FRANCLER P. ONDE, PETITIONER, VS. THE OFFICE OF THE LOCAL CIVIL REGISTRAR OF LAS PIÑAS CITY, RESPONDENT.

G.R. No. 197174. September 10, 2014

Ponente: VILLARAMA, JR., J.

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VILLARAMA, JR., J.:

Before us is a petition for review on certiorari of the Orders[1] dated October 7, 2010 and March 1, 2011 of the Regional Trial Court (RTC), Branch 201, Las Piñas City, in Special Proceedings Case No. 10-0043. The RTC dismissed the case filed by petitioner Francler P. Onde for correction of entries in his certificate of live birth.

The antecedent facts follow:

Petitioner filed a petition[2] for correction of entries in his certificate of live birth before the RTC and named respondent Office of the Local Civil Registrar of Las Piñas City as sole respondent. Petitioner alleged that he is the illegitimate child of his parents Guillermo A. Onde and Matilde DC Pakingan, but his birth certificate stated that his parents were married. His birth certificate also stated that his mother's first name is Tely and that his first name is Franc Ler. He prayed that the following entries on his birth certificate be corrected as follows:

Entry

From

To

1) Date and place of marriage of his parents

December 23, 1983 - Bicol

Not married

2) First name of his mother

Tely

Matilde

3) His first name

Franc Ler

Francler

In its Order dated October 7, 2010, the RTC dismissed the petition for correction of entries on the ground that it is insufficient in form and substance. It ruled that the proceedings must be adversarial since the first correction is substantial in nature and would affect petitioner's status as a legitimate child. It was further held that the correction in the first name of petitioner and his mother can be done by the city civil registrar under Republic Act

(R.A.) No. 9048, entitled 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 Registrar Without Need of a Judicial Order, Amending for this Purpose Articles 376 and 412 of the Civil Code of the Philippines.

In its Order dated March 1, 2011, the RTC denied petitioner's motion for reconsideration, as it found no proof that petitioner's parents were not married on December 23, 1983.

Essentially, the petition raises four issues: (1) whether the RTC erred in ruling that the correction on the first name of petitioner and his mother can be done by the city civil registrar under R.A. No. 9048; (2) whether the RTC erred in ruling that correcting the entry on petitioner's birth certificate that his parents were married on December 23, 1983 in Bicol to "not married" is substantial in nature requiring adversarial proceedings; (3) whether the RTC erred in dismissing the petition for correction of entries; and (4) whether the RTC erred in ruling that there is no proof that petitioner's parents were not married on December 23, 1983.

Petitioner argues that Rule 108 of the Rules of Court allows a substantial correction of entries in the civil registry, stating that in Eleosida v. Local Civil Registrar of Quezon City,[3] the case cited by the RTC, we have actually ruled that substantial changes in the civil registry are now allowed under Rule 108 of the Rules of Court. He likewise adds that proof that his parents were not married will be presented during the trial, not during the filing of the petition for correction of entries.

In its comment, the Office of the Solicitor General (OSG) contends that the RTC correctly dismissed the petition for correction of entries. It points out that the first names of petitioner and his mother can be corrected thru administrative proceedings under R.A. No. 9048. Such correction of the entry on petitioner's birth certificate that his parents were married on December 23, 1983 in Bicol to "not married" is a substantial correction affecting his legitimacy. Hence, it must be dealt with in adversarial proceedings where all interested parties are impleaded.

We deny the petition.

On the first issue, we agree with the RTC that the first name of petitioner and his mother as appearing in his birth certificate can be corrected by the city civil registrar under R.A. No. 9048. We note that petitioner no longer contested the RTC's ruling on this point.[4] Indeed, under Section 1[5] of R.A. No. 9048, clerical or typographical errors on entries in a civil register can be corrected and changes of first name can be done by the concerned city civil registrar without need of a judicial order. Aforesaid Section 1, as amended by R.A. No. 10172, now reads:

> SECTION 1. Authority to Correct Clerical or Typographical Error and Change of First Name or Nickname. – No entry in a civil register shall be changed or corrected without a judicial order, except for clerical or typographical errors and change of first name or nickname, the day and month in the date of birth or sex of a person where it is patently clear that there was a clerical or typographical error or mistake in the entry, which can be corrected or changed by the concerned city or municipal civil registrar or consul general in accordance with the provisions of this Act and its implementing rules and regulations. (Emphasis supplied.)

In Silverio v. Republic,[6] we held that under R.A. No. 9048, jurisdiction over applications for change of first name is now primarily lodged with administrative officers. The intent and effect of said law is to exclude the change of first name from the coverage of Rules 103 (Change of Name) and 108 (Cancellation or Correction of Entries in the Civil Registry) of the Rules of Court, until and unless an administrative petition for change of name is first filed and subsequently denied. The remedy and the proceedings regulating change of first name are primarily administrative in nature, not judicial. In Republic v. Cagandahan,[7] we said that under R.A. No. 9048, the correction of clerical or typographical errors can now be made through administrative proceedings and

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without the need for a judicial order. The law removed from the ambit of Rule 108 of the Rules of Court the correction of clerical or typographical errors. Thus petitioner can avail of this administrative remedy for the correction of his and his mother's first name.

On the second issue, we also agree with the RTC in ruling that correcting the entry on petitioner's birth certificate that his parents were married on December 23, 1983 in Bicol to "not married" is a substantial correction requiring adversarial proceedings. Said correction is substantial as it will affect his legitimacy and convert him from a legitimate child to an illegitimate one. In Republic v. Uy,[8] we held that corrections of entries in the civil register including those on citizenship, legitimacy of paternity or filiation, or legitimacy of marriage, involve substantial alterations. 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 proceedings.[9]

On the third issue, we likewise affirm the RTC in dismissing the petition for correction of entries. As mentioned, petitioner no longer contested the RTC ruling that the correction he sought on his and his mother's first name can be done by the city civil registrar. Under the circumstances, we are constrained to deny his prayer that the petition for correction of entries before the RTC be reinstated since the same petition includes the correction he sought on his and his mother's first name.

We clarify, however, that the RTC's dismissal is without prejudice. As we said, petitioner can avail of the administrative remedy for the correction of his and his mother's first name. He can also file a new petition before the RTC to correct the alleged erroneous entry on his birth certificate that his parents were married on December 23, 1983 in Bicol. This substantial correction is allowed under Rule 108 of the Rules of Court. As we reiterated in Eleosida v. Local Civil Registrar of Quezon City:[10]

> x x x This is our ruling in Republic vs. Valencia where we held that even substantial errors in a civil registry may be corrected and the true facts established under Rule 108 [of the Rules of Court] provided the parties aggrieved by the error avail themselves of the appropriate adversary proceeding. x x x
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> x x x x
>
> 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. x x x (Emphasis supplied.)

We also stress that a petition seeking a substantial correction of an entry in a civil register must implead as parties to the proceedings not only the local civil registrar, as petitioner did in the dismissed petition for correction of entries, but also all persons who have or claim any interest which would be affected by the correction. This is required by Section 3, Rule 108 of the Rules of Court:

> 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. (Emphasis supplied.)

In Eleosida,[11] we cited Section 3, and Sections 4 and 5 of Rule 108 of the Rules of Court, as the procedural requirements laid down by the Court to make the proceedings under Rule 108 adversary. In Republic v. Uy,[12] we have similarly ruled that 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 the Rules of Court is mandated. Thus, in his new petition, petitioner should at least implead his father and mother as parties since the substantial correction he

is seeking will also affect them.

In view of the foregoing discussion, it is no longer necessary to dwell on the last issue as petitioner will have his opportunity to prove his claim that his parents were not married on December 23, 1983 when he files the new petition for the purpose.

WHEREFORE, we DENY the petition and AFFIRM the Orders dated October 7, 2010 and March 1, 2011 of the Regional Trial Court, Branch 201, Las Piñas City, in Special Proceedings Case No. 10-0043. The dismissal ordered by the Regional Trial Court is, however, declared to be without prejudice.

No pronouncement as to costs.

SO ORDERED.

Carpio,[*] Acting C.J., Velasco, Jr., (Chairperson), Peralta, and Reyes, JJ., concur.

September 24, 2014

N O T I C E OF J U D G M E N T

Sirs/Mesdames:

Please take notice that on ___September 10, 2014___ a Decision, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on September 24, 2014 at 1:25 p.m.

Very truly yours,
(SGD)
WILFREDO V. LAPITAN
Division Clerk of Court

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[*] Designated additional member per Raffle dated September 3, 2014.

[1] Rollo, pp. 15-17. Penned by Presiding Judge Lorna Navarro-Domingo.

[2] Id. at 23-27.

[3] 431 Phil. 612, 619 (2002).

[4] See Petition for Review on Certiorari, rollo, pp. 3-12.

[5] SECTION 1. Authority to Correct Clerical or Typographical Error and Change of First Name or Nickname. – No entry in a civil register shall be changed or corrected without a judicial order, except for clerical or typographical errors and change of first name or nickname which can be corrected or changed by the concerned city or municipal civil registrar or consul general in accordance with the provisions of this Act and its implementing rules and regulations. (Emphasis supplied.)

[6] 562 Phil. 953, 964-965 (2007).

[7] 586 Phil. 637, 647-648 (2008).

[8] G.R. No. 198010, August 12, 2013, 703 SCRA 425, 438.

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[9] Id. at 432.

[10] Supra note 4, at 619-621.

[11] Id. at 619-620.

[12] Supra note 9.

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