

PATRICIA LOUISE V. GENERAL, PETITIONER, VS. LOCAL CIVIL REGISTRAR OF SAN JOSE DEL MONTE, BULACAN, THE PHILIPPINE STATISTICS AUTHORITY, CIVIL REGISTRAR GENERAL, AND THE SPOUSES A...

G.R. No. 272305, April 07, 2026

Ponente: DIMAAMPAO, J.

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DIMAAMPAO, J.:

Impugned in this Petition for Review on Certiorari[1] are the Decision[2] and the Resolution[3] of the Court of Appeals (CA) in CA-G.R. CV No. 117411. The CA Decision upheld the Decision[4] and the Order[5] of the Regional Trial Court (RTC) of Malolos City, Bulacan, dismissing the Petition for Correction of Entries in the Birth Certificate and Change of Name of petitioner Patricia Louise V. General (Patricia) under Rule 108 of the Revised Rules of Court in SPEC PROC. No. 229-M-2018. The challenged Resolution denied the Motion for Reconsideration[6] of the CA Decision.

Antecedents

On December 10, 2018, Patricia filed a Petition for Correction of Entries in the Birth Certificate and Change of Name under Rule 108[7] of the Revised Rules of Court. She impleaded the Local Civil Registrar of San Jose Del Monte City, Bulacan, the Philippine Statistics Authority, Civil Registrar General, and her parents, the Spouses Antonio M. Garrote, Jr. (Antonio) and Marites V. General (Marites), as respondents.[8]

In her Petition, Patricia averred that she was born on January 23, 1996 to the Spouses Antonio and Marites, as evidenced by her certificate of live birth. Despite being married to Antonio, her mother Marites registered Patricia's birth under her maiden surname—General—because she and Antonio were not in cordial terms at the time. Marites likewise withheld the fact that she was married to Antonio in their child Patricia's birth certificate. Later, Antonio and Marites reconciled.[9]

As time passed, the child Patricia grew up using the surname of her father, i.e., Garrote, in her school and work records, including her identification card from the Professional Regulation Commission (PRC). However, in 2017, Patricia discovered that the surname appearing on her birth certificate was "General" instead of "Garrote," and that her middle name as indicated therein was "Ventanilla" instead of "General." [10] Consequently, Patricia filed the instant Petition for Correction of Entries in the Birth Certificate and Change of Name with the RTC, praying: first, that her middle name "Ventanilla" as appearing in her certificate of live birth be changed to "General", second that her surname "General" be replaced with "Garrote" and third, that the 'place and date of her parents' wedding be changed from "N/A" to "Manila, December 27, 1994." [11]

When called for initial hearing, Patricia proved compliance with all the jurisdictional requirements. Despite publication and subsequent notices sent to all concerned parties, there was no opposition to the petition. Thereupon, Patricia was allowed to present evidence in support of her petition.[12]

During trial, Patricia proffered her own testimony and reiterated the allegations in her Petition. She likewise presented the following documentary evidence, among others: 1) Certificate of Live Birth; 2) Marriage Certificate of Antonio and Marites; 3) Certifications made by the Civil Registrar General to the effect that Antonio and Marites were not married to anyone but each other; 4) Guijo Day Care Center School Records; 5) Community Tax Certificate; 6) Barangay Clearance; and 7) PRC Identification Card.[13]

Ruling of the RTC

In due course, the RTC rendered a Decision[14] dismissing Patricia's petition for insufficiency of evidence. The RTC ruled that the fact that a marriage was solemnized between Patricia's parents did not, by itself, suffice to establish her legitimacy as Antonio's child, considering that neither her birth certificate nor any other supporting document identified Antonio as her father.

Patricia's motion for reconsideration was also denied by the RTC in its Order[15] dated March 15, 2021.

Ruling of the CA

Aggrieved, Patricia sought refuge before the CA. In affirming the disposition of the RTC, the CA noted that Patricia sought substantial changes in her birth certificate which, if granted, would result in her becoming a legitimate child of her supposed father, Antonio. Ultimately, the CA adjudged that the totality of the evidence Patricia presented was insufficient to cause the changes requested, as she failed to overcome the presumption of truth contained in her birth certificate.[16]

Present Petition

With the subsequent Resolution[17] denying Patricia's bid for the reversal of the CA Decision, she now comes to this Court via the instant Petition for Review on Certiorari.[18] Patricia ascribes error upon the CA when it sustained the ruling of the RTC. She avouches that she is presumed to be a legitimate child of Antonio and Marites, having been born during the subsistence of their marriage. Patricia, therefore, asserts that, as a legal consequence, she is entitled to use her father's surname "Garrote" as her own, and seeks the correction of her birth certificate to reflect such fact.[19]

In its Comment,[20] the Philippine Statistics Authority and the Civil Registrar General, represented herein by the Office of the Solicitor General (OSG), counters that a birth certificate, as a public document, enjoys a presumption of truth that may be overturned only by a high degree of proof. It contends that Patricia's reliance on the marriage contract of her parents merely proved the existence of the marriage and did not establish paternity or legitimate filiation sufficient to defeat the entry in her birth certificate, particularly since her mother was the informant therein. The OSG further stresses that neither Marites nor Antonio testified to prove paternity, acknowledgment, recognition, or Patricia's open and continuous possession of the status of a legitimate child. Considering the serious legal ramifications of altering entries in a certificate of live birth, the OSG maintains that Patricia failed to meet the evidentiary requirements under Article 172 of the Family Code, rendering her claim insufficient to justify the corrections sought.[21]

Issue

The crux of the controversy is whether the CA committed a reversible error in affirming the RTC's dismissal of Patricia's petition for the correction of entries in her birth certificate.

Ruling of the Court

After a judicious study of the records of this case, the Court resolves to grant the Petition.

It is well-settled that this Court is not a trier of facts, as its function is generally limited to reviewing only questions of law in petitions for review on certiorari filed under Rule 45 of the Rules of Court.[22] Nevertheless,

jurisprudence has recognized several exceptions. The case of *Viloria v. Heirs of Pablo Gaetos*[23] listed 11 instances when the Court may take exception to the rule:

[W]hen (1) the conclusion is grounded on speculations, surmises, or conjectures; (2) the inference is manifestly mistaken, absurd, or impossible; (3) there is grave abuse of discretion; (4) the judgment is based on misapprehension of facts; (5) the findings of fact are conflicting; (6) there is no citation of specific evidence on which the factual findings are based; (7) the findings of absence of fact are contradicted by the presence of evidence on record; (8) the findings of the CA are contrary to those of the trial court; (9) the CA manifestly overlooked certain relevant and undisputed facts that, if properly considered, would justify a different conclusion; (10) the findings of the CA are beyond the issues of the case; and (11) such findings are contrary to the admissions of both parties.[24]

Here, the Court finds that the CA rendered the oppugned Decision based on a misapprehension of facts and made factual findings contradicted by the evidence on record. These lapses justify this Court's consideration of the instant petition.

Under Article 164 of the Family Code, "children conceived or born during the marriage are legitimate." [25] This means that legitimacy as a status attaches once when a person is born within wedlock.[26]

However, the presumption of legitimacy under Article 164 of the Family Code is not conclusive. In *Concepcion v. Court of Appeals*, [27] the Court had the occasion to rule that the presumption of legitimacy is "quasi-conclusive" and may be rebutted or overthrown, thus—

The presumption of legitimacy proceeds from the sexual union in marriage, particularly during the period of conception. To overthrow this presumption on the basis of Article 166 (1)(b) of the Family Code, it must be shown beyond reasonable doubt that there was no access that could have enabled the husband to father the child. Sexual intercourse is to be presumed where personal access is not disproved, unless such presumption is rebutted by evidence to the contrary.

The presumption is quasi-conclusive and may be refuted only by the evidence of physical impossibility of coitus between husband and wife within the first 120 days of the 300 days which immediately preceded the birth of the child.

To rebut the presumption, separation between the spouses must be such as to make marital intimacy impossible. This may take place, for instance, when they reside in different countries or provinces and they were never together during the period of conception. Or, the husband was in prison during the period of conception, unless it appears that sexual union took place through the violation of prison regulations.[28]

While legitimacy and filiation are conceptually distinct, jurisprudence has clarified that, in the case of a child born during the subsistence of a marriage, these concepts necessarily converge. This convergence was underscored in *Yap v. Yap*, [29] where the Court held that before paternity or filiation with the husband may be rejected, the presumption of legitimacy must first be successfully impugned in a proper action and by the persons authorized by law. Until such impugnation, the child is deemed the legitimate offspring of the spouses.[30]

In this case, it is undisputed that: (1) Antonio and Marites were validly married on December 27, 1994; and that (2) Patricia was born on January 23, 1996, during the subsistence of the marriage. Thus, Patricia is presumed to be legitimately filiated and a marital daughter of Marites and Antonio.

Contrary to the reasoning of the RTC and the CA, it is therefore erroneous to burden Patricia with proving her filiation to Antonio. The law places the burden on the husband, or in some instances, his heirs, under Articles 170[31] and 171[32] of the Family Code, to impugn the child's legitimacy within the periods and on the grounds provided by law. No such action was ever filed in this case. Thus, the presumption that Patricia is legitimate

stands, in the absence of a direct action timely filed by the proper party.[33]

Moreover, the lower courts erroneously gave undue weight to the entries in Patricia's birth certificate suggesting that she was born out of wedlock.

Article 167 of the Family Code expressly provides that "[t]he child shall be considered legitimate although the mother may have declared against its legitimacy." Jurisprudence has consistently held that this proscription extends to judicial and extrajudicial statements, including entries made by the mother in the child's birth certificate.[34]

In *Concepcion*,[35] the Court stressed that between a certificate of birth, which is only prima facie evidence of the facts stated therein, and the quasi-conclusive presumption of legitimacy under Article 164, the latter must prevail. This rule is anchored not only on the greater evidentiary weight of the presumption of law, but also on considerations of public policy and the best interests of the child.[36]

The entries in Patricia's birth certificate indicating the absence of marriage and the use of her mother's maiden surname were made by Marites herself, who is legally proscribed from making declarations against the legitimacy of her child. Withal, such entries cannot defeat the presumption that Patricia is the legitimate child of Antonio and Marites.

The filing of a petition under Rule 108 of the Rules of Court to establish a child's filiation is not a novel concept. In *Republic of the Philippines v. Tipay*,[37] the Court reiterated that "substantial or controversial alterations in the civil registry are allowable in an action filed under Rule 108 of the Rules of Court, as long as the issues are properly threshed out in appropriate adversarial proceedings."

In this case, records evince that Patricia fully complied with the jurisdictional requirements of Rule 108. After due publication and notice to interested parties, no opposition was raised. Patricia presented sufficient documentary evidence including school records, barangay certification, community tax certificate, and a Professional Regulation Commission Identification Card, all consistently reflecting her use of the surname Garrote, aligning with her legitimate status as Antonio and Marites's daughter. These pieces of evidence collectively demonstrate her identity and the factual accuracy of the corrections sought.

Finally, it bears to emphasize that the corrections sought do not create a new civil status but merely cause the civil register to reflect the true and legally presumed status of Patricia as a legitimate child born during her parents' marriage. Simply stated, the changes will not create legitimacy but merely reflect a legitimacy that already exists under the law.

In light of the foregoing, the Comi rules and so holds that Patricia, having been born during the subsistence of the valid marriage of Antonio and Marites Garrote, is quasi-conclusively presumed to be their legitimate and marital child. As a legitimate child, Patricia is entitled to use the surname of her father by operation of Article 174 of the Family Code, which grants legitimate children the right to bear their father's surname as a matter of course. Consequently, she is entitled to have her birth certificate corrected to reflect her real surname and the fact of her parents' marriage.

ACCORDINGLY, the instant Petition for Review on Certiorari is GRANTED. The April 25, 2023 Decision and the February 2, 2024 Resolution of the Court of Appeals in CA-G.R. CV No. 117411 are REVERSED and SET ASIDE. The Local Civil Registrar of the City of San Jose del Monte, Bulacan is ORDERED to correct the certificate of live birth of petitioner Patricia Louise V. General as follows:

- Her middle name shall be changed from "Ventanilla" to "General";

- Her surname shall be changed from "General" to "Garrote"; and

- The place and date of marriage of her parents shall be indicated as "Manila, December 27, 1994."

SO ORDERED.

Caguioa (Chairperson), Inting, and Gaerlan, JJ., concur.

Singh, J., see concurring opinion.

[1] Rollo, pp. 11-29.

[2] Id. at 30-37. The April 25, 2023 Decision was penned by Associate Justice Rex Bernardo L. Pascual, with the concurrence of Associate Justices Myra V. Garcia-Fernandez and Tita Marilyn 8. Payoyo-Villordon of the Tenth Division, Court of Appeals, Manila.

[3] Id. at 39-42. Dated February 2, 2024.

[4] Id. at 54-55. The January 4, 2021 Decision was penned by Presiding Judge Alexander P. Tamayo of Branch 15, Regional Trial Court of Malolos City, Bulacan.

[5] Id. at 56-57. The March 15, 2021 Order was issued by Presiding Judge Alexander P. Tamayo.

[6] Id. at 71-75.

[7] Cancellation or Correction of Entries in the Civil Registry.

[8] Rollo, p. 31.

[9] Id. at 32.

[10] Id.

[11] Id. at 61.

[12] Id. at 55, RTC Decision.

[13] Id. at 14-15, Petition for Review on Certiorari.

[14] Id. at 54-55.

[15] Id. at 56-57.

[16] Id. at 33-36.

[17] Id. at 39-42.

[18] Id. at 11-29.

[19] Id. at 20-21.

[20] Id. at 97-113.

[21] Id. at 101-106.

[22] See *Heirs of Teresita Villanueva v. Heirs of Petronila Syquia Mendoza*, 810 Phil. 172, 177-178 (2017) [Per J. Peralta, Second Division].

[23] 903 Phil. 22 (2021) [Per J. Hernando, Third Division], citing *Bernas v. The Estate of Felipe Yu Han Yat*, 838 Phil. 710 (2018) [Per J. Caguioa, Second Division].

[24] *Viloria v. Heirs of Pablo Gaetos*, 903 Phil. 22, 31-32 (2021) [Per J. Hernando, Third Division].

[25] *Yap v. Yap*, 931 Phil. 332, 340 (2022) [Per J. Leonen, Second Division].

[26] *Ko v. Republic of the Philippines*, 940 Phil. 51, 56 (2023) [Per J. Leonen, Second Division].

[27] 505 Phil. 529 (2005) [Per J. Corona, Third Division].

[28] *Id.* at 539.

[29] 931 Phil. 332 (2022) [Per J. Leonen, Second Division].

[30] *Id.* at 341-344.

[31] Art. 170. The action to impugn the legitimacy of the child shall be brought within one year from the knowledge of the birth or its recording in the civil register, if the husband or, in a proper case, any of his heirs, should reside in the city or municipality where the birth took place or was recorded.

If the husband or, in his default, all of his heirs do not reside at the place of birth as defined in the first paragraph or where it was recorded, the period shall be two years if they should reside in the Philippines; and three years if abroad. If the birth of the child has been concealed from or was unknown to the husband or his heirs, the period shall be counted from the discovery or knowledge of the birth of the child or of the fact of registration of said birth, whichever is earlier. (263a)

[32] Art. 171. The heirs of the husband may impugn the filiation of the child within the period prescribed in the preceding article only in the following cases:

- (1) If the husband should die before the expiration of the period fixed for bringing his action;
- (2) If he should die after the filing of the complaint without having desisted therefrom; or
- (3) If the child was born after the death of the husband. (262a)

[33] See *Ordoña v. Local Civil Registrar of Pasig City*, 913 Phil. 625, 638 (2021) [Per J. Inting, En Banc].

[34] See *Ko v. Republic*, 940 Phil. 51 (2023) [Per J. Leonen, Second Division]; *Concepcion v. Court of Appeals*, 505 Phil. 529, 543 (2005) [Per J. Corona, Third Division].

[35] 505 Phil. 529 (2005) [Per J. Corona, Third Division].

[36] *Id.* at 543.

[37] 826 Phil. 88, 95 (2018) [Per J. Reyes, Jr., Second Division]. See also *Republic v. Valencia*, 225 Phil. 408 (1986) [Per J. Gutierrez, Jr., En Banc].

CONCURRING OPINION

SINGH, J.:

I concur in the ponencia's ruling that the corrections sought by Patricia are permissible and necessary to reflect her true legal status as a legitimate child born during her parents' marriage pursuant to the quasi-conclusive presumption of her legitimacy. I likewise concur that Patricia may petition the courts under Rule 108 to correct her civil status as to her legitimacy given that she clearly satisfied the jurisdictional requirements, and the required adversarial proceedings were conducted therein.

I write to further elaborate on the remedy provided under Rule 108, particularly its scope and limitations, and whether adversarial proceedings conducted pursuant thereto are sufficient to effect substantial changes which affect a person's legitimacy and filiation as reflected in the civil registry records.

Coverage and Extent of Rule 108

A petition under Rule 108 is a procedural device to cancel or correct entries in the civil register, including entries relating to birth and filiation, subject to due process requirements. The persons who may file a petition under Rule 108, and the entries covered by the rule, are provided for in Sections 1 and 2 of the Rule:

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 Court of First Instance of the province where the corresponding civil registry is located.

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) marriage; (c) deaths; (d) legal separations; (e) judgments of annulments 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.

Rule 108 was adopted to provide a procedural remedy to implement the provisions of Article 412 of the New Civil Code, which states:

Article 412. No entry in a civil register shall be changed or corrected, without a judicial order.

Accordingly, as early as 1966, in *Baybayan v. Republic*,^[1] the Court has held that substantial alterations, such as those affecting the status of a person in the civil registry, cannot be ordered by the court unless first threshed out in an "appropriate action wherein all parties who may be affected by the entries are notified or represented."^[2]

In earlier jurisprudence, the Court has maintained that Rule 108 was intended solely to implement Article 412, which is the substantive law governing the correction of entries in the civil register. Accordingly, the Court has consistently held that Rule 108 does not apply to changes involving anything beyond harmless or innocuous corrections.

This categorical ruling of the Court concerning the non-applicability of Rule 108 to substantial and controversial issues is clearly illustrated in the 1971 case of *Chua Wee v. Republic*,^[3] where the Court ruled:

The procedure in Rule 108 is not the appropriate adversary action for the determination of such substantial and controversial issues as citizenship, validity of marriage and legitimacy of filiation; and/or the petition does not state a cause of action under Sec. 1(g) of said Rule 16, for under Rule 108 the court cannot render a valid judgment on the petition as the corrections prayed for are substantial and controversial in nature.^[4] (Emphasis supplied)

The Court subsequently explained that the rationale behind this rule lies in the limits of its rule-making authority. If Rule 108 were construed to cover substantial changes, the Court would be exceeding its procedural mandate and, in effect, creating or exceeding substantive rights. Thus, in *Republic v. Amores*,^[5] the Court ruled:

We also explained in *Chua Wee v. Republic* that Rule 108 of the Revised Rules of Court was precisely adopted to provide for a procedural mechanism solely to implement the provisions of Article 412 of the new Civil Code, the substantive law on the matter of correcting entries in the civil register. It was never envisioned to encompass within its ambit, changes, other than those considered as harmless or innocuous or corrections of

errors, which are visible to the eyes or obvious to the understanding. Otherwise, if Rule 108 were extended to cover substantial as well as controversial changes, it would have thereby become unconstitutional, for it is beyond the scope of our rule-making power to increase or modify substantive rights. Such modification is not authorized by Article 412 of the new Civil Code.[6] (Emphasis supplied)

The Court further elaborated on the constitutional rule-making power limitation in the 1971 case of *Go v. Civil Registrar of the Municipality of Malabon*:^[7]

It is urged, however, in some of the cases under consideration, that Rule 108 of the Revised Rules of Court, governing the "cancellation or correction of entries in the Civil Registry," was promulgated precisely to permit corrections other than those authorized in said provision of the Civil Code. The pretense is manifestly untenable. Said Rule 108 did not and cannot expand, enlarge or broaden the class of corrections permitted by the Civil Code, for the simple reason that this would entail an amendment of a substantive law, which is beyond the authority of the Supreme Court. Indeed, its rule-making power is limited by the Constitution to matters of "pleading, practice and procedure" and "shall not diminish or increase or modify substantive rights."

Consequently, the Court has repeatedly held then that the proper remedy was an "adversary proceeding." Thus, in *David v. Republic*,^[8] where one of the corrections sought by the petitioner was to "delete the place and date of marriage placed therein because there exists no such marriage," relief under Rule 108 was denied, and the petitioner was directed to a remedy "in an adversary proceeding."

Similarly, in *Republic v. Barbers*,^[9] where the entry sought to be cancelled would involve a change in the status of a child from legitimate to illegitimate, the Court ruled that Rule 108 does not apply:

The appeal should be sustained. Long settled is the rule that the errors which can be corrected or cancelled under the summary procedure contemplated in article 412 of the Civil Code, as implemented in Rule 108, refer to clerical errors or harmless and innocuous changes but not to substantial and controversial matters.

Since the entry sought to be cancelled concerns the status of a child as legitimate or illegitimate and the civil status of the parents as married or unmarried, the alleged error refers to a substantial and vital matter. Its cancellation is not covered by Rule 108.^[10]

Vestiges of this ruling could still be found years later, when in 1996, the Court held that the summary procedure under Rule 108, as well as under Article 412, cannot be used to alter civil registry entries so as to change a person's status from married to single, or to reclassify their children from legitimate to illegitimate:

Clearly and unequivocally, the summary procedure under Rule 108, and for that matter under Art. 412 of the Civil Code, cannot be used by Mauricio to change his and Virginia's civil status from married to single and of their three children from legitimate to illegitimate. Neither does the trial court, under said Rule, have any jurisdiction to declare their marriage null and void as a result thereof, to order the local civil registrar to cancel the marriage entry in the civil registry. Further, the respondent trial judge gravely and seriously abused his discretion in unceremoniously expanding his very limited jurisdiction under such rule to hear evidence on such a controversial matter as nullity of a marriage under the Civil Code and/or Family Code, a process that is proper only in ordinary adversarial proceedings under the Rules.^[11]

Similarly, in *Republic v. Coseteng-Magpayo*,^[12] the Court denied recourse under Rule 108 because the petition sought substantial and controversial alterations affecting legitimacy, paternity, filiation, and marital status, but failed to comply with the rule's strict requirements.

Notwithstanding the Court's pronouncement that substantial changes require an "adversary proceeding," it has likewise held that even compliance with the requirements of notice and publication does not, by itself, bring non-innocuous corrections within the ambit of Rule 108. In *Republic v. Court of First Instance of Davao*

Oriental,[13] the Court ruled that adherence to the notice and publication requirements under Section 4 of Rule 108 does not remove the action from the scope and limitations of Article 412:

The statement of private respondent in his answer to this instant petition for review that his petition before the court a quo was filed NOT under Article 412 of the New Civil Code BUT in accordance with the new provisions of Rule 108 of the Revised Rules of Court is thus, patently erroneous. Such view has apparently been influenced by the cases of *Baybayan vs. Republic*, *Uy Sioco Nacague Tan, et al. vs. Republic*, and *Domingo Dy Oliva vs. Republic* implying the applicability of Rule 108 of the Revised Rules of Court to substantial and controversial entries in the civil register. But this view is oblivious of the numerous cases decided prior to the aforementioned three cases, as well as subsequently, reaffirming the continuing validity of the doctrines interpreting Article 412 of the New Civil Code even after the promulgation of the Revised Rules of Court. These are the cases of *Beduya vs. Republic*, *Lim vs. Local Civil Registrar of Manila*, *Lee vs. Hian Tiu and the Local Civil Registrar of Pasay City*, *Chua Tan Chuan vs. Republic*, *Chan Cin vs. Local Civil Registrar of Manila*, and *Tan Pong vs. Republic* where, notwithstanding the compliance with the requirement of notice and publication under Section 4, Rule 108 of the Revised Rules of Court, the proceedings therein were not dissociated from Article 412 of the New Civil Code. In the language of this Court in *Dy En Sui Co vs. Local Civil Registrar of Manila*:

The firmness and consistency shown by this Court in rejecting resort to proceedings of this character is thus unmistakable. Any attempt as was done in the well-written brief of appellants to exclude this action from the operation of such a well-settled principle on the ground that it could be distinguished, while not implausible, cannot be allowed to succeed. What cannot be denied is that their plea, as noted in the order, is for change of a citizenship through the correction in the data appearing in the office of the Local Civil Registrar. Essentially then the proceeding cannot be dissociated from that contemplated under Article 412 of the Civil Code. It is in that sense that deference to the aforesaid decisions, impressive for their number and unanimity precludes a reversal of the lower court order.[14] (Emphasis supplied)

Apart from its reasoning that Rule 108 is intended solely to implement Article 412 and therefore cannot encompass substantive changes, the Court has further justified this limitation by warning that permitting such changes in a summary proceeding would invite the possibility of fraud. Thus, in *Republic v. Caparosso*,[15] the Court held:

[I]f the entries in the civil register could be corrected or changed through a mere summary proceeding, and not through an appropriate action wherein all parties who may be affected by the entries are notified or represented, We would set wide open the door to fraud or other mischief, the consequence of which might be detrimental and far reaching.[16]

At this point, it becomes evident that the Court's apprehension in allowing substantive changes under Rule 108 proceedings, apart from supposed constitutional concerns, stems from the summary nature of such proceedings, where affected parties may not be duly notified and become thus vulnerable to prejudice through fraud.

Even so, the Court has, on occasion, departed from a strict application of Rule 108 when considerations of justice and equity so required. In 1982, in the case of *Re: Batbatan v. Office of the Local Civil Registrar of Pagadian*,[17] the change sought would have allowed the child to use the mother's surname in accordance with Article 363 of the New Civil Code. In that instance, the Court recognized an exception to the rigid application of Rule 108:

We have tended to be strict in the application of Rule 108 on cancellation or correction of entries in the civil registry to avoid this summary procedure from being unlawfully utilized as a shortcut method to bring about a change of citizenship, paternity, status, or other substantial attribute or qualification. However, where justice and equity dictate it and where no such change is contemplated, we have also readily sustained its use. Thus, in *Guevarra Lim v. Republic* (supra) where the citizenship of the petitioner was no longer in issue but was a fact already established by an administrative decision, we ordered the correction of the error in the civil registry.

The corrections sought in this petition do not go so far as to affect citizenship or status. The errors committed by the clerk have resulted in entries contrary to law. The changes sought, if granted, would bring about a compliance with Article 363 of the Civil Code which provides: "Illegitimate children referred to in Article 287 shall bear the surnames of the mother." Since the petitioner's children were born of a married man with a woman not his legitimate spouse and are thus "spurious or adulterous", they should bear the petitioner's or mother's surname pursuant to the above provision. The petitioner's prayer to strike out the surnames not sanctioned by the Civil Code should have been granted by the lower court.[18] (Emphasis supplied)

Further, even as the Court adhered to the rule on strict application of Rule 108, it seemed to carve out a narrow exception where the proceedings conducted are adversarial and not summary. In *Republic v. Macli-Ing*,^[19] the Court ruled:

In the case of *Ty Kong Tin vs. Republic*, 94 Phil. 321 (1954), as well as subsequent cases predicated thereon, we forbade only the entering of material corrections in the record of birth by virtue of a judgment in a summary action. The proceedings below, although filed under Rule 108 of the Rules of Court, were not summary. The Petition was published by order of the lower Court once a week for three consecutive weeks in a newspaper of general circulation in accordance with law. The Solicitor General was served with copy of the Petition as well as with notices of hearings. He filed his Opposition to the Petition. The Local Civil Registrar of the City of Baguio was likewise duly served with copy of the Petition. A Fiscal was always in attendance at the hearings in representation of the Solicitor General. He participated actively in the proceedings, particularly, in the cross-examination of witnesses. And, notwithstanding that all interested persons were cited to appear to show cause why the petition should not be granted, no one appeared to oppose except the State through the Solicitor General. But neither did the State present evidence in support of its Opposition.^[20] (Emphasis supplied)

The jurisprudential turning point came in the 1986 case of *Republic v. Valencia*,^[21] where the Court En Banc categorically allowed substantial changes in the civil registry for so long as adversarial proceedings are held:

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 proceeding. As a matter of fact, the opposition of the Solicitor General dated February 20, 1970 while questioning the use of Article 412 of the Civil Code in relation to Rule 108 of the Revised Rules of Court admits that "the entries sought to be corrected should be threshed out in an appropriate proceeding."^[22] (Emphasis supplied)

In *Valencia*, the Court held that a proceeding may be deemed an "appropriate" adversary proceeding so long as the trial court conducts a full hearing in which all relevant facts are thoroughly ventilated, the opposing party is given a fair opportunity to challenge the other side's case, and the evidence is carefully evaluated. It is thus necessary that the proper parties must be notified and impleaded therein:

Thus, the persons who must be made parties to a proceeding concerning the cancellation or correction of an entry in the civil register are — (1) the civil registrar, and (2) all persons who have or claim any interest which would be affected thereby. Upon the filing of the petition, it becomes the duty of the court to — (1) issue an order fixing the time and place for the hearing of the petition, and (2) cause the order for hearing to be published once a week for three (3) consecutive weeks in a newspaper of general circulation in the province. The following are likewise entitled to oppose the petition: — (1) the civil registrar, and (2) any person having or claiming any interest under the entry whose cancellation or correction is sought.

If all these procedural requirements have been followed, a petition for correction and/or cancellation of entries in the record of birth even if filed and conducted under Rule 108 of the Revised Rules of Court can no longer be described as "summary". There can be no doubt that when an opposition to the petition is filed either by the Civil Registrar or any person having or claiming any interest in the entries sought to be cancelled and/or corrected and the opposition is actively prosecuted, the proceedings thereon become adversary proceedings.

In the instant case, a petition for cancellation and/or correction of entries of birth of Bernardo Go and Jessica Go in the Civil Registry of the City of Cebu was filed by respondent Leonor Valencia on January 27, 1970, and pursuant to the order of the trial court dated February 4, 1970, the said petition was published once a week for three (3) consecutive weeks in the Cebu Advocate, a newspaper of general circulation in the City of Cebu. Notice thereof was duly served on the Solicitor General, the Local Civil Registrar and Go Eng. The order likewise set the case for hearing and directed the local civil registrar and the other respondents or any person claiming any interest under the entries whose corrections were sought, to file their opposition to the said petition. An opposition to the petition was consequently filed by the Republic on February 26, 1970. Thereafter a full blown trial followed with respondent Leonor Valencia testifying and presenting her documentary evidence in support of her petition. The Republic on the other hand cross-examined respondent Leonor Valencia.

We are of the opinion that the petition filed by the respondent in the lower court by way of a special proceeding for cancellation and/or correction of entries in the civil register with the requisite notice and publication and the recorded proceedings that actually took place thereafter could very well be regarded as that proper suit or appropriate action.[23]

The Court further observed in Valencia that, while what was frequently required was an "appropriate proceeding," it had not clearly defined what such a proceeding entails, an ambiguity that has, in some instances, led to manifest injustice.[24]

The Valencia ruling was further recognized and galvanized by the Court in its ruling in Chiao Ben Lim v. Zosa,[25] where the Court clearly held that substantive changes in a birth entry are permissible if adversary proceedings were held:

The Valencia ruling has in effect adopted the above-stated views insofar as it now allows changes in the birth entry regarding a person's citizenship as long as adversary proceedings are held. Where such a change is ordered, the Court will not be establishing a substantive right but only correcting or rectifying an erroneous entry in the civil registry as authorized by law. In short, Rule 108 of the Rules of Court provides only the procedure or mechanism for the proper enforcement of the substantive law embodied in Article 412 of the Civil Code and so does not violate the Constitution.[26]

Following Valencia, the Court addressed what it perceived as a "seesawing" of opinions on whether substantial corrections in entries in the civil register may be effected through Rule 108, particularly in light of its rulings in Leonor v. Court of Appeals[27] and Republic v. Labrador.[28] In Lee v. Court of Appeals,[29] the Court dispelled any lingering doubt as to the controlling effect of Valencia, reaffirming that substantial corrections can be made in a Rule 108 proceeding:

It must be conceded, however, that even after Republic vs. Valencia there continues to be a seesawing of opinion on the issue of whether or not substantial corrections in entries of the civil register may be effected by means of Rule 108 in relation to Article 412 of the New Civil Code. The more recent cases of Leonor vs. Court of Appeals and Republic vs. Labrador do seem to signal a reversion to the Ty Kong Tin ruling which delimited the scope of application of Article 412 to clerical or typographical errors in entries of the civil register.

[...]

We venture to say now that the above pronouncements proceed from a wrong premise, that is, the interpretation that Article 412 pertains only to clerical errors of a harmless or innocuous nature, effectively excluding from its domain, and the scope of its implementing rule, substantial changes that may affect nationality, status, filiation and the like. Why the limited scope of Article 412? Unfortunately, Ty Kong Tin does not satisfactorily answer this question except to opine that the procedure contemplated in Article 412 is summary in nature and cannot, therefore, cover cases involving controversial issues. Subsequent cases have merely echoed the Ty Kong Tin doctrine without, however, shedding light on the matter.

[. . .]

It is beyond doubt that the specific matters covered by the preceding provisions include not only status but also nationality. Therefore, the Ty Kong Tin pronouncement that Article 412 does not contemplate matters that may affect civil status, nationality or citizenship is erroneous. This interpretation has the effect of isolating Article 412 from the rest of the articles in Title XVI, Book I of the New Civil Code, in clear contravention of the rule of statutory construction that a statute must always be construed as a whole such that the particular meaning to be attached to any word or phrase is ascertained from the context and the nature of the subject treated.[30]

The Court further ruled in *Lee* that the passage of Republic Act No. 9048 further removed any doubt that substantial corrections can now be made under Rule 108:

[. . .] Republic Act No. 9048 which was passed by Congress on February 8, 2001 substantially amended Article 412 of the New Civil Code, to wit:

"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."

The above law speaks clearly. Clerical or typographical errors in entries of the civil register are now to be corrected and changed without need of a judicial order and by the city or municipal civil registrar or consul general. The obvious effect is to remove from the ambit of Rule 108 the correction or changing of such errors in entries of the civil register. Hence, what is left for the scope of operation of Rule 108 are substantial changes and corrections in entries of the civil register. This is precisely the opposite of what Ty Kong Tin and other cases of its genre had said, perhaps another indication that it was not sound doctrine after all.

It may be very well said that Republic Act No. 9048 is Congress' response to the confusion wrought by the failure to delineate as to what exactly is that so-called summary procedure for changes or corrections of a harmless or innocuous nature as distinguished from that appropriate adversary proceeding for changes or corrections of a substantial kind. For we must admit that though we have constantly referred to an appropriate adversary proceeding, we have failed to categorically state just what that procedure is. Republic Act No. 9048 now embodies that summary procedure while Rule 108 is that appropriate adversary proceeding. Be that as it may, the case at bar cannot be decided on the basis of Republic Act No. 9048 which has prospective application. Hence, the necessity for the preceding treatise.[31]

More recently, the Court categorically clarified the doctrine in the 2021 case of *Santiago v. Jornacion*:[32]

The propriety of a petition under Rule 108 of the Rules of Court to establish a child's filiation is not a novel concept. In *Lee v. Court of Appeals*, the Court clarified that "Rule 108, when all the procedural requirements thereunder are followed, is the appropriate adversary proceeding to effect substantial corrections and changes in the entries of the civil register." As regards the propriety of a petition under Rule 108 in cases involving the legitimacy or illegitimacy of a child, *Lee* overturned the Court's previous ruling in *Republic v. Labrador* (which erroneously held that "Rule 108 cannot be used to modify, alter or increase substantive rights, such as

those involving the legitimacy or illegitimacy of the child") and clarified that Article 412 of the Civil Code where "no entry in a civil register shall be changed or corrected, without a judicial order" refers to the court's power to change all entries in the civil register, including one's status and nationality. Hence, the entries that require a judicial order (allowable via a petition under Rule 108 of the Rules of Court) do not simply refer to clerical or typographical errors, as evidenced by a separate legislation (i.e., Republic Act No. 9048) allowing for the correction of such errors.[33]

The prevailing state of jurisprudence, therefore, now leans toward allowing parties to litigate substantial corrections to entries in the civil registry through a Rule 108 proceeding, provided that the requisite adversarial proceedings are properly conducted.

When proceedings are considered adversarial

The Valencia line of jurisprudence, however, raises the question of when a proceeding may be deemed truly adversarial. Building on its pronouncement in Valencia, the Court has since clarified, refined, and more precisely delineated what constitutes an adversary proceeding sufficient to adjudicate substantive corrections in a Rule 108 petition.

In Republic v. Flojo,[34] promulgated a year after Valencia, the Court further elaborated on what constitutes an "appropriate adversary proceeding:"

In the instant case, there is no doubt or question that the proceeding conducted in the lower court was an adversary proceeding and "appropriate" in that "all relevant facts have been fully and properly developed, where the opposing counsel have been given opportunity to demolish the opposite party's case, and where the evidence has been thoroughly weighed and considered." [35]

The adversarial nature of a proceeding is thus characterized by a trial-type proceeding to give the respondent a chance to present his or her contravening evidence. In Republic v. Carriaga, Jr.,[36] the Court ruled:

In the case at bar, not only have the procedural requirements been complied with but a trial was duly conducted wherein the private respondent was given the chance to present his evidence while the fiscal was likewise given every opportunity to present his opposition.[37] (Emphasis supplied)

An adversarial proceeding also requires the party seeking relief to give legal warning to interested parties and afford the latter the opportunity to contest it.[38] This entails strict compliance with the notice and publication requirements under Rule 108, which provide:

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.

Section 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.

Section 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.

Thus, the Court in Lee ruled that the proceeding under Rule 108 "ceases to be summary in nature" and takes on

the characteristics of an appropriate adversary proceeding when all the procedural requisites under the rule are complied with.

With respect to the notice requirement, the Court has held that Rule 108 contemplates two distinct sets of notices addressed to two classes of potential oppositors: first, those specifically named in the petition; and second, those not so named but who may nonetheless be considered affected or interested parties.

Consequently, the Court has held that the civil registrar, as well as all persons who have or claim any interest that may be affected, must be impleaded as respondents, being indispensable parties to a Rule 108 proceeding. Failing in this, any resulting order of the court is susceptible to an attack for non-compliance with the procedural requirements prescribed under Rule 108.[39] In *Republic v. Timario*,[40] a case of fairly recent vintage, the Court explained:

[. . .] All persons who stand to be affected by a substantial correction of an entry in the civil registrar must be impleaded as indispensable parties. Failure to do so renders all proceedings subsequent to the filing of the complaint including the judgment ineffectual. This requirement hinges on the fact that the books making up the civil register and all documents relating thereto may only be the facts therein contained. Indeed, if entries in the civil register could be corrected or changed through mere summary proceedings, the door to fraud or other mischief would be set open, the consequence of which might be detrimental and far reaching.[41] (Emphasis supplied.)

Nevertheless, in certain cases, the Court has excused a party's failure to implead indispensable parties, recognizing that, under special circumstances, compliance with the requirement of publication may have a curative effect:

In cases where publication may be deemed to cure one's failure to implead indispensable parties in a petition for correction of substantial entries in the birth certificate, special circumstances must be present to justify the non-inclusion of indispensable parties, such as when earnest efforts were made by petitioners in bringing to court all possible interested parties; the interested parties themselves initiated the corrections proceedings; there was no actual or presumptive awareness of the existence of the interested parties; or when the party was inadvertently left out.[42]

Legitimacy and filiation cannot be collaterally attacked in a Rule 108 Petition; exception

Notwithstanding compliance with the adversarial character referred to in the foregoing jurisprudence, under a Rule 108 proceeding, the Court has, in certain cases involving questions of legitimacy and filiation, nonetheless disallowed recourse to the rule, particularly where specific direct actions are available to resolve such issues.

Thus, in the cases of *Miller v. Miller*[43] and *Braza v. City Civil Registrar of Himamaylan*,[44] the Court held that legitimacy and filiation of children cannot be successfully impugned by the mere expediency of filing a petition for correction of entries in the Civil Register under Rule 108 of the Rules of Court. In *Braza*, the Court ruled:

[. . .] In a special proceeding for correction of entry under Rule 108 (Cancellation or Correction of Entries in the Original Registry), the trial court has no jurisdiction to nullify marriages and rule on legitimacy and filiation.

Rule 108 of the Rules of Court vis a vis Article 412 of the Civil Code charts the procedure by which an entry in the civil registry may be cancelled or corrected. The proceeding contemplated therein 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, or a harmless change such as a correction of name that is clearly misspelled or of a misstatement of the occupation of the parent. Substantial or contentious alterations may be allowed only in adversarial proceedings, in which all interested parties are impleaded and due process is properly observed.

[. . .]

It is well to emphasize that, doctrinally, validity of marriages as well as legitimacy and filiation can be questioned only in a direct action seasonably filed by the proper party, and not through collateral attack such as the petition filed before the court a quo.[45]

While it is true that certain direct proceedings are procedurally preferred over a proceeding under Rule 108, I respectfully submit that a sweeping declaration of inapplicability to issues of legitimacy and filiation should be avoided, as it contradicts the categorical rulings aforequoted. In existing and controlling jurisprudence, certain questions of legitimacy and filiation may, in appropriate cases, be addressed in a Rule 108 proceeding, provided that the requisite adversarial proceedings are duly conducted.

As regards legitimacy, it is essential to first determine whether the issue pertains to the father (or paternity) or to the mother (or maternity), or being the actual child of both the purported parents. As regards legitimacy and filiation as to paternity, it is clear that both statuses cannot be collaterally attacked in a Rule 108 petition, and an affected party must resort to a direct attack to assail the same under Article 170 of the Family Code.

Legitimacy refers to the civil status established when a person is conceived and/or born during the subsistence of a valid marriage. Stated otherwise, it is the status of children acquired when they are born within or outside wedlock of their parents. In this regard, Article 164 of the Family Code provides:

Art. 164. Children conceived or born during the marriage of the parents are legitimate.

Children conceived as a result of artificial insemination of the wife with the sperm of the husband or that of a donor or both are likewise legitimate children of the husband and his wife, provided, that both of them authorized or ratified such insemination in a written instrument executed and signed by them before the birth of the child. The instrument shall be recorded in the civil registry together with the birth certificate of the child.

This presumption is quasi-conclusive, and can be refuted based on the grounds provided under Article 166 of the Family Code:

Art. 166. Legitimacy of a child may be impugned only on the following grounds:

(1) That it was physically impossible for the husband to have sexual intercourse with his wife within the first 120 days of the 300 days which immediately preceded the birth of the child because of:

- (a) the physical incapacity of the husband to have sexual intercourse with his wife;
- (b) the fact that the husband and wife were living separately in such a way that sexual intercourse was not possible; or
- (c) serious illness of the husband, which absolutely prevented sexual intercourse;

(2) That it is proved that for biological or other scientific reasons, the child could not have been that of the husband, except in the instance provided in the second paragraph of Article 164; or

(3) That in case of children conceived through artificial insemination, the written authorization or ratification of either parent was obtained through mistake, fraud, violence, intimidation, or undue influence.

Under the Family Code, the rule is that only the father, or in certain instances, his heirs, can contest the legitimacy

of the child in an appropriate action. Thus, Articles 170 and 171 of the Family Code provide:

Art. 170. The action to impugn the legitimacy of the child shall be brought within one year from the knowledge of the birth or its recording in the civil register, if the husband or, in a proper case, any of his heirs, should reside in the city or municipality where the birth took place or was recorded.

If the husband or, in his default, all of his heirs do not reside at the place of birth as defined in the first paragraph or where it was recorded, the period shall be two years if they should reside in the Philippines; and three years if abroad. If the birth of the child has been concealed from or was unknown to the husband or his heirs, the period shall be counted from the discovery or knowledge of the birth of the child or of the fact of registration of said birth, whichever is earlier. (263a)

Art. 171. The heirs of the husband may impugn the filiation of the child within the period prescribed in the preceding article only in the following cases:

- (1) If the husband should died before the expiration of the period fixed for bringing his action;
- (2) If he should die after the filing of the complaint without having desisted therefrom; or
- (3) If the child was born after the death of the husband.

Meanwhile, a mother cannot legally impugn the legitimacy of a child. In fact, when a mother alleges that another man is the father of her child, she is effectively declaring against the child's legitimacy, which is a forbidden attack under the law.

This notwithstanding, when it is the children themselves who question their own legitimacy, I am of the opinion that they may do so under a Rule 108 adversarial proceeding, even collaterally.

In *Onde v. Office of the Local Civil Registrar of Las Piñas City*,^[46] the petitioner Francler P. Onde (Francler) alleged that he is the illegitimate child of his parents Guillermo and Matilde, but his birth certificate states that his parents were married. While the Court ultimately dismissed Francler's petition, it did so without prejudice, ruling that the correction which would change the erroneous entry that his parents were married is allowed under the Rule 108:

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*, 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.

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*:

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

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.[47]

In my Dissenting Opinion in Republic v. Boquiren,[48] I departed from the majority's view that the RTC lacks jurisdiction to effect change to the recorded status of legitimacy and filiation of children. I maintained that the RTC may validly resolve questions of legitimacy and filiation within a Rule 108 proceeding, so long as the action is conducted in an adversarial manner.

Boquiren arose from a Rule 108 petition filed by children seeking the correction of their birth records to cancel the annotation that they had been legitimated by their parents' subsequent marriage. It was later established that the father had a prior subsisting marriage, rendering the subsequent marriage void and the supposed legitimation legally ineffective. The RTC granted the petition and ordered the correction of the civil registry entries to reflect the children's correct illegitimate status.

The Court reversed the RTC, holding that Rule 108 proceedings are limited to the correction of entries in the civil registry and cannot be used to determine substantive issues such as legitimacy and filiation, which must instead be threshed out in a proper direct action.

In my Dissenting Opinion, I pointed out that the RTC was simply performing its function of ascertaining the truth of the facts recorded in the civil registry. Prohibiting the RTC from doing so unduly restricts the purpose of the rule, especially where the correction is based on equally conclusive public records, the PSA certification:

In this case, the children, now both adults, only sought to record the Affidavit of Acknowledgment executed by their biological father in lieu of the Affidavit of Legitimation, after the PSA itself advised them that they needed to do this because their father is still married to another woman.

The petitioners are not impugning their filiation. Neither are they asserting anything new. They only want to rectify the prior legitimation which is invalid considering their father is married to another woman, an effort that should be lauded, rather than discouraged and deterred. They only want to register their father's acknowledgment that they are indeed his children, and that their father fully consented to it as he wants the children to continue using his surname. After all, the whole purpose of allowing corrections under Rule 108 is to ensure the correctness and accuracy of the records kept in the Civil Register.[49]

Consequently, for clarity and in accordance with the jurisprudence surveyed in this Opinion, I submit that legitimacy and filiation may be determined in a Rule 108 proceeding when the petition is initiated by the children themselves, not to create or recognize a new status, but to correct their civil registry entries so that these may faithfully reflect an already established legal or factual circumstance or matter.

In such a case, the correction sought does not call for an adjudication through a separate and independent action, such as the declaration of the nullity of a marriage, but merely for the recognition of facts that are matters of public record. The trial court, therefore, does not exceed its jurisdiction when it acknowledges these facts in the course of ordering the correction of the civil registry. This exception, however, is proper only when the Rule 108 proceeding is conducted as a full-blown adversarial action, with notice and opportunity to be heard accorded to all

interested and affected parties.

In a similar vein, such a correction may likewise be made when the petitioner seeks to have a duly established presumption of legitimacy, supported by sufficient evidence, reflected in the civil registry, such as in the present case.

In this regard, I concur with the ponencia's ruling that entries in a birth certificate, while accorded a measure of presumption of truth as public records, cannot prevail over a legal presumption in favor of a child's legitimacy. The ponencia correctly holds that, as between a birth certificate, which constitutes only *prima facie* evidence of the facts stated therein, and the quasi-conclusive presumption of legitimacy, the latter must prevail in light of considerations of public policy and the best interests of the child.

I respectfully emphasize that the petitioner in this case also presented her parents' Marriage Certificate, which is equally probative in establishing legitimacy. In *Genio v. People*,^[50] the Court held that a Marriage Certificate is a public record and, as such, constitutes *prima facie* evidence of the facts stated therein. By virtue of this Marriage Certificate, the presumption of legitimacy attaches, thereby shifting the burden to the Office of the Solicitor General to rebut the petitioner's legitimacy.

Meanwhile, as regards filiation, it is likewise clear that it is only the husband or his heirs, in certain circumstances, who can impugn the paternal filiation of a child. Since a mother cannot attack the legitimacy of her child, she cannot similarly impugn the paternal filiation of such child.

Braza, Miller, and Ordoña consistently affirm the rule that questions of filiation, particularly with respect to the paternal line, must be ventilated through a direct action pursuant to Article 173 of the Family Code, and cannot be collaterally attacked in a Rule 108 proceeding.

Nevertheless, a distinction must be drawn when filiation as to maternity is involved, or when the issue pertains to whether the child is indeed the offspring of the purported parents at all. In such instances, jurisprudence recognizes that filiation may, in proper cases, be inquired into and resolved in a Rule 108 petition, especially when the purpose is to correct the record so that it reflects the truth.

In *Lee v. Court of Appeals*,^[51] the controversy stemmed from an intra-family dispute over the legitimacy and true parentage of two sets of children fathered by Lee Tek Sheng. One group, the private respondents, were his legitimate children with his lawful wife, Keh Shiok Cheng, while the other group, the petitioners, were allegedly his children with another woman, Tiu Chuan. The dispute arose when the legitimate children discovered that their father had caused the birth records of the petitioners to be falsified, making it appear that they were likewise born to Keh Shiok Cheng, the lawful wife, when in truth they were allegedly born to Tiu Chuan.

After Keh Shiok Cheng's death, the private respondents filed petitions under Rule 108 to cancel or correct the entries in the civil registry relating to the petitioners, specifically to remove Keh Shiok Cheng as the mother and replace her with Tiu Chuan.

In ruling in favor of the respondents, the Court held that the petition filed under Rule 108 was proper, since it did not seek a declaration that the petitioners are illegitimate children of Keh Shiok Cheng, but merely that they are not the children of Keh Shiok Cheng:

II. The petitioners contend that the private respondents have no cause of action to bring the cases below as Article 171 of the Family Code allows the heirs of the father to bring an action to impugn the legitimacy of his children only after his death.

[. . .]

Petitioner's contention is without merit.

In the recent case of *Babiera vs. Catotal*, we upheld the decision of the Court of Appeals that affirmed the judgment of the RTC of Lanao del Norte declaring the birth certificate of one Teofista Guinto as null and void ab initio, and ordering the Local Civil Registrar of Iligan City to cancel the same from the Registry of Live Births. We ruled therein that private respondent Presentacion Catotal, child of spouses Eugenio Babiera and Hermogena Carifiosa, had the requisite standing to initiate an action to cancel the entry of birth of Teofista Babiera, another alleged child of the same spouses because she is the one who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit.

We likewise held therein that:

"x x x Article 171 of the Family Code is not applicable to the present case. A close reading of the provision shows that it applies to instances in which the father impugns the legitimacy of his wife's child. The provision, however, presupposes that the child was the undisputed offspring of the mother. The present case alleges and shows that Hermogena did not give birth to petitioner. In other words, the prayer therein is not to declare that petitioner is an illegitimate child of Hermogena, but to establish that the former is not the latter's child at all x x x."

Similarly, we ruled in *Benitez-Badua vs. Court of Appeals* that: "Petitioner's insistence on the applicability of Articles 164, 166, 170 and 171 of the Family Code to the case at bench cannot be sustained. x x x."

xxx xxx xxx

"A careful reading of the above articles will show that they do not contemplate a situation, like in the instant case, where a child is alleged not be the child of nature or biological child of a certain couple. Rather, these articles govern a situation where a husband (or his heirs) denies as his own a child of his wife. Thus, under Article 166, it is the husband who can impugn the legitimacy of said child by proving: (1) it was physically impossible for him to have sexual intercourse, with his wife within the first 120 days of the 300 days which immediately preceded the birth of the child; (2) that for biological or other scientific reasons, the child could not have been his child; (3) that in case of children conceived through artificial insemination, the written authorization or ratification by either parent was obtained through mistake, fraud, violence, intimidation or undue influence. Articles 170 and 171 reinforce this reading as they speak of the prescriptive period within which the husband or any of his heirs should file the action impugning the legitimacy of said child. Doubtless then, the appellate court did not err when it refused to apply these articles to the case at bench. For the case at bench is not one where the heirs of the late Vicente are contending that petitioner is not his child by Isabel. Rather, their clear submission is that petitioner was not born to Vicente and Isabel. Our ruling in *Cabatbat-Lim vs. Intermediate Appellate Court*, 166 SCRA 451, 457 cited in the impugned decision is apropos, viz:

'Petitioners' recourse to Article 263 of the New Civil Code [now Art. 170 of the Family Code] is not well taken. This legal provision refers to an action to impugn legitimacy. It is inapplicable to this case because this is not an action to impugn the legitimacy of a child, but an action of the private respondents to claim their inheritance as legal heirs of their childless deceased aunt. They do not claim that petitioner Violeta Cabatbat Lim is an illegitimate child of the deceased, but that she is not the decedent's child at all. Being neither legally adopted child, nor an acknowledged natural child, nor a child by legal fiction of Esperanza Cabatbat, Violeta is not a legal heir of the deceased.'"[52] (Emphasis supplied)

Similarly, in *Babiera v. Catotal*,^[53] the Court allowed the cancellation of a void birth certificate under Rule 108 upon proof that the same was fictitious, and that there is no blood relation to impugn in the first place. Thus:

Petitioner contends that respondent has no standing to sue, because Article 171 of the Family Code states that the child's filiation can be impugned only by the father or, in special circumstances, his heirs. She adds that the legitimacy of a child is not subject to a collateral attack.

This argument is incorrect. Respondent has the requisite standing to initiate the present action. Section 2, Rule 3 of the Rules of Court, provides that a real party in interest is one "who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit." The interest of respondent in the civil status of petitioner stems from an action for partition which the latter filed against the former.[10] The case concerned the properties inherited by respondent from her parents.

Moreover, Article 171 of the Family Code is not applicable to the present case. A close reading of this provision shows that it applies to instances in which the father impugns the legitimacy of his wife's child. The provision, however, presupposes that the child was the undisputed offspring of the mother. The present case alleges and shows that Hermogena did not give birth to petitioner. In other words, the prayer herein is not to declare that petitioner is an illegitimate child of Hermogena, but to establish that the former is not the latter's child at all. Verily, the present action does not impugn petitioner's filiation to Spouses Eugenio and Hermogena Babiera, because there is no blood relation to impugn in the first place.[54]

In conclusion, filiation may be questioned under Rule 108 when the issue involves the determination of whether a person is truly the biological child of the purported parents, particularly as to maternity or the existence of an actual parent-child relationship.

A Rule 108 petition is, therefore, a proper remedy to correct the civil registry when the recorded mother is not the true mother, or when the individual is not in fact the child of the persons (both mother and father) named in the birth certificate. In such cases, the proceeding seeks to establish the person's true identity and lineage based on the facts.

Summary of the Principles

Synthesizing the foregoing discussion, and to assist the Court in resolving issues involving substantial corrections in the civil registry, particularly those relating to legitimacy and filiation, I offer this summary of the doctrinal pronouncements culled from the survey of cases above:

A.

Legitimacy and filiation (as to paternity) can be questioned only in a direct action under the Family Code. Both legitimacy and paternal filiation cannot be collaterally attacked in a petition for correction of entries under Rule 108 of the Rules of Court.[55]

1.

As to legitimacy—

a.

Legitimacy refers to the civil status established if a person is born during the subsistence of marriage.[56] In other words, it is the status of children whether born within or outside of wedlock of the parents.

b.

Presumption of legitimacy is not conclusive. It may be disputed based on the grounds and manner provided under Articles 166, 170 and 171 of the Family Code.[57]

c.

Pursuant to Articles 170 and 171 of the Family Code, it is only the husband or his heirs who may impugn the legitimacy of the child. Not even the mother can assail the legitimacy of the child.[58]

d.

However, when it is the children themselves who question their own legitimacy, they may impugn such presumption through a collateral attack in a Rule 108 petition,[59] or even through partition proceedings,[60] under any of the grounds under Article 166.

2.

As to filiation—

a.

Filiation refers to the relationship, the state of being someone's offspring.[61]

b.

However, filiation cannot be collaterally attacked but only as to the child's paternal line.

i.

Title VI of the Family Code refers to the close and coordinated concepts of paternity, i.e., "origin or descent from a father,"[62] and filiation.

ii.

Related to legitimacy, Articles 170 and 171 of the Family Code provide that it is only the husband or his heirs who can impugn the paternal filiation of the child. Since the mother cannot assail the legitimacy of the child, she also cannot impugn the child's paternal filiation.[63]

iii.

Recent case law, such as *Braza*, *Miller*, and *Ordoña*, have ruled that questions on filiation must be brought through a direct attack and not collaterally under Rule 108. However, these precedents are clear illustrations that the assailed filiation pertained only to the paternal line.

B.

Filiation (as to maternity or to being the actual child of both the purported parents) may be questioned in a Rule 108 petition. A Rule 108 petition is an applicable remedy if the correction or cancellation of entry pertains to:

1.

Filiation as to the maternal line, i.e., that the respondent is not a child of the purported mother;[64] or

2.

The fact that the respondent is not a child at all of both the purported parents, i.e., that the birth certificate is fictitious and there is a claim that no blood relationship exists at all.[65]

C.

A valid Rule 108 petition for the correction of entries that impugns legitimacy by the children themselves or filiation (as to maternity or to being the actual child of both the purported parents) under the above circumstances:

1.

Is a form of substantial alteration that may be corrected and the facts thereon established;[66] and

2.

Must be conducted through an adversarial, not a summary, proceeding where:

a.

There are basically two opposing parties, such that "the party seeking relief has given legal warning to the other party, and afforded the latter an opportunity to contest it." [67]

b.

All interested parties, especially: (a) the civil registrar; and (b) the parties who would naturally and legally be affected by the grant of the petition, should be impleaded, in accordance with Rule 108, Sections 3 and 4 of the Rules of Court. [68] The purpose of this is not for the court to acquire jurisdiction, but to satisfy the tenets of fair play and due process. [69]

However, failure to implead and notify the interested parties may be cured by publication of the notice of hearing in special circumstances, as when:

i.

Earnest efforts were made by the petitioners in bringing to court all possible interested parties;

ii.

The interested parties themselves initiated the corrections proceedings;

iii.

There was no actual or presumptive awareness of the existence of the interested parties; or

iv.

The party was inadvertently left out. [70]

c.

Upon the filing of the Rule 108 petition, it becomes the duty of the court to:

i.

Issue an order fixing the time and place for the hearing of the petition; and

ii.

Cause the order for hearing to be published once a week for three consecutive weeks in a newspaper of general circulation in the province. [71]

d.

The interested parties mentioned in paragraph (b) shall be entitled to oppose the petition, which includes the opportunity to present evidence. [72]

Conclusion

The entries in Patricia's birth certificate indicating the absence of marriage and the use of her mother's maiden surname were made by Marites herself, who is legally proscribed from making declarations against the legitimacy of her child. Such entries cannot defeat the presumption that Patricia is the legitimate child of Antonio and Marites.

In this case, Patricia's filing of a Rule 108 is proper. Records evince that Patricia fully complied with the

jurisdictional requirements under Rule 108. After due publication and notice to interested parties, particularly Patricia's mother and father, no opposition was raised.

Moreover, Patricia presented sufficient documentary evidence including her Birth Certificate with Civil Registry No. 96-498, her parents' Marriage Certificate, a PSA Advisory on Marriages where it appears that her parents had no other marriages, her school records, barangay certification, community tax certificate, and a Professional Regulation Commission Identification Card, all consistently reflecting her use of the surname Garrote, aligning with her legitimate status as Antonio and Marites's daughter. These pieces of evidence collectively demonstrate her identity and the factual accuracy of the corrections sought.

In light of the foregoing, the Court ruled that Patricia, having been born during the subsistence of the valid marriage of Antonio and Marites Garrote, is quasi-conclusively presumed to be their legitimate and marital child. As a legitimate child, Patricia is entitled to use the surname of her father by operation of Article 174 of the Family Code, which grants legitimate children the right to bear their father's surname as a matter of course. Consequently, she is entitled to have her birth certificate corrected to reflect her real surname and the fact of her parents' marriage.

I therefore CONCUR in the ponencia.

[1] 123 Phil. 230 (1966) [Per J. J.B.L. Reyes, En Banc].

[2] Id.

[3] 148 Phil. 422 (1971) [Per J. Makasiar, En Banc].

[4] Id.

[5] 151 Phil. 457 (1973) [Per J. Antonio, En Banc].

[6] Id.

[7] 148-A Phil. 275 (1971) [Per Curiam, En Banc].

[8] 122 Phil. 848 (1965) [Per J. Bautista Angelo, En Banc].

[9] 182 Phil. 370 (1979) [Per J. Aquino, Second Division].

[10] Id. at 372.

[11] *Leonor v. Court of Appeals*, 326 Phil. 74, 88 (1996) [Per J. Panganiban, Third Division].

[12] 656 Phil. 550 (2011) [Per J. Carpio Morales, Third Division].

[13] 181 Phil. 170 (1979) [Per J. Guerrero, First Division].

[14] Id. at 177-178.

[15] 194 Phil. 60 (1981) [Per J. Guerrero, First Division].

[16] Id. at 64-65.

[17] 204 Phil. 379 (1982) [Per J. Gutierrez, Jr., First Division].

[18] Id. at 383.

[19] 220 Phil. 54 (1985) [Per J. Melencio-Herrera, First Division].

- [20] Id. at 58.
- [21] 225 Phil. 408 (1986) [Per J. Gutierrez, Jr., En Banc].
- [22] Id. at 413.
- [23] Id. at 418-419.
- [24] Id. at 422.
- [25] 230 Phil. 444 (1986) [Per J. Cruz, En Banc].
- [26] Id. at 450
- [27] 326 Phil. 74, 88 (1996) [Per J. Panganiban, Third Division].
- [28] 364 Phil. 934 (1999) [Per J. Panganiban, Third Division].
- [29] 419 Phil. 392 (2001) [Per J. De Leon, Jr., Second Division].
- [30] Id. at 410-415.
- [31] Id. at 415-416.
- [32] 912 Phil. 595 (2021) [Per J. Carandang, Third Division].
- [33] Id. at 602.
- [34] 236 Phil. 589 (1987) [Per J. Padilla, Second Division].
- [35] Id. at 594.
- [36] 242 Phil. 513 (1988) [Per J. Gutierrez, Jr., Third Division].
- [37] Id. at 517.
- [38] Republic v. Capote, 543 Phil. 72, 81 (2007) [Per J. Corona, First Division].
- [39] Almojuela v. Republic, 793 Phil. 780 (2016) [Per J. Perlas-Bernabe, First Division].
- [40] 875 Phil. 739 (2020) [Per J. Lazaro-Javier, First Division].
- [41] Id. at 746.
- [42] Id. at 747.
- [43] 860 Phil. 463 (2019) [Per J. Leonen, Third Division].
- [44] 622 Phil. 654 (2009) [Per J. Carpio Morales, First Division].
- [45] Id. at 658-659.
- [46] 742 Phil. 691 (2014) [Per J. Villarama, Jr., Third Division].
- [47] Id. at 696-697.
- [48] 935 Phil. 926 (2023) [Per J. Inting, Third Division].
- [49] J. Singh, Dissenting Opinion in Republic v. Boquiren, 935 Phil. 926, 956 (2023) [Per J. Inting, Third Division].

- [50] 950 Phil. 311 (2024) [Per J. Inting, Third Division].
- [51] 419 Phil. 392 (2001) [Per J. De Leon, Jr., Second Division].
- [52] Id. at 416-418.
- [53] 389 Phil. 34 (2000) [Per J. Panganiban, Third Division].
- [54] Id. at 40-41.
- [55] *Braza v. City Civil Registrar of Himamaylan City, Negros Occidental*, G.R. No. 181174, December 4, 2009 [Per J. Carpio Morales, First Division].
- [56] *Ko v. Republic*, G.R. No. 210984, April 12, 2023 [Per J. Leonen, Second Division].
- [57] *Ordoña v. Local Civil Registrar of Pasig City*, G.R. No. 215370, November 9, 2021 [Per J. Inting, En Banc].
- [58] FAMILY CODE, art. 167; see *Ordoña v. Local Civil Registrar of Pasig City*, G.R. No. 215370, November 9, 2021 [Per J. Inting, En Banc].
- [59] See *Onde v. Office of the Local Civil Registrar of Las Piñas*, G.R. No. 197174, September 10, 2014 [Per J. Villarama, Jr., Third Division]; see also J. Singh, dissenting opinion in *Republic v. Boquiren*, G.R. No. 250199, February 13, 2023.
- [60] *Yap v. Yap*, G.R. No. 222259, October 17, 2022 [Per J. Leonen, Second Division].
- [61] *Ko v. Republic*, G.R. No. 210984, April 12, 2023 [Per J. Leonen, Second Division].
- [62] Merriam-Webster Dictionary, accessed at <https://www.merriam-webster.com/dictionary/paternity>.
- [63] *Ordoña v. Local Civil Registrar of Pasig City*, G.R. No. 215370, November 9, 2021 [Per J. Inting, En Banc].
- [64] *Lee v. Court of Appeals*, G.R. No. 118387, October 11, 2001 [Per J. De Leon, Jr., Second Division].
- [65] *Babiera v. Catotal*, G.R. No. 138493, June 15, 2000 [Per J. Panganiban, Third Division].
- [66] *Republic v. Ontuca*, G.R. No. 232053, July 15, 2020 [Per J. Lopez, First Division].
- [67] *Republic v. Manda*, G.R. No. 200102, September 18, 2019 [Per J. J. Reyes, Jr., Second Division].
- [68] *Republic v. Coseteng-Magpayo*, G.R. No. 189476, February 2, 2011 [Per J. Carpio Morales, Third Division].
- [69] *Ceruila v. Delantar*, G.R. No. 140305, December 9, 2005 [Per J. Austria-Martinez, Second Division].
- [70] *Republic v. Timario*, G.R. No. 234251, June 30, 2020 [Per J. Lazaro-Javier, First Division].
- [71] *Republic v. Valencia*, G.R. No. L-32181, March 5, 1986 [Per J. Gutierrez, Jr., En Banc].
- [72] *Republic v. Mercadera*, G.R. No. 186027, December 8, 2010 [Per J. Mendoza, Second Division].

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