

## **HUBERT TAN CO AND ARLENE TAN CO, PETITIONERS, VS. THE CIVIL REGISTER OF MANILA AND ANY PERSON HAVING OR CLAIMING AN INTEREST UNDER THE ENTRY WHOSE CANCELLATION OR CORRECTION IS ...**

*G.R. No. 138496. February 23, 2004*

Ponente: CALLEJO, SR., J.

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### **CALLEJO, SR., J.:**

Before the Court is the petition for review on certiorari filed by Hubert Tan Co and Arlene Tan Co seeking to reverse and set aside the Order<sup>[1]</sup> dated September 23, 1998 of the Regional Trial Court of Manila, Branch 26, dismissing their petition for correction of entries in the Civil Register. Likewise sought to be reversed and set aside is the Order dated April 27, 1999 of the court a quo denying the petitioners' motion for reconsideration of the said order.

The factual antecedents are as follows:

Hubert Tan Co was born on March 23, 1974. His sister, Arlene Tan Co, was born on May 19, 1975. In their respective certificates of birth, it is stated that their parents Co Boon Peng and Lourdes Vihong K. Tan are Chinese citizens.

Thereafter, Co Boon Peng filed an application for his naturalization as a citizen of the Philippines with the Special Committee on Naturalization under Letter of Instruction (LOI) No. 270. His application was granted and he was conferred Philippine citizenship under Presidential Decree (P.D.) No. 1055. The Chairman of the Committee issued on February 15, 1977 Certificate of Naturalization No. 020778 in his favor. Thus, on February 15, 1977, Co Boon Peng took his oath as a Philippine citizen. In the meantime, Hubert and Arlene Co finished college and earned their respective degrees in architecture and accountancy in Philippine schools.

On August 27, 1998, they filed with the Regional Trial Court of Manila a petition under Rule 108 of the Rules of Court for correction of entries in their certificates of birth. The case was docketed as Sp. Proc. Case No. 98-90470. They alleged, inter alia, in their petition that:

(3) They were born in the Philippines and the legitimate children of CO BOON PENG;

(4) Co Boon Peng, who is formerly a citizen of China, was conferred Philippine citizenship by naturalization under Presidential Decree No. 1055 and had taken his oath of allegiance to the Republic of the Philippines on 15th February, 1977 in the City of Manila;

(5) At the time of birth of [the] petitioners, their father CO BOON PENG was still a Chinese citizen that is why entry in their respective birth certificates as to their father's citizenship was Chinese;

(6) Upon granting of Philippine citizenship by naturalization to Co Boon Peng in 1977, [the] petitioners who were born in the Philippines and still minors at that time became Filipino citizens through the derivative mode

of naturalization. Our Naturalization Law, specifically Section 15 of Commonwealth Act No. 473, as amended by Commonwealth Act No. 535 which provides:

“Minor children of persons naturalized under this law who have been born in the Philippines shall be considered citizens thereof;”

(7) The naturalization of petitioners’ father in 1977 was an act or event affecting and concerning their civil status that must be recorded in the Civil Register, Article 407 of the New Civil Code of the Philippines which provides:

“Acts, events and judicial decrees concerning the civil status of persons shall be recorded in the Civil Register.”[2]

The petitioners prayed that, after due proceedings, the trial court render judgment correcting and changing the entries in their respective birth certificates as to the citizenship of their father Co Boon Peng, from “Chinese” to “Filipino.”[3]

On September 23, 1998, the court a quo issued an order dismissing the petition outright on the ground that the petition was insufficient, solely because the petitioners’ father Co Boon Peng applied for naturalization under LOI No. 270 and was conferred Philippine citizenship by naturalization under PD No. 1055 and not under Commonwealth Act (CA) No. 473. [4]

The petitioners sought the reconsideration of the assailed order arguing that LOI No. 270 and CA No. 473 were designed to grant citizenship to deserving aliens; hence, should be construed together. They averred that the benefit of Section 15 of CA No. 473 should also be granted to the petitioners whose father was granted naturalization under LOI No. 270. However, the RTC issued an Order on April 27, 1999, denying their motion for reconsideration for the following reasons: (a) although Commonwealth Act No. 473 and Letter of Instructions No. 270 are statutes relating to the same subject matter, they do not provide the same beneficial effects with respect to the minor children of the applicant. Section 15 of CA No. 473 expressly provides for the effect of the naturalization on the wife and children of the applicant while LOI No. 270 does not have any proviso to that effect; (b) LOI No. 270 clearly refers to qualified individuals only. The rules and regulations promulgated by the Committee established pursuant to LOI No. 270 and the amendments issued by then President Ferdinand E. Marcos (LOI Nos. 292 and 491) clearly speak of qualified individuals only; no proviso therein referred to its effect on the wife and children of the individual; (c) Section 15 of CA No. 473 should not be deemed and incorporated in and applied to LOI No. 270; and, (d) the application of the so-called “*pari materia*” rule of construction made by the petitioners is misplaced, as what should be applied in the instant case is the rule on strict construction of legislative grants or franchise. The court a quo stressed that legislative grants, whether they be of property, rights or privileges, whether granted to corporations or individuals, must be strictly construed against the grantee and in favor of the grantor.

Aggrieved, the petitioners now come to this Court assailing the court a quo’s Order dismissing their petition outright and its Order denying their motion for the reconsideration of the same.

The petitioners contend that the trial court erred in holding that their petition was insufficient. They assert that contrary to the ruling of the trial court, they are qualified to claim the benefit of Section 15 of CA No. 473, which provides that minor children of persons naturalized thereunder who were born in the Philippines shall likewise be considered citizens thereof. They contend that although LOI No. 270, under which the petitioners’ father was naturalized does not contain a provision similar to Section 15 of CA No. 473, the latter provision should be deemed incorporated therein. They point out that both laws have the same purpose and objective, i.e., to grant Philippine citizenship to qualified aliens permanently residing in the Philippines. The petitioners invoke the rule that statutes in *pari materia* are to be read together.[5] They posit that CA No. 473 and LOI No. 270 should be

harmonized and reconciled since “all statutes relating to the same subject, or having the same general purpose, should be read in connection with it, and should be construed together as they constitute one law.”[6]

The petitioners maintain that the letter and spirit of LOI No. 270 was to grant the privilege of Philippine citizenship not only to qualified aliens but also to their minor children who were born in the country. They assert that this is apparent from paragraph 4-A thereof, which extends the option to adopt Filipino names not only to qualified applicants for naturalization but also to their wives and minor children. They submit that when then President Ferdinand E. Marcos enacted LOI No. 270, he must be presumed to have been acquainted with the provisions of CA No. 473 and did not intend to abrogate and discontinue the beneficial effects of Section 15 thereof; otherwise, Pres. Marcos would have expressly repealed Section 15 of CA No. 473 in relation to LOI No. 270. Thus, according to the petitioners, the naturalization of their father during their minority is an act or event affecting their civil status that must be recorded in the Civil Register pursuant to Article 407 of the Civil Code.

In his Comment, the Solicitor General contends that the court a quo did not err in issuing the assailed orders. Contrary to the petitioners’ theory, LOI No. 270 and CA No. 473 are separate and distinct laws; therefore, are not in *pari materia*. He points out that although LOI No. 270 and CA No. 473 both govern the naturalization of aliens, CA No. 473 deals with the requirements and procedure for naturalization by judicial decree; LOI No. 270, on the other hand, deals with the requirements and procedure for naturalization by presidential decree.

The Solicitor General further asserts that the petitioners’ contention that the naturalization of their father is an event affecting and concerning their civil status envisaged in Article 407 of the Civil Code has no legal basis. The correction sought and allowed under Rule 108 of the Rules of Court must be one that reflects a fact existing before or at the time of birth. In the petitioners’ case, the naturalization of their father in 1977 took place long after they were born. Moreover, according to the Solicitor General, under LOI No. 270 and its amendatory laws, the naturalization of a father did not *ipso facto* render his children also naturalized. The petitioners thus cannot invoke Article 407 of the Civil Code and Rule 108 of the Rules of Court to avoid strict compliance with the naturalization laws.

The petition is meritorious.

The rule on statutory construction provides that:

Statutes in *pari materia* should be read and construed together because enactments of the same legislature on the same subject are supposed to form part of one uniform system; later statutes are supplementary or complimentary (sic) to the earlier enactments and in the passage of its acts the legislature is supposed to have in mind the existing legislations on the subject and to have enacted its new act with reference thereto.[7]

Statutes in *pari materia* should be construed together to attain the purpose of an expressed national policy, thus:

On the presumption that whenever the legislature enacts a provision it has in mind the previous statutes relating to the same subject matter, it is held that in the absence of any express repeal or amendment therein, the new provision was enacted in accord with the legislative policy embodied in those prior statutes, and they all should be construed together. Provisions in an act which are omitted in another act relating to the same subject matter will be applied in a proceeding under the other act, when not inconsistent with its purpose. Prior statutes relating to the same subject matter are to be compared with the new provisions; and if possible by reasonable construction, both are to be construed that effect is given to every provision of each. Statutes in *pari materia*, although in apparent conflict, are so far as reasonably possible construed to be in harmony with each other.[8]

LOI No. 270 and CA No. 473 are laws governing the naturalization of qualified aliens residing in the Philippines. While they provide for different procedures, CA No. 473 governs naturalization by judicial decree while LOI No.

270 governs naturalization by presidential decree; both statutes have the same purpose and objective: to enable aliens permanently residing in the Philippines, who, having demonstrated and developed love for and loyalty to the Philippines, as well as affinity to the culture, tradition and ideals of the Filipino people, and contributed to the economic, social and cultural development of our country, to be integrated into the national fabric by being granted Filipino citizenship. Under the LOI, the procedure for the acquisition of citizenship by naturalization is more expeditious, less cumbersome and less expensive. The sooner qualified aliens are naturalized, the faster they are able to integrate themselves into the national fabric, and are thus able to contribute to the cultural, social and political well-being of the country and its people.

Clearly, LOI No. 270 and CA No. 473 are, as the petitioners correctly posit, statutes in *pari materia*. Absent any express repeal of Section 15 of CA No. 473 in LOI No. 270, the said provision should be read into the latter law as an integral part thereof, not being inconsistent with its purpose. Thus, Section 15 of CA No. 473,[9] which extends the grant of Philippine citizenship to the minor children of those naturalized thereunder, should be similarly applied to the minor children of those naturalized under LOI No. 270, like the petitioners in this case.

It is not enough that the petitioners adduce in evidence the certificate of naturalization of their father, Co Boon Peng, and of his oath of allegiance to the Republic of the Philippines, to entitle them to Philippine citizenship. They are likewise mandated to prove the following material allegations in their petition: (a) that they are the legitimate children of Co Boon Peng; (b) that they were born in the Philippines; and, (c) that they were still minors when Co Boon Peng was naturalized as a Filipino citizen;

The petitioners' recourse to Rule 108 of the Rules of Court, as amended, is appropriate. Under Article 412 of the New Civil Code, no entry in a civil register shall be changed or corrected without a judicial order. The law does not provide for a specific procedure of law to be followed. But the Court approved Rule 108 of the Rules of Court to provide for a procedure to implement the law.[10] The entries envisaged in Article 412 of the New Civil Code are those provided in Articles 407 and 408 of the New Civil Code which reads:

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.

Specific matters covered by the said provision include not only status but also nationality.[11] The acts, events or factual errors envisaged in Article 407 of the New Civil Code include even those that occur after the birth of the petitioner. However, in such cases, the entries in the certificates of birth will not be corrected or changed. The decision of the court granting the petition shall be annotated in the certificates of birth and shall form part of the civil register in the Office of the Local Civil Registrar.[12]

To correct simply means "to make or set aright; to remove the faults or error from." To change means "to replace something with something else of the same kind or with something that serves as a substitute. Article 412 of the New Civil Code does not qualify as to the kind of entry to be changed or corrected or distinguished on the basis of the effect that the correction or change may be.[13] Such entries include not only those clerical in nature but also substantial errors. After all, the role of the Court under Rule 108 of the Rules of Court is to ascertain the truths about the facts recorded therein.[14]

The proceedings in Rule 108 of the Rules of Court are summary if the entries in the civil register sought to be corrected are clerical or innocuous in nature. However, where such entries sought to be corrected or changed are substantial: i.e., the status and nationality of the petitioners or the citizenship of their parents,[15] the proceedings are adversarial in nature as defined by this Court in *Republic v. Valencia*, thus:

One having opposing parties; contested, as distinguished from an ex parte application, one of which the party seeking relief has given legal warning to the other party, and afforded the latter an opportunity to contest it. Excludes an adoption proceeding.[16]

In such a proceeding, the parties to be impleaded as respective defendants are (a) the local civil registrar; and, (b) all persons who have claims any interest which would be affected thereby.[17]

In this case, the petitioners alleged in their petition that they are the legitimate children of Co Boon Peng, who was naturalized as a Filipino citizen, but that their certificates of birth still indicate that he is a Chinese national. In view of their father's naturalization, they pray that the entries in their certificates of birth relating to the citizenship of their father be changed from "Chinese" to "Filipino."

The petitioners' recourse to the procedure in Rule 108 of the Rules of Court, as amended, being appropriate, it behooved the trial court to do its duty under Section 4, Rule 108 of the Rules of Court, namely:

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 person 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.

After hearing, the court shall issue an order either dismissing the petition or issue an order granting the same. In either case, a certified copy of the judgment shall be served upon the civil registrar concerned who shall annotate the same in the certificates of birth of the petitioners. The judgment of the court shall form part of the records of the local civil register.[18]

In this case, the trial court dismissed the petition outright in violation of Rule 108 of the Rules of Court. Patently, then, the trial court erred in so doing.

IN THE LIGHT OF THE FOREGOING, the petition is GRANTED. The assailed Orders of the Regional Trial Court of Manila, Branch 26, are SET ASIDE and REVERSED. The trial court is DIRECTED to reinstate the petition in Special Proceedings NO. 98-90470 in the court docket, and ORDERED to continue with the proceedings in the said case under Rule 108 of the Rules of Court, as amended.

### **SO ORDERED.**

Davide, Jr., C.J., Puno, Vitug, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Azcuna, and Tinga, JJ., concur.

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[1] Penned by Judge Guillermo L. Loja, Sr.

[2] Records, pp. 2-3.

[3] Rollo, p. 5.

[4] Id. at 46-47.

[5] *Pasno v. Ravina*, 54 Phil. 378 (1930).

[6] Rollo, p. 10.

[7] Agpalo, R., Statutory Construction, p. 212 (1995).

[8] C & C Commercial Corporation v. National Waterworks and Sewerage Authority, 21 SCRA 984 (1967).

[9] The provision reads in full:

Sec. 15. Effect of the naturalization on wife and children. — Any woman who is now or may hereafter be married to a citizen of the Philippines, and who might herself be lawfully naturalized shall be deemed a citizen of the Philippines.

Minor children of persons naturalized under this law shall be considered citizens thereof.

A foreign-born minor child, if dwelling in the Philippines at the time of the naturalization of the parent, shall automatically become a Philippine citizen, and a foreign-born minor child, who is not in the Philippines at the time the parent is naturalized, shall be deemed a Philippine citizen only during his minority, unless he begins to reside in the Philippines when still minor, in which case, he will continue to be a Philippine citizen even after becoming of age.

A child born outside the Philippines after naturalization of his parent, shall be considered a Philippine citizen, unless one year after reaching the age of majority, he fails to register himself as a Philippine citizen at the Philippine Consulate of the country where he resides, and to take the necessary oath of allegiance.

[10] Lee v. Court of Appeals, 367 SCRA 110 (2001); Republic v. Valencia, 141 SCRA 462 (1986).

[11] Ibid.

[12] Section 7, Rule 108, Rules of Court, as amended.

[13] Lee v. Court of Appeals, *supra*.

[14] Republic v. Valencia, *supra*.

[15] Bagongbayan v. Republic, 16 SCRA 403 (1966) citing Arnaldo v. Republic, G.R. No. 10226, February 14, 1958.

[16] *Supra*, p. 469.

[17] *Id*.

[18] Section 7, Rule 108, Rules of court, as amended.

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