

MA. LOURDES BARRIENTOS ELEOSIDA, FOR AND IN BEHALF OF HER MINOR CHILD, CHARLES CHRISTIAN ELEOSIDA, PETITIONER, VS. LOCAL CIVIL REGISTRAR OF QUEZON CITY, AND CARLOS VILLENA BORBO...

G.R. No. 130277. May 09, 2002

Ponente: PUNO, J.

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PUNO, J.:

This is a petition for review on certiorari of the Order[1] of the Regional Trial Court of Quezon City, Branch 89, which dismissed *motu proprio* the petition of Ma. Lourdes Eleosida to correct some entries in the birth certificate of her son, Charles Christian. The birth certificate shows, among others, that the child's full name is Charles Christian Eleosida Borbon. He was born on May 24, 1992 to Ma. Lourdes Barrientos Eleosida and Carlos Villena Borbon. The birth certificate also indicates that the child's parents were married on January 10, 1985 in Batangas City.[2]

On January 30, 1997, petitioner Ma. Lourdes Eleosida filed a petition before the Regional Trial Court of Quezon City seeking to correct the following entries in the birth certificate of her son, Charles Christian: first, the surname "Borbon" should be changed to "Eleosida;" second, the date of the parents' wedding should be left blank; and third, the informant's name should be "Ma. Lourdes B. Eleosida," instead of "Ma. Lourdes E. Borbon." In support of her petition, petitioner alleged that she gave birth to her son out of wedlock on May 24, 1992; that she and the boy's father, Carlos Borbon, were never married; and that the child is therefore illegitimate and should follow the mother's surname. The petition impleaded the Local Registrar of Quezon City and Carlos Villena Borbon as respondents.[3]

On April 23, 1997, the trial court issued a notice of hearing stating:

“Verified petition having been filed by petitioner Ma. Lourdes Barrientos Eleosida, praying that the entries in the Certificate of Live Birth of her minor child, Charles Christian Eleosida Borbon, be changed and/or corrected, such that, his last name BORBON be deleted and instead place therein the name ELEOSIDA, which is the surname of his mother-petitioner; the entry "January 10, 1985 - Batangas City", be likewise deleted, since the petitioner and respondent Carlos Villena Borbon, at the time of the minor's birth were not legally married; and the surname BORBON of petitioner Ma. Lourdes E. Borbon under the column Informant, be also deleted;

NOTICE IS HEREBY GIVEN, that this petition is set for hearing on June 26, 1997 at 8:30 o'clock in the morning, in the Session Hall of this Court sitting at the Ground Floor, Room 118, Hall of Justice, Quezon City, which is ordered published once a week for three (3) consecutive weeks, in a newspaper of general circulation and published in Metro Manila, to be selected by raffle, at the expense of the petitioner, at which date, time and place, the petitioner shall appear and prove her petition, in that all other persons having or claiming any interest thereon shall also appear and show cause why, if any, they have, the petition shall not be granted.

Let copies of this notice be furnished the petitioner, and together with copies of the petition, respondent Carlos Villena Borbon; the Offices of the Local Civil Registrar of Quezon City and the Solicitor General, who are given fifteen (15) days from notice of the petition, or from the last date of publication of such notice, within which to file their opposition thereto, if any. In the event that the Solicitor General may not be able to appear on the scheduled hearing, to designate the City Prosecutor of Quezon City to appear for and in behalf of the State.

SO ORDERED.”[4]

On June 26, 1997, the trial court issued another order setting the date for the presentation of evidence on July 23, 1997. It stated:

“Considering that there is no opposition filed despite notice to the Solicitor General as contained in the notice of hearing dated April 23, 1997 requiring that office to file their opposition, if any, to the petition for correction of entries in the birth certificate of minor child Charles Christian Eleosida, the petitioner will be allowed to present compliance with the jurisdictional requirements and at the same time initially present evidence on July 23, 1997, at 8:30 o'clock in the morning.”[5]

On August 25, 1997, the trial court *motu proprio* dismissed the petition for lack of merit. It ruled:

“It is an established jurisprudence that, only CLERICAL ERRORS OF A HARMLESS AND INNOCUOUS NATURE like: misspelled name, occupation of the parents, etc., may be the subject of a judicial order (contemplated under Article 412 of the New Civil Code), authorizing changes or corrections and: NOT as may affect the CIVIL STATUS, NATIONALITY OR CITIZENSHIP OF THE PERSONS INVOLVED.

In the present case, it is very clear that the changes desired by the petitioner will ultimately affect the CIVIL STATUS OF CHARLES CHRISTIAN, as she wants the Court to direct the Civil Registrar of Quezon City to substitute her maiden name, ELEOSIDA, with that of BORBON; to delete the information supplied in ITEM 12, respecting the date and place of marriage of parents, on the ground that she was never married to respondent CARLOS VILLENA BORBON and amend the information in ITEM 14, respecting the name of the informant, from MA. LOURDES E. BORBON to MA. LOURDES B. ELEOSIDA, and is indicative of petitioner's intention and device to establish that CHARLES CHRISTIAN's civil status as ILLEGITIMATE.

With the petition's ultimate purpose on the part of petitioner to secure judicial order, which would authorize a change in the civil status of CHARLES CHRISTIAN, this Court, finds the action improper. The matters desired to be cancelled and/or changed by petitioner cannot be considered falling under the ambit of the words ‘clerical errors of a harmless and innocuous nature.’

WHEREFORE, for LACK OF MERIT, the petition is now MOTU PROPIO (sic) dismissed.”[6]

Petitioner filed the instant petition for review raising the issue of whether corrections of entries in the certificate of live birth pursuant to Article 412 of the Civil Code, in relation to Rule 108 of the Rules of Court may be allowed even if the errors to be corrected are substantial and not merely clerical errors of a harmless and innocuous nature.[7]

The Court required the respondents to comment on the petition. The Office of the Solicitor General (OSG) filed a Manifestation in Lieu of Comment. The OSG submitted that even substantial errors in the civil registry may be corrected provided that the parties aggrieved by the error avail themselves of the appropriate adversary proceeding. Thus it argued that even if the petition seeks the correction and eventual change in the civil status of Charles Christian, the same can be ordered by the court as long as all the parties who may be affected by the entries are notified and represented.[8] Respondent Carlos Borbon, on the other hand, failed to submit his comment on the petition despite several notices from this Court. Hence, on January 24, 2001, the Court dispensed

with the filing of respondent Borbon's comment and gave due course to the petition.[9]

We find merit in the petition. Rule 108 of the Revised Rules of Court provides the procedure for cancellation or correction of entries in the civil registry. The proceedings under said rule may either be summary or adversary in nature. If the correction sought to be made in the civil register is clerical, then the procedure to be adopted is summary. If the rectification affects the civil status, citizenship or nationality of a party, it is deemed substantial, and the procedure to be adopted is adversary.[10] This is our ruling in *Republic vs. Valencia*[11] where we held that even substantial errors in a civil registry may be corrected and the true facts established under Rule 108 provided the parties aggrieved by the error avail themselves of the appropriate adversary proceeding. An appropriate adversary suit or proceeding is one where 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 Court further laid down the procedural requirements to make the proceedings under Rule 108 adversary, thus:

“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, 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 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.' xxx”[12]

It is true in the case at bar that the changes sought to be made by petitioner are not merely clerical or harmless errors but substantial ones as they would affect the status of the marriage between petitioner and Carlos Borbon, as well as the legitimacy of their son, Charles Christian. Changes of such nature, however, are now allowed under Rule 108 in accordance with our ruling in *Republic vs. Valencia* provided that the appropriate procedural requirements are complied with. The records show that upon receipt of the petition, the trial court issued a notice of hearing setting the hearing on June 26, 1997 at 8:30 in the morning at Room 118, Hall of Justice, Quezon City. The trial court likewise ordered the publication of said notice once a week for three (3) consecutive weeks in a newspaper of general circulation and its posting in selected places in Metro Manila. The notice stated that the petitioner shall prove her petition during said hearing and all other persons having or claiming any interest thereon shall also appear and show if there is any reason why the petition should not be granted. Respondents Carlos Villena Borbon, the Local Civil Registrar of Quezon City and the Solicitor General were all furnished with a copy

of the notice of hearing together with a copy of the petition. On June 26, 1997, the trial court issued a second order giving the petitioner an opportunity to show compliance with the jurisdictional requirements and to present evidence during the hearing set on July 23, 1997. The foregoing satisfy all the requirements of Rule 108 to make it an adversary proceeding. It was therefore an error for the trial court to dismiss the petition *motu proprio* without allowing the petitioner to present evidence to support her petition and all the other persons who have an interest over the matter to oppose the same.

IN VIEW WHEREOF, the petition is GRANTED and the Order dated August 25, 1997 of the RTC of Quezon City, Branch 89, subject of the petition at bar is set aside. The case is REMANDED to the court *a quo* for further proceedings.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Kapunan, Ynares-Santiago, and Austria-Martinez, JJ., concur.

[1] Rollo, pp. 19-20.

[2] Rollo, p. 24.

[3] Rollo, pp. 21-22.

[4] Rollo, p. 25.

[5] Rollo, p. 26.

[6] Rollo, pp. 19-20.

[7] Petition, p. 5, Rollo, p. 13.

[8] Rollo, pp. 70-73.

[9] Rollo, pp. 134-135.

[10] Republic vs. Bautista, 155 SCRA 1 (1987).

[11] 141 SCRA 462 (1986). See also Zapanta vs. Local Civil Registrar, 237 SCRA 25 (1994); Republic vs. Court of Appeals, 211 SCRA 657 (1992); Republic vs. Sayo, 188 SCRA 634 (1990); Republic vs. Court of First Instance of Camarines Sur, 161 SCRA 681 (1988); Republic vs. Carriaga, Jr., 159 SCRA 12 (1988); Republic vs. Bautista, 155 SCRA 1 (1987); Republic vs. Flojo, 152 SCRA 550 (1987); Chiao Ben Lim vs. Zosa, 146 SCRA 366 (1986).

[12] At pp. 473-474.

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