

IN RE: CORRECTION OF ENTRY OF CIVIL REGISTER PERTAINING TO CITIZENSHIP OF ROSA TAN, MINOR. ALFONSO TAN SU, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AN...*G.R. No. 12140. April 29, 1959*

Ponente: BAUTISTA ANGELO, J.

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Tan Su filed in the Court of First Instance of Cebu a petition praying that the Civil Register of Cebu City be ordered to correct the citizenship of his minor daughter Rosa Tan from Chinese to Filipino in the Civil Registry. In spite of the opposition of the fiscal, the trial court, after hearing, rendered decision ordering the Civil Registrar to change not only the citizenship of Rosa Tan but also that of her father and her mother in the Civil Registry from Chinese to Filipino. The fiscal in due time interposed the present appeal.

The purpose of the petition of Tan Su is to correct the citizenship of his daughter Rosa Tan that appears in the Civil Registry of Cebu from Chinese to Filipino contending that, in making said entry, the midwife of Rosa when she was born gave wrongly the information that she was a Chinese citizen. The Government opposed the petition on the ground that the error to be corrected is not merely clerical but one that affects the status or nationality of Rosa Tan, as well as of her father and mother, and hence it cannot be threshed out by a mere petition but in an appropriate action.

There is merit in this opposition. In the case of *Ty Kong Tin vs. Republic of the Philippines*, 50 Off. Gaz., No. 3, p. 1077, the facts of which are similar to those involved in the instant case, this Court said:

"It is our opinion that the petition under consideration does not merely call for a correction of a clerical error. It involves a matter which concerns the citizenship not only of petitioner but of children. It is therefore an important controversial matter which can and should only be threshed out in an appropriate action. The philosophy behind this requirement lies in the fact that the books making up the civil register and all documents relating thereto shall be considered public documents and shall be *prima facie* evidence of the facts therein contained' (Article 410, new Civil Code), and if the entries in the civil register could be corrected or changed through a mere summary proceeding, and not through an appropriate action wherein all parties who may be affected by the entries are notified or represented we would set wide open the door to fraud or other mischief the consequence of which might be detrimental and far reaching. It is for these reasons that the law has placed the necessary safeguards to forestall such eventuality that even on matters which call for a correction of clerical mistakes the intervention of the courts was found necessary. This is an innovation not originally found in the law which placed this matter exclusively upon the sound judgment and discretion of the civil registrars. This was found by Congress unwise and risky in view of the far reaching importance of the subjects covered by the civil register. And under the present innovation the law even exacts civil liability from the civil registrar for any unauthorized alteration, which shows the concern of Congress in maintaining the integrity and genuineness of the entries contained in our civil registers. (Article 411, New Civil Code)." (Italics ours.)

This Court has also had occasion to point out for the guidance of the public what clerical errors may be corrected under Article 4-12 of the new Civil Code. Thus, in the case of *Ansaldo vs. Republic of the Philippines*, 102 Phil., 1046, this Court, through Mr. Justice Montemayor, made the following comment:

"For the information of the parties concerned, and for the guidance of the public in general, we may venture the opinion that the clerical errors which might be corrected 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 nearly misspelled, occupation of the parents, etc., but for changes involving the civil status of the parents, their nationality or citizenship, those are grave and important matters which may have a bearing and effect on the citizenship and nationality not only of said parents, but of the offsprings and to seek said changes, it is necessary to file a proper suit wherein not only the State, but also all parties concerned and affected should be parties defendants or respondents, and evidence should be submitted, either to support the allegations of the petition or complaint, or also to disapprove the same so that any order or decision in the case may be made with due process of law and on the basis of facts proven. Then and only then may the change or changes be made in the entry in a civil register that will affect or even determine conclusively the citizenship or nationality of a person therein involved."

Wherefore, the decision appealed from is reversed, with costs against appellee.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Labrador, Concepcion, and Endencia, JJ., concur.

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