not hold water. Unlike a title to a parcel of land, a person's parentage cannot be acquired by prescription. One is either born of a particular mother or not. It is that simple.

IV. Finally, petitioners accuse private respondents of forum shopping. They enumerate the other actions filed by private respondents against them prior to the filing of their Rule 108 petitions in the lower courts, as follows:

> (1)
>
> A criminal complaint for falsification of entries in the birth certificates filed against their father as principal and against defendants as alleged accessories;
>
> (2)
>
> A petition for the cancellation of the naturalization certificate of their father, Lee Tek Sheng; and

(3)

A petition for partition of Keh Shiok Cheng's estate.[57]

According to the petitioners, all the three (3) actions above-mentioned, as well as the Rule 108 petitions, subject of the case before us, raise the common issue of whether petitioners are the natural children of Keh Shiok Cheng or Tiu Chuan. They contend that in all these cases, the judge or hearing officer would have to resolve this issue in order to determine whether or not to grant the relief prayed for.[58]

Forum shopping is present when in the two or more cases pending there is identity of parties, rights or causes of action and reliefs sought.[59] Even a cursory examination of the pleadings filed by private respondents in their various cases against petitioners would reveal that at the very least there is no identity of rights or causes of action and reliefs prayed for. The present case has its roots in two (2) petitions filed under Rule 108, the purpose of which is to correct and/or cancel certain entries in petitioners' birth records. Suffice it to state, the cause of action in these Rule 108 petitions and the relief sought therefrom are very different from those in the criminal complaint against petitioners and their father which has for its cause of action, the commission of a crime as defined and penalized under the Revised Penal Code, and which seeks the punishment of the accused; or the action for the cancellation of Lee Tek Sheng's naturalization certificate which has for its cause of action the commission by Lee Tek Sheng of an immoral act, and his ultimate deportation for its object; or for that matter, the action for partition of Keh Shiok Cheng's estate which has for its cause of action the private respondents' right under the New Civil Code to inherit from their mother's estate.

We therefore concur in the finding of the Court of Appeals that there is no forum shopping to speak of in the concept that this is described and contemplated in Circular No. 28-91 of the Supreme Court.

WHEREFORE, the petition is hereby DENIED and the assailed decision of the Court of Appeals dated October 28, 1994 is AFFIRMED.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Quisumbing, and Buena, JJ., concur.

---

[1] Penned by Associate Justice Jaime M. Lantin and concurred in by Associate Justices Ruben T. Reyes and Conrado M. Vasquez, Jr.; Rollo, pp. 22-36.

[2] Entitled "MARCELO LEE, ALBINA LEE-YOUNG, MARIANO LEE, PABLO LEE, HELEN LEE, CATALINO K. LEE, EUSEBIO LEE, EMMA LEE and TIU CHUAN versus HON. LORENZO B. VENERACION and HON. JAIME T. HAMOY, in their capacities as Presiding Judge of the RTC-Manila, Branch 47, and RTC-Kalookan City, Branch 130, respectively, and RITA K. LEE, LEONCIO LEE TEK SHENG, in their personal capacities and ROSA K. LEE-VANDERLEK, MELODY K. LEE-CHIN, LUCIA K. LEE TEK SHENG-ONG, JULIAN K. LEE, HENRY K. LEE, MARTIN K. LEE, VICTORIANO K. LEE, NATIVIDAD K. LEE-MIGUEL and THOMAS K. LEE represented by RITA K. LEE."

[3] Presiding Judge of Branch 47 of the RTC of Manila.

[4] Presiding Judge of Branch 130 of the RTC of Kalookan.

[5] CA Rollo, Annex A of Petition in CA-G.R. No. 31786.

[6] CA Rollo, Annex A-1 of Petition in CA-G.R. No. 31786.

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

[7] Rollo, pp. 171-172.

[8] Rollo, pp. 348-349.

[9] CA Rollo, Amended Petition in CA-G.R. No. 31786.

[10] CA Rollo, Annex D of the Petition in CA-G.R. No. 31786.

[11] CA Rollo, Annex B of the Petition in CA-G.R. No. 31786.

[12] CA Rollo, Annex E of the Petition in CA-G.R. No. 92-63692.

[13] CA Rollo, Amended Petition in CA-G.R. No. 92-63692.

[14] Rollo, p. 22.

[15] Rollo, p. 38.

[16] Rollo, p. 7.

[17] Rollo, p. 33.

[18] Sec. 3 (c), Rule 1 of the 1997 Rules of Civil Procedure.

[19] Babiera v. Catotal, 333 SCRA 487 (2000); Benitez-Badua v. Court of Appeals, 229 SCRA 468 (1994); Cabatbat-Lim v. Intermediate Appellate Court, 166 SCRA 451 (1988).

[20] 141 SCRA 462 (1986).

[21] Id., p. 468.

[22] Id., pp. 473-474.

[23] Rollo, p. 32.

[24] Rollo, p. 310.

[25] 168 SCRA 294 (1988).

[26] Supra, see note 20.

[27] Brown v. Republic, 99 Phil. 818 (1956); Black, et al. v. Republic 104 Phil. 848 (1958); Bantoto Coo v. Republic, 2 SCRA 42 (1961); Beduya v. Republic, 11 SCRA 109 (1964); Reyes vs. Republic, 12 SCRA 377 (1964); Baybayan v. Republic, 16 SCRA 403 (1966); Tan, et al. v. Republic, 16 SCRA 692 (1966); Matias v. Republic, 28 SCRA 31 (1969); Uy v. Local Civil Registrar of the City of Cebu, 46 SCRA 1 (1972); Republic v. Medina, 119 SCRA 271 (1982); Rosales v. Castillo Rosales, 132 SCRA 132 (1984); Tan v. Republic 133 SCRA 591 (1984), to name a few.

[28] 94 Phil. 321 (1954).

[29] 39 SCRA 350, 361 (1971).

[30] Supra, see note 25.

[31] Id., pp. 301-302.

[32] Supra, see note 25.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

[33] Id., p. 299.

[34] Hagans v. Wislizenus, 42 Phil. 880, 882 (1920).

[35] Supra, see note 20.

[36] Ibid.

[37] 256 SCRA 69 (1996).

[38] 305 SCRA 438 (1999).

[39] Id., p. 444.

[40] Supra, see note 28.

[41] Id., pp. 323-324.

[42] 38 SCRA 409 (1971).

[43] Id., p. 415.

[44] Webster's Third New International Dictionary, @ 1993.

[45] Ibid.

[46] Sotto v. Sotto, 43 Phil. 688, 694 (1922); Araneta v. Concepcion and Araneta, 99 Phil. 709, 713 (1956); National Tobacco Administration v. COA, 311 SCRA 755, 769 (1999); Paras v. COMELEC, 264 SCRA 49, 54 (1996).

[47] AN ACT AUTHORIZING THE CITY OR MUNICIPAL CIVIL REGISTRAR OR THE CONSUL GENERAL TO CORRECT A CLERICAL OR TYPOGRAPHICAL ERROR IN AN ENTRY AND/OR CHANGE OF FIRST NAME OR NICKNAME IN THE CIVIL REGISTER WITHOUT NEED OF A JUDICIAL ORDER, AMENDING FOR THIS PURPOSE ARTICLES 376 AND 412 OF THE CIVIL CODE OF THE PHILIPPINES.

[48] Rollo, p. 13.

[49] Supra, see note 19.

[50] Section 2, Rule 3 of the 1997 Rules of Civil Procedure.

[51] Supra, see note 19, p. 495.

[52] Ibid.

[53] Id., pp. 472-474.

[54] Rollo, p. 14.

[55] Español v. Chairman, Philippine Veterans Administration, 137 SCRA 314, 318 (1985).

[56] Article 410 of the New Civil Code.

[57] Rollo, p. 15.

[58] Rollo, p. 16.

[59] International School, Inc. (Manila) v. Court of Appeals, 309 SCRA 474, 480 (1999); Saura v. Saura, Jr., 313 SCRA 465, 475 (1999).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.