

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. JULIAN EDWARD EMERSON COSETENG-MAGPAYO (A.K.A. JULIAN EDWARD EMERSON MARQUEZ-LIM COSETENG), RESPONDENT.

G.R. No. 189476. February 02, 2011

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Born in Makati on September 9, 1972, Julian Edward Emerson Coseteng Magpayo (respondent) is the son of Fulvio M. Magpayo Jr. and Anna Dominique Marquez-Lim Coseteng who, as respondent's certificate of live birth[1] shows, contracted marriage on March 26, 1972.

Claiming, however, that his parents were never legally married, respondent filed on July 22, 2008 at the Regional Trial Court (RTC) of Quezon City a Petition to change his name to Julian Edward Emerson Marquez Lim Coseteng. The petition, docketed as SPP No. Q-0863058, was entitled "IN RE PETITION FOR CHANGE OF NAME OF JULIAN EDWARD EMERSON COSETENG MAGPAYO TO JULIAN EDWARD EMERSON MARQUEZ-LIM COSETENG."

In support of his petition, respondent submitted a certification from the National Statistics Office stating that his mother Anna Dominique "does not appear in [its] National Indices of Marriage." [2] Respondent also submitted his academic records from elementary up to college [3] showing that he carried the surname "Coseteng," and the birth certificate of his child where "Coseteng" appears as his surname. [4] In the 1998, 2001 and 2004 Elections, respondent ran and was elected as Councilor of Quezon City's 3[rd] District using the name "JULIAN M.L. COSETENG." [5]

On order of Branch 77 of the Quezon City RTC, [6] respondent amended his petition by alleging therein compliance with the 3-year residency requirement under Section 2, Rule 103 of the Rules of Court. [7]

The notice setting the petition for hearing on November 20, 2008 was published in the newspaper Broadside in its issues of October 31-November 6, 2008, November 7-13, 2008, and November 14-20, 2008. [8] And a copy of the notice was furnished the Office of the Solicitor General (OSG).

No opposition to the petition having been filed, an order of general default was entered by the trial court which then allowed respondent to present evidence ex parte. [9]

By Decision of January 8, 2009, [10] the trial court granted respondent's petition and directed the Civil Registrar of Makati City to:

1. Delete the entry "March 26, 1972" in Item 24 for "DATE AND PLACE OF MARRIAGE OF PARTIES" [in herein respondent's Certificate of live Birth];
2. Correct the entry "MAGPAYO" in the space for the Last Name of the [respondent] to "COSETENG";
3. Delete the entry "COSETENG" in the space for Middle Name of the [respondent]; and

4. Delete the entry "Fulvio Miranda Magpayo, Jr." in the space for FATHER of the [respondent]... (emphasis and underscoring supplied; capitalization in the original)

The Republic of the Philippines (Republic) filed a motion for reconsideration but it was denied by the trial court by Order of July 2, 2009,[11] hence, it, thru the OSG, lodged the present petition for review to the Court on pure question of law.

The Republic assails the decision in this wise:

- THE PETITION FOR CHANGE OF NAME...INVOLVES THE CHANGE OF [RESPONDENT'S] CIVIL STATUS FROM LEGITIMATE TO ILLEGITIMATE AND, THEREFORE, SHOULD BE MADE THROUGH APPROPRIATE ADVERSARIAL PROCEEDINGS...

- THE TRIAL COURT EXCEEDED ITS JURISDICTION WHEN IT DIRECTED THE DELETION OF THE NAME OF RESPONDENT'S FATHER FROM HIS BIRTH CERTIFICATE.[12] (emphasis and underscoring supplied)

The Republic contends that the deletion of the entry on the date and place of marriage of respondent's parents from his birth certificate has the effect of changing his civil status from legitimate to illegitimate, hence, any change in civil status of a person must be effected through an appropriate adversary proceeding.[13]

The Republic adds that by ordering the deletion of respondent's parents' date of marriage and the name of respondent's father from the entries in respondent's birth certificate,[14] the trial court exceeded its jurisdiction, such order not being in accord with respondent's prayer reading:

WHEREFORE, premises considered, it is most respectfully prayed that the Honorable Court issue an order allowing the change of name of petitioner from JULIAN EDWARD EMERSON COSETENG MAGPAYO to JULIAN EDWARD EMERSON MARQUEZ-LIM COSETENG, and that the Honorable Court order the Local Civil Registrar and all other relevant government agencies to reflect the said change of name in their records.

Petitioner prays for other reliefs deemed proper under the premises.[15] (underscoring supplied)

Respondent counters that the proceeding before the trial court was adversarial in nature. He cites the serving of copies of the petition and its annexes upon the Civil Registrar of Makati, the Civil Registrar General, and the OSG; the posting of copies of the notice of hearing in at least four public places at least ten days before the hearing; the delegation to the OSG by the City Prosecutor of Quezon City to appear on behalf of the Republic; the publication of the notice of hearing in a newspaper of general circulation for three consecutive weeks; and the fact that no oppositors appeared on the scheduled hearing.[16]

The petition is impressed with merit.

A person can effect a change of name under Rule 103 (CHANGE OF NAME) using valid and meritorious grounds including (a) when the name is ridiculous, dishonorable or extremely difficult to write or pronounce; (b) when the change results as a legal consequence such as legitimation; (c) when the change will avoid confusion; (d) when one has continuously used and been known since childhood by a Filipino name, and was unaware of alien parentage; (e) a sincere desire to adopt a Filipino name to erase signs of former alienage, all in good faith and without prejudicing anybody; and (f) when the surname causes embarrassment and there is no showing that the desired change of name was for a fraudulent purpose or that the change of name would prejudice public interest.[17] Respondent's reason for changing his name cannot be considered as one of, or analogous to, recognized grounds, however.

The present petition must be differentiated from *Alfon v. Republic of the Philippines*. [18] In *Alfon*, the Court

allowed the therein petitioner, Estrella Alfon, to use the name that she had been known since childhood in order to avoid confusion. Alfon did not deny her legitimacy, however. She merely sought to use the surname of her mother which she had been using since childhood. Ruling in her favor, the Court held that she was lawfully entitled to use her mother's surname, adding that the avoidance of confusion was justification enough to allow her to do so. In the present case, however, respondent denies his legitimacy.

The change being sought in respondent's petition goes so far as to affect his legal status in relation to his parents. It seeks to change his legitimacy to that of illegitimacy. Rule 103 then would not suffice to grant respondent's supplication.

Labayo-Rowe v. Republic[19] categorically holds that "changes which may affect the civil status from legitimate to illegitimate . . . are substantial and controversial alterations which can only be allowed after appropriate adversary proceedings . . ."

Since respondent's desired change affects his civil status from legitimate to illegitimate, Rule 108 applies. It reads:

SECTION 1. Who may file petition.--Any person interested in any act, event, order or decree concerning the civil status of persons which has been recorded in the civil register, may file a verified petition for the cancellation or correction of any entry relating thereto, with the [RTC] of the province where the corresponding civil registry is located.

x x x x

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 a week for three (3) consecutive weeks in a newspaper of general circulation in the province. (emphasis, italics and underscoring supplied)

Rule 108 clearly directs that a petition which concerns one's civil status should be filed in the civil registry in which the entry is sought to be cancelled or corrected - that of Makati in the present case, and "all persons who have or claim any interest which would be affected thereby" should be made parties to the proceeding.

As earlier stated, however, the petition of respondent was filed not in Makati where his birth certificate was registered but in Quezon City. And as the above-mentioned title of the petition filed by respondent before the RTC shows, neither the civil registrar of Makati nor his father and mother were made parties thereto.

Respondent nevertheless cites Republic v. Capote[20] in support of his claim that his change of name was effected through an appropriate adversary proceeding.

Republic v. Belmonte,[21] illuminates, however:

The procedure recited in Rule 103 regarding change of name and in Rule 108 concerning the cancellation or correction of entries in the civil registry are separate and distinct. They may not be substituted one for the other for the sole purpose of expediency. To hold otherwise would render nugatory the provisions of the Rules of Court allowing the change of one's name or the correction of entries in the civil registry only upon meritorious grounds. . . . (emphasis, capitalization and underscoring supplied)

Even assuming arguendo that respondent had simultaneously availed of these two statutory remedies, respondent cannot be said to have sufficiently complied with Rule 108. For, as reflected above, aside from improper venue, he failed to implead the civil registrar of Makati and all affected parties as respondents in the case.

Republic v. Labrador[22] mandates that "a petition for a substantial correction or change of entries in the civil registry should have as respondents the civil registrar, as well as all other persons who have or claim to have any interest that would be affected thereby." It cannot be gainsaid that change of status of a child in relation to his parents is a substantial correction or change of entry in the civil registry.

Labayo-Rowe[23] highlights the necessity of impleading indispensable parties in a petition which involves substantial and controversial alterations. In that case, the therein petitioner Emperatriz Labayo-Rowe (Emperatriz) filed a petition for the correction of entries in the birth certificates of her children, Vicente Miclat, Jr. and Victoria Miclat, in the Civil Registry of San Fernando, Pampanga. Emperatriz alleged that her name appearing in the birth certificates is Beatriz, which is her nickname, but her full name is Emperatriz; and her civil status appearing in the birth certificate of her daughter Victoria as "married" on "1953 Bulan" are erroneous because she was not married to Vicente Miclat who was the one who furnished the data in said birth certificate.

The trial court found merit in Emperatriz's petition and accordingly directed the local civil registrar to change her name appearing in her children's birth certificates from Beatriz to Emperatriz; and to correct her civil status in Victoria's birth certificate from "married" to "single" and the date and place of marriage to "no marriage."

On petition before this Court after the Court of Appeals found that the order of the trial court involved a question of law, the Court nullified the trial court's order directing the change of Emperatriz' civil status and the filiation of her child Victoria in light of the following observations:

x x x x Aside from the Office of the Solicitor General, all other indispensable parties should have been made respondents. They include not only the declared father of the child but the child as well, together with the paternal grandparents, if any, as their hereditary rights would be adversely affected thereby. All other persons who may be affected by the change should be notified or represented. The truth is best ascertained under an adversary system of justice.

The right of the child Victoria to inherit from her parents would be substantially impaired if her status would be changed from "legitimate" to "illegitimate." Moreover, she would be exposed to humiliation and embarrassment resulting from the stigma of an illegitimate filiation that she will bear thereafter. The fact that the notice of hearing of the petition was published in a newspaper of general circulation and notice thereof was served upon the State will not change the nature of the proceedings taken. Rule 108, like all the other provisions of the Rules of Court, was promulgated by the Supreme Court pursuant to its rule-making authority under Section 13, Article VIII of the 1973 Constitution, which directs that such rules "shall not diminish, increase or modify substantive rights." If Rule 108 were to be extended beyond innocuous or harmless changes or corrections of errors which are visible to the eye or obvious to the understanding, so as to comprehend substantial and controversial alterations concerning citizenship, legitimacy of paternity or filiation, or legitimacy of marriage, without observing the proper proceedings as earlier mentioned, said rule would thereby become an unconstitutional exercise which would tend to increase or modify substantive rights. This situation is not contemplated under Article 412 of the Civil Code.[24] (emphasis, italics and underscoring supplied)

As for the requirement of notice and publication, Rule 108 provides:

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 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)

A reading of these related provisions readily shows that Rule 108 clearly mandates two sets of notices to different "potential oppositors." The first notice is that given to the "persons named in the petition" and the second (which is through publication) is that given to other persons who are not named in the petition but nonetheless may be considered interested or affected parties, such as creditors. That two sets of notices are mandated under the above-quoted Section 4 is validated by the subsequent Section 5, also above-quoted, which provides for two periods (for the two types of "potential oppositors") within which to file an opposition (15 days from notice or from the last date of publication).

This is the overriding principle laid down in *Barco v. Court of Appeals*.^[25] In that case, Nadina Maravilla (Nadina) filed a petition for correction of entries in the birth certificate of her daughter June from June Salvacion Maravilla to June Salvacion "Gustilo," Armando Gustilo being, according to Nadina, her daughter's real father. Gustilo in fact filed before the trial court a "CONSTANCIA" wherein he acknowledged June as his daughter. The trial court granted the petition.

After Gustilo died, his son Jose Vicente Gustilo filed with the Court of Appeals a petition for annulment of the Order of the trial court granting the change of June's family name to Gustilo.

Milagros Barco (Barco), natural guardian of her minor daughter Mary Joy Ann Gustilo, filed before the appellate court a motion for intervention, alleging that Mary Joy had a legal interest in the annulment of the trial court's Order as Mary Joy was, by Barco's claim, also fathered by Gustilo.

The appellate court dismissed the petition for annulment and complaint-in-intervention.

On appeal by Barco, this Court ruled that she should have been impleaded in Nadina's petition for correction of entries of the birth certificate of Mary Joy. But since a petitioner, like Nadina, is not expected to exhaustively identify all the affected parties, the subsequent publication of the notice cured the omission of Barco as a party to the case. Thus the Court explained:

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. It cannot be established whether Nadina knew of Mary Joy's existence at the time she filed the petition for correction. Indeed, doubt may always be cast as to whether a petitioner under Rule 108 would know of all the parties whose interests may be affected by the granting of a petition. For example, a petitioner cannot be presumed to be aware of all the legitimate or illegitimate offsprings of his/her spouse or paramour. x x x x.

x x x x

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 x.^[26] (emphasis, italics and underscoring supplied)

Meanwhile, in *Republic v. Kho*,^[27] Carlito Kho (Carlito) and his siblings named the civil registrar as the sole respondent in the petition they filed for the correction of entries in their respective birth certificates in the civil registry of Butuan City, and correction of entries in the birth certificates of Carlito's minor children. Carlito and his siblings requested the correction in their birth certificates of the citizenship of their mother Epifania to "Filipino," instead of "Chinese," and the deletion of the word "married" opposite the phrase "Date of marriage of parents" because their parents â€œJuan and Epifania â€œ were not married. And Carlito requested the correction in the birth certificates of their children of his and his wife's date of marriage to reflect the actual date of their marriage as appearing in their marriage certificate. In the course of the hearing of the petition, Carlito also sought the correction of the name of his wife from Maribel to "Marivel."

The Khos' mother Epifania took the witness stand where she declared that she was not married to Juan who died before the filing of the Khos' petition.

The trial court granted the petition.

On the issue of whether the failure to implead Marivel and the Khos' parents rendered the trial of the petition short of the required adversary proceedings and the trial court's judgment void, this Court held that when all the procedural requirements under Rule 108 are followed, the publication of the notice of hearing cures the failure to implead an indispensable party. In so ruling, the Court noted that the affected parties were already notified of the proceedings in the case since the petitioner-siblings Khos were the ones who initiated the petition respecting their prayer for correction of their citizenship, and Carlito respecting the actual date of his marriage to his wife; and, with respect to the Khos' petition for change of their civil status from legitimate to illegitimate, their mother Epifania herself took the witness stand declaring that she was not married to their father.

What is clear then in Barco and Kho is the mandatory directive under Section 3 of Rule 108 to implead the civil registrar and the parties who would naturally and legally be affected by the grant of a petition for correction or cancellation of entries. Non-impleading, however, as party-respondent of one who is inadvertently left out or is not established to be known by the petitioner to be affected by the grant of the petition or actually participates in the proceeding is notified through publication.

IN FINE, when a petition for cancellation or correction of an entry in the civil register involves substantial and controversial alterations including those on citizenship, legitimacy of paternity or filiation, or legitimacy of marriage, a strict compliance with the requirements of Rule 108 of the Rules of Court is mandated.

WHEREFORE, the petition is, in light of the foregoing discussions, GRANTED. The January 8, 2009 Decision of Branch 77 of the Regional Trial Court of Quezon City in SP Proc. No. Q-0863058 is NULLIFIED.

SO ORDERED.

Brion, Bersamin, Villarama, Jr., and Sereno, JJ., concur.

[1] Records, p. 7.

[2] Id. at 8.

[3] Id. at 9-16.

[4] Id. at 16.

[5] Id. at 17-22.

[6] Presided by Judge Vivencio S. Bacilig.

[7] Id. at 23.

[8] Id. at 48-50.

[9] Id. at 45.

[10] Id. at 116-117.

[11] Id. at 135-136. 7

[12] Rollo, pp. 16-17.

- [13] Id. at 17-18.
- [14] Id. at 18-19.
- [15] Rollo, p. 18.
- [16] Id. at 53-56.
- [17] Vide See Republic v. Hernandez, 323 Phil. 606, 637-638 (1996).
- [18] 186 Phil. 600 (1980).
- [19] G.R. No. L-53417, December 8, 1988, 168 SCRA 294.
- [20] G.R. No. 157043, February 2, 2007, 514 SCRA 76.
- [21] 241 Phil. 966 (1988).
- [22] G.R. No. 132980, 305 SCRA 438 (1999).
- [23] Supra, note 19.
- [24] Id. at p. 301.
- [25] 465 Phil. 39 (2004).
- [26] Id. at 55-56.
- [27] G.R. No. 170340, June 29, 2007, 526 SCRA 177.

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