REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. CARLITO I. KHO, MICHAEL KHO, MERCY NONA KHO-FORTUN, HEDDY MOIRA KHO-SERRANO, KEVIN DOGMOC KHO (MINOR), AND KELLY DOGMOC KHO (MINOR),...

G.R. NO. 170340. June 29, 2007

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Challenged via petition for review on certiorari is the October 27, 2005 Decision[1] of the Court of Appeals (CA) in CA-G.R. CV No. 78124 which affirmed the September 4, 2002 Decision[2] of the Regional Trial Court (RTC) of Butuan City, Branch 5 granting the prayer of respondents Carlito I. Kho (Carlito), Michael Kho, Mercy Nona Kho-Fortun, and Heddy Moira Kho-Serrano for the correction of entries in their birth certificates as well as those of Carlito's minor children Kevin and Kelly Dogmoc Kho.

The undisputed facts are as follows:

On February 12, 2001, Carlito and his siblings Michael, Mercy Nona and Heddy Moira filed before the RTC of Butuan City a verified petition for correction of entries in the civil registry of Butuan City to effect changes in their respective birth certificates. Carlito also asked the court in behalf of his minor children, Kevin and Kelly, to order the correction of some entries in their birth certificates.

In the case of Carlito, he requested the correction in his birth certificate of the citizenship of his mother to "Filipino" instead of "Chinese," as well as the deletion of the word "married" opposite the phrase "Date of marriage of parents" because his parents, Juan Kho and Epifania Inchoco (Epifania), were allegedly not legally married.

The same request to delete the "married" status of their parents from their respective birth certificates was made by Carlito's siblings Michael, Mercy Nona, and Heddy Moira.

With respect to the birth certificates of Carlito's children, he prayed that the date of his and his wife's marriage be corrected from April 27, 1989 to January 21, 2000, the date appearing in their marriage certificate.

The Local Civil Registrar of Butuan City was impleaded as respondent.

On April 23, 2001, Carlito et al. filed an Amended Petition[3] in which it was additionally prayed that Carlito's second name of "John" be deleted from his record of birth; and that the name and citizenship of Carlito's father in his (Carlito's) marriage certificate be corrected from "John Kho" to "Juan Kho" and "Filipino" to "Chinese," respectively.

As required, the petition was published for three consecutive weeks[4] in Mindanao Daily Patrol-CARAGA, a newspaper of general circulation, after which it was set for hearing on August 9, 2001.

In a letter of June 18, 2001 addressed to the trial court, the city civil registrar[5] stated her observations and suggestions to the proposed corrections in the birth records of Carlito and his siblings but interposed no objections to the other amendments.

On the scheduled hearing of the petition on August 9, 2001, only the counsel for respondents appeared as the Office of the Solicitor General (OSG) had yet to enter its appearance for the city civil registrar. The trial court thus reset the hearing to October 9, 2001.[6] On September 14, 2001,[7] the OSG entered its appearance with an authorization to the city prosecutor of Butuan City to appear in the case and render assistance to it (the OSG).

On January 31, 2002, respondents presented documentary evidence showing compliance with the jurisdictional requirements of the petition. They also presented testimonial evidence consisting of the testimonies of Carlito and his mother, Epifania. During the same hearing, an additional correction in the birth certificates of Carlito's children was requested to the effect that the first name of their mother be rectified from "Maribel" to "Marivel."

By Decision[8] of September 4, 2002, the trial court directed the local civil registrar of Butuan City to correct the entries in the record of birth of Carlito, as follows: (1) change the citizenship of his mother from "Chinese" to "Filipino"; (2) delete "John" from his name; and (3) delete the word "married" opposite the date of marriage of his parents. The last correction was ordered to be effected likewise in the birth certificates of respondents Michael, Mercy Nona, and Heddy Moira.

Additionally, the trial court ordered the correction of the birth certificates of the minor children of Carlito to reflect the date of marriage of Carlito and Marivel Dogmoc (Marivel) as January 21, 2000, instead of April 27, 1989, and the name "Maribel" as "Marivel."

With respect to the marriage certificate of Carlito and Marivel, the corrections ordered pertained to the alteration of the name of Carlito's father from "John Kho" to "Juan Kho" and the latter's citizenship from "Filipino" to "Chinese."

Petitioner, Republic of the Philippines, appealed the RTC Decision to the CA, faulting the trial court in granting the petition for correction of entries in the subject documents despite the failure of respondents to implead the minors' mother, Marivel, as an indispensable party and to offer sufficient evidence to warrant the corrections with regard to the questioned "married" status of Carlito and his siblings' parents, and the latter's citizenship.

Petitioner also faulted the trial court for ordering the change of the name "Carlito John Kho" to "Carlito Kho" for non-compliance with jurisdictional requirements for a change of name under Rule 103 of the Rules of Court.

By the assailed Decision of October 27, 2005, the CA denied petitioner's appeal and affirmed the decision of the trial court.

The CA found that Rule 108 of the Revised Rules of Court, which outlines the proper procedure for cancellation or correction of entries in the civil registry, was observed in the case.

Regarding Carlito's minor children Kevin and Kelly, the appellate court held that the correction of their mother's first name from "Maribel" to "Marivel" was made to rectify an innocuous error.

As for the change in the date of the marriage of Carlito and Marivel, albeit the CA conceded that it is a substantial alteration, it held that the date would not affect the minors' filiation from "legitimate" to "illegitimate" considering that at the time of their respective births in 1991 and 1993, their father Carlito's first marriage was still subsisting as it had been annulled only in 1999.

In light of Carlito's legal impediment to marry Marivel at the time they were born, their children Kevin and Kelly were illegitimate. It followed, the CA went on to state, that Marivel was not an indispensable party to the case, the

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minors having been represented by their father as required under Section 5 of Rule 3[9] of the Revised Rules of Court.

Further, the CA ruled that although Carlito failed to observe the requirements of Rule 103 of the Rules of Court, he had complied nonetheless with the jurisdictional requirements for correction of entries in the civil registry under Rule 108 of the Rules of Court. The petition for correction of entry in Carlito's birth record, it noted, falls under letter "o" of the enumeration under Section 2 of Rule 108.

In the present petition, petitioner contends that since the changes sought by respondents were substantial in nature, they could only be granted through an adversarial proceeding in which indispensable parties, such as Marivel and respondents' parents, should have been notified or impleaded.

Petitioner further contends that the jurisdictional requirements to change Carlito's name under Section 2 of Rule 103 of the Rules of Court were not satisfied because the Amended Petition failed to allege Carlito's prior three-year bona fide residence in Butuan City, and that the title of the petition did not state Carlito's aliases and his true name as "Carlito John I. Kho." Petitioner concludes that the same jurisdictional defects attached to the change of name of Carlito's father.

The petition fails.

It can not be gainsaid that the petition, insofar as it sought to change the citizenship of Carlito's mother as it appeared in his birth certificate and delete the "married" status of Carlito's parents in his and his siblings' respective birth certificates, as well as change the date of marriage of Carlito and Marivel involves the correction of not just clerical errors of a harmless and innocuous nature.[10] Rather, the changes entail substantial and controversial amendments.

For the change involving the nationality of Carlito's mother as reflected in his birth certificate is a grave and important matter that has a bearing and effect on the citizenship and nationality not only of the parents, but also of the offspring.[11]

Further, the deletion of the entry that Carlito's and his siblings' parents were "married" alters their filiation from "legitimate" to "illegitimate," with significant implications on their successional and other rights.

Clearly, the changes sought can only be granted in an adversary proceeding. Labayo-Rowe v. Republic[12] explains the raison d etre:

> x x x. The philosophy behind this requirement lies in the fact that the books making up the civil register and all documents relating thereto shall be prima facie evidence of the facts therein contained. If the entries in the civil register could be corrected or changed through mere summary proceedings and not through appropriate action wherein all parties who may be affected by the entries are notified or represented, the door to fraud or other mischief would be set open, the consequence of which might be detrimental and far reaching. x x x (Emphasis supplied)

In Republic v. Valencia,[13] however, this Court ruled, and has since repeatedly ruled, that even substantial errors in a civil registry may be corrected through a petition filed under Rule 108.[14]

> It is undoubtedly true that if the subject matter of a petition is not for the correction of clerical errors of a harmless and innocuous nature, but one involving nationality or citizenship, which is indisputably substantial as well as controverted, affirmative relief cannot be granted in a proceeding summary in nature. However, it is also true that a right in law may be enforced and a wrong may be remedied as long as the appropriate remedy is used. This Court adheres to the principle that even substantial errors in a civil registry may be corrected and the true facts established provided the parties aggrieved by the error avail themselves of the appropriate adversary

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> proceeding.
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> What is meant by "appropriate adversary proceeding"? Black's Law Dictionary defines "adversary proceeding["] as follows:
>
> 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. x x x [15] (Emphasis, italics and underscoring supplied)

The enactment in March 2001 of Republic Act No. 9048, otherwise 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," has been considered to lend legislative affirmation to the judicial precedence that substantial corrections to the civil status of persons recorded in the civil registry may be effected through the filing of a petition under Rule 108.[16]

Thus, this Court in Republic v. Benemerito[17] observed that the obvious effect of Republic Act No. 9048 is 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.

When all the procedural requirements under Rule 108 are thus followed, the appropriate adversary proceeding necessary to effect substantial corrections to the entries of the civil register is satisfied.[18] The pertinent provisions of Rule 108 of the Rules of Court read:

> SEC. 3. Parties. – When cancellation or correction of an entry in the civil registrar 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. (Emphasis and underscoring supplied)

There is no dispute that the trial court's Order[19] setting the petition for hearing and directing any person or entity having interest in the petition to oppose it was posted[20] as well as published for the required period; that notices of hearings were duly served on the Solicitor General, the city prosecutor of Butuan and the local civil registrar; and that trial was conducted on January 31, 2002 during which the public prosecutor, acting in behalf of the OSG, actively participated by cross-examining Carlito and Epifania.

What surfaces as an issue is whether the failure to implead Marivel and Carlito's parents rendered the trial short of the required adversary proceeding and the trial court's judgment void.

A similar issue was earlier raised in Barco v. Court of Appeals.[21] That case stemmed from a petition for correction of entries in the birth certificate of a minor, June Salvacion Maravilla, to reflect the name of her real father (Armando Gustilo) and to correspondingly change her surname. The petition was granted by the trial court.

Barco, whose minor daughter was allegedly fathered also by Gustilo, however, sought to annul the trial court's decision, claiming that she should have been made a party to the petition for correction. Failure to implead her deprived the RTC of jurisdiction, she contended.

In dismissing Barco's petition, this Court held that the publication of the order of hearing under Section 4 of Rule 108 cured the failure to implead an indispensable party.

> The essential requisite for allowing substantial corrections of entries in the civil registry is that the true facts be established in an appropriate adversarial proceeding. This is embodied in Section 3, Rule 108 of the Rules of Court, which states:
>
> Section 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.
>
> x x x x
>
> Undoubtedly, Barco is among the parties referred to in Section 3 of Rule 108. Her interest was affected by the petition for correction, as any judicial determination that June was the daughter of Armando would affect her ward's share in the estate of her father. x x x.
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> Yet, even though Barco was not impleaded in the petition, the Court of Appeals correctly pointed out that the defect was cured by compliance with Section 4, Rule 108, which requires notice by publication x x x.
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> x x x x
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> The purpose precisely of Section 4, Rule 108 is to bind the whole world to the subsequent judgment on the petition. The sweep of the decision would cover even parties who should have been impleaded under Section 3, Rule 108, but were inadvertently left out. x x x
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> x x x x
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> Verily, a petition for correction is an action in rem, an action against a thing and not against a person. The decision on the petition binds not only the parties thereto but the whole world. An in rem proceeding is validated essentially through publication. Publication is notice to the whole world that the proceeding has for its object to bar indefinitely all who might be minded to make an objection of any sort against the right sought to be established. It is the publication of such notice that brings in the whole world as a party in the case and vests the court with jurisdiction to hear and decide it.[22]

Given the above ruling, it becomes unnecessary to rule on whether Marivel or respondents' parents should have been impleaded as parties to the proceeding. It may not be amiss to mention, however, that during the hearing on January 31, 2002, the city prosecutor who was acting as representative of the OSG did not raise any objection to the non-inclusion of Marivel and Carlito's parents as parties to the proceeding.

Parenthetically, it seems highly improbable that Marivel was unaware of the proceedings to correct the entries in her children's birth certificates, especially since the notices, orders and decision of the trial court eHe were all sent to the residence[23] she shared with Carlito and the children.

It is also well to remember that the role of the court in hearing a petition to correct certain entries in the civil registry is to ascertain the truth about the facts recorded therein.[24]

With respect to the date of marriage of Carlito and Marivel, their certificate of marriage[25] shows that indeed they were married on January 21, 2000, not on April 27, 1989. Explaining the error, Carlito declared that the date "April 27, 1989" was supplied by his helper, adding that he was not married to Marivel at the time his sons were

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born because his previous marriage was annulled only in 1999.[26] Given the evidence presented by respondents, the CA observed that the minors were illegitimate at birth, hence, the correction would bring about no change at all in the nature of their filiation.

With respect to Carlito's mother, it bears noting that she declared at the witness stand that she was not married to Juan Kho who died in 1959.[27] Again, that testimony was not challenged by the city prosecutor.

The documentary evidence supporting the deletion from Carlito's and his siblings' birth certificates of the entry "Married" opposite the date of marriage of their parents, moreover, consisted of a certification issued on November 24, 1973 by St. Joseph (Butuan City) Parish priest Eugene van Vught stating that Juan Kho and Epifania had been living together as common law couple since 1935 but have never contracted marriage legally.[28]

A certification from the office of the city registrar, which was appended to respondents' Amended Petition, likewise stated that it has no record of marriage between Juan Kho and Epifania.[29] Under the circumstances, the deletion of the word "Married" opposite the "date of marriage of parents" is warranted.

With respect to the correction in Carlito's birth certificate of his name from "Carlito John" to "Carlito," the same was properly granted under Rule 108 of the Rules of Court. As correctly pointed out by the CA, the cancellation or correction of entries involving changes of name falls under letter "o" of the following provision of Section 2 of Rule 108:[30]

> Section 2. Entries subject to cancellation or correction. – Upon good and valid grounds, the following entries in the civil register may be cancelled or corrected: (a) births; (b) marriages; (c) deaths; (d) legal separation; (e) judgments of annulment of marriage; (f) judgments declaring marriages void from the beginning; (g) legitimations; (h) adoptions; (i) acknowledgments of natural children; (j) naturalization; (k) election, loss or recovery of citizenship; (l) civil interdiction; (m) judicial determination of filiation; (n) voluntary emancipation of a minor; and (o) changes of name. (Emphasis and underscoring supplied)

Hence, while the jurisdictional requirements of Rule 103 (which governs petitions for change of name) were not complied with, observance of the provisions of Rule 108 suffices to effect the correction sought for.

More importantly, Carlito's official transcript of record from the Urious College in Butuan City,[31] certificate of eligibility from the Civil Service Commission,[32] and voter registration record[33] satisfactorily show that he has been known by his first name only. No prejudice is thus likely to arise from the dropping of the second name.

The correction of the mother's citizenship from Chinese to Filipino as appearing in Carlito's birth record was also proper. Of note is the fact that during the cross examination by the city prosecutor of Epifania, he did not deem fit to question her citizenship. Such failure to oppose the correction prayed for, which certainly was not respondents' fault, does not in any way change the adversarial nature of the proceedings.

Also significant to note is that the birth certificates of Carlito's siblings uniformly stated the citizenship of Epifania as "Filipino." To disallow the correction in Carlito's birth record of his mother's citizenship would perpetuate an inconsistency in the natal circumstances of the siblings who are unquestionably born of the same mother and father.

Outside the ambit of substantial corrections, of course, is the correction of the name of Carlito's wife from "Maribel" to "Marivel." The mistake is clearly clerical or typographical, which is not only visible to the eyes, but is also obvious to the understanding[34] considering that the name reflected in the marriage certificate of Carlito and his wife is "Marivel."

Apropos is Yu v. Republic[35] which held that changing the appellant's Christian name of "Sincio" to "Sencio" amounts merely to the righting of a clerical error. The change of name from Beatriz Labayo/Beatriz Labayu to Emperatriz Labayo was also held to be a mere innocuous alteration, which can be granted through a summary proceeding.[36] The same ruling holds true with respect to the correction in Carlito's marriage certificate of his father's name from "John Kho" to "Juan Kho." Except in said marriage certificate, the name "Juan Kho" was uniformly entered in the birth certificates of Carlito and of his siblings.[37]

WHEREFORE, the Petition is DENIED. The Decision of the Court of Appeals is AFFIRMED.

SO ORDERED.

Carpio, Tinga, and Velasco, Jr., JJ, concur.
Quisumbing, (Chairperson), on official leave.

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[1] CA rollo, pp. 50-63; penned by Justice Myrna Dimaranan-Vidal and concurred in by Justices Romulo V. Borja (then Chairman of the Twenty-Second Division) and Ricardo R. Rosario.

[2] Rollo, pp. 45-48; penned by Judge Augustus L. Calo.

[3] Id. at 39-43.

[4] Records, pp. 62-64. The petition was published on June 1, 8, and 15, 2001 as shown by the copies of the newspaper publications of even date, which were marked as Exhibits "E," "F" and "G."

[5] Id. at 30-31, Soledad A. Cruz.

[6]Id. at 34; Order of August 9, 2001.

[7]Id. at 36.

[8]Rollo, pp. 45-48.

[9]SEC. 5. Minor or incompetent persons. – A minor or a person alleged to be incompetent, may sue or be sued, with the assistance of his father, mother, guardian, or if he has none, a guardian ad litem.

[10]Labayo-Rowe v. Republic of the Philippines, G.R. No. L-53417, December 8, 1988, 168 SCRA 294, 300-301; Republic v. Valencia, 225 Phil. 408, 413 (1986); Baybayan v. Republic of the Philippines, 123 Phil. 230, 232 (1966); David v. Republic, 122 Phil. 848, 851 (1965).

[11] Ty Kong Tin v. Republic, 94 Phil. 321, 324 (1954).

[12] Supra note 10 at 299-300, citing Ty Kong Tin v. Republic, supra.

[13] Supra note 10.

[14] Vide Republic v. Lim, 464 Phil. 151, 157 (2004); Eloeosida v. Local Civil Registrar of Quezon City, 431 Phil. 612, 619 (2002); Republic v. Labrador, 364 Phil. 934, 943-944 (1999).

[15] Republic v. Valencia, supra note 10.

[16] Barco v. Court of Appeals, 465 Phil. 39, 61 (2004).

[17] G.R. No. 146963, March 15, 2004, 425 SCRA 488, 492-493.

[18] Lee v. Court of Appeals, 419 Phil. 392-405 (2001).

[19] Records, pp. 28-29. The Order was issued by then Acting Presiding Judge Victor A. Tomaneng.

[20] Id. at 32. Affidavit of Posting.

[21] Supra note 16.

[22]Supra at 55-57. The ruling was reiterated in Alba v. Court of Appeals, G.R. No. 164041, July 29, 2005, 465 SCRA 495, 506-508.

[23]Records, p. 75. Copies of these Orders and of the Decision were mailed to 717 Molave Road, Guingona Subdivision, Butuan City, which was reflected as the residence of both Carlito and Marivel in their Certificate of Marriage. During the hearing on January 31, 2002, Carlito also testified that Marivel was still living with him.

[24] Republic v. Valencia, supra note 10 at 416.

[25]Records, p. 55, Exhibit "K."

[26]Id. at 74-76. Transcript of Stenographic Notes, January 31, 2002.

[27] Id. at 67.

[28] Id. at 50, Exhibit "I."

[29] Id. at 20, Annex "A" to Amended Petition.

[30] Vide Republic v. CA, 325 Phil. 361, 368 (1996).

[31] Records, pp. 51-52, Exhibit "J."

[32] Id. at 53, Exhibit "J-1."

[33] Id. at 54, Exhibit "J-2."

[34]Leonor v. CA, 326 Phil. 74, 87 (1996); Black v. Republic, 104 Phil. 848, 849 (1958).

[35] 129 Phil. 248, 249 (1967).

[36]Labayo-Rowe v. Republic, supra note 10 at 300.

[37] Records, pp. 7-10; Exhibits "N" to "Q."

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