

**REPUBLIC OF THE PHILIPPINES AND THE LOCAL CIVIL REGISTRAR,
GUIMBA, NUEVA ECIJA, PETITIONERS, VS. PETRONIO L.
BENEMERITO, RESPONDENT.**

G.R. No. 146963. March 15, 2004

Ponente: VITUG, J.

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VITUG, J.:

The petition before the Court is an appeal from the decision of the Court of Appeals in CA-G.R. CV No. 62777, promulgated on 29 January 2001, which has affirmed the decision of the Regional Trial Court of Nueva Ecija, Branch 31, in Special Proclamation No. 307-G, granting respondent's petition for correction of entry in the Certificate of Live Birth of Joven Lee S. Benemerito, born on 01 June 1990, by changing the name of his father appearing therein from Peter Laurente Benemerito to Petronio L. Benemerito, and the date of marriage of the minor's parents from 01 September 1989 to 25 January 1998.

On 29 February 1998, respondent Petronio L. Benemerito, filed a verified petition before the Regional Trial Court of Nueva Ecija asking for the correction of certain entries in the record of birth of his son, Joven Lee Benemerito, on file with the Local Civil Registrar of Guimba, Nueva Ecija. The entries sought to be corrected included -

(a) a change of the father's name from Peter Laurente Benemerito to Petronio L. Benemerito; and

(b) the date of marriage of Joven Lee's parents, Edna V. Sicat and Petronio L. Benemerito appearing therein from 01 September 1989 to 25 January 1998.

On 02 March 1998, a notice of hearing was issued by the trial court directing that the notice be published for three consecutive weeks in a newspaper of general circulation. The order was published in "Pulso ng Bayan," a newspaper of general circulation for three (3) consecutive weeks, i.e., on 05, 12 and 19 March 1998.

Respondent testified that he and Edna V. Sicat were married on 25 January 1998. Prior to their marriage, they had been living together as husband and wife without the benefit of marriage and during the cohabitation, a son, Joven Lee Benemerito, was born to them. According to respondent, he was surprised to later discover that his name was erroneously recorded in the birth certificate of his son as Peter Laurente Benemerito instead of his correct name Petronio Laurente Benemerito, and that the date of his marriage with Edna V. Sicat appearing in the birth certificate of Joven Lee as 01 September 1989 instead of 25 January 1998.

On 20 April 1998, the trial court rendered a decision granting the petition filed by respondent. The Republic appealed the decision to the Court of Appeals, contending that the petition should not have been granted since indispensable parties themselves were not notified of the proceedings and that substantial changes, such as the date of marriage of parents, name of the father, or filiation of the child and whether legitimate or illegitimate,

could only be threshed out in adversarial proceedings.

On 29 January 2001, the Court of Appeals affirmed the trial court's decision stating that —

"In the present case, the opportunity to contest the petition was afforded to all concerned parties through the publication of the petition in 'Pulso ng Bayan,' a newspaper of general circulation (Records, pp. 17, 20, and 23). Copies of the Order dated March 2, 1998 were furnished to the Office of the Solicitor General, the National Census and Statistics Office, the Provincial Prosecutor, and the Office of the Local Registrar of Guimba, Nueva Ecija (Records, p. 10). The Public Prosecutor appeared for the State but did not interpose any objection to the petition (Rollo, p. 43). Decidedly, what the trial court conducted amounted to an adversarial proceeding.

"The correction of the spelling of petitioner's name from Peter Laurente Benemerito to Petronio Laurente Benemerito is an innocuous alteration.

"The change of the date of marriage from September 1, 1989 to reflect the actual date of marriage as January 25, 1998, is likewise innocuous. Contrary to the argument of the appellant, its legal effect is merely to change the status of the child from legitimate to legitimated not illegitimate, as the child is the natural child of both his parents who were not incapacitated to marry each other at the time of the child's birth." [1]

In the instant petition, the Republic asserts that the changes sought by respondent are substantial and not innocuous as so held by the Court of Appeals. Claiming that an adversarial proceeding is essential to fully ventilate the allegations of the petition, the Republic argues that indispensable parties, including the wife of the respondent or the grandparents of the child, should have themselves been notified or been made parties to the proceedings to shed light on the supposed discrepancies or errors found in the birth certificate of Joven Lee Benemerito.

There is merit in the petition.

Rule 108 of the Rules of Court, in relation to Article 412 of the Civil Code, states the procedure by which an entry in the civil register may be cancelled or corrected. The proceeding there contemplated may generally be used only to correct clerical, spelling, typographical and other innocuous errors in the civil registry. A clerical error is one which is visible to the eyes or obvious to the understanding; an error made by a clerk or a transcriber; a mistake in copying or writing,[2] or a harmless change such as a correction of name that is clearly misspelled or of a misstatement of the occupation of the parent.[3] On the other hand, substantial or contentious alterations may be allowed only in adversarial proceedings, in which all interested parties are impleaded and due process is properly observed.[4]

The "corrections" sought to be made by respondent in the birth certificate of Joven Lee could hardly qualify as just clerical errors. In order to effect the desired changes, it would be essential to establish that Peter Laurente Benemerito, the person named as being the father of Joven Lee, and Petronio L. Benemerito, herein respondent, refer to the same person. The intended correction of the date of marriage of the parents of Joven Lee from 01 September 1989, appearing in his certificate of birth, to 25 January 1998, would, in effect, change the status of the child, Joven Lee, born on 01 June 1990 at a time when he and his wife were not as yet legally married, from being the legitimate son of Peter Laurente Benemerito to being instead the legitimated child of Petronio L. Benemerito and a certain Peter Laurente Benemerito.

The changes in the entry in the Certificate of Live Birth of Joven Lee S. Benemerito, which can possibly affect successional and other rights of persons related to either or both respondent and his wife, as well as that of Joven Lee himself, are simply too substantial to be dealt with in summary, instead of the regular adversarial, proceedings, where all interested parties are impleaded, or at least notified, and allowed to be heard before the

proposed changes in the birth certificate are effected.

Rule 108 of the Rules of Court provides that interested parties may avail themselves of the appropriate adversarial proceeding to correct substantial errors and to establish the true facts in the civil registry. A case does not amount to an adversarial proceeding simply because an opportunity to contest the petition is afforded by the publication of the petition in a newspaper of general circulation. The corresponding petition should also implead as respondents the civil registrar and all other persons who may have or may claim to have any interest that would be affected thereby.[5]

Apparently, the proceedings conducted by the trial court in the instant case fell much too short of the requirements. Nowhere in the records would it appear that all possible indispensable parties were duly notified of the proceedings.

Parenthetically, the recent enactment of Republic Act 9048, otherwise also known as “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 Judicial Order,” only empowers the City or Municipal Civil Registrar or the Consul General to correct clerical or typographical errors and to allow a change in the first name or nickname in an entry in the civil registry without further need of a judicial order. The obvious effect of Republic Act 9048 is merely to make possible the administrative correction of clerical or typographical errors or change of first name or nickname in entries in the civil register, leaving to Rule 108 the correction of substantial changes in the civil registry in appropriate adversarial proceedings.[6]

WHEREFORE, the appealed decision is REVERSED and SET ASIDE, without prejudice on the part of respondent to initiate the appropriate adversarial proceedings such as may be minded. No costs.

SO ORDERED.

Sandoval-Gutierrez, Corona, and Carpio-Morales, JJ., concur.

[1]] Rollo, pp. 58-59.

[2] Black vs. Republic, L-10869, 28 November 1958, 104 Phil. 848.

[3] Republic vs. Labrador, 305 SCRA 438.

[4] Ibid.

[5] Republic vs. Valencia, 141 SCRA 462; Labayo-Rowe vs. Republic, 168 SCRA 294.

[6] See Lee vs. Court of Appeals, 367 SCRA 110.

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