

EMPERATRIZ LABAYO-ROWE, PETITIONERS, VS. REPUBLIC OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 53417. December 08, 1988

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

At issue in this petition is the nature of the proceedings required in order to effect correction of entries in the civil registry involving the correct spelling of the surname as well as the civil status of the mother at the time of the birth of her child.

On November 18, 1970, Emperatriz Labayo-Rowe, petitioner below, filed through counsel[1] a petition for the correction of entries in the civil registry with the then Court of First Instance of Pampanga.[2] She asked the court to order the Local Civil Registrar of San Fernando, Pampanga to correct the entries in the birth certificates of her children Vicente L. Miclat, Jr. and Victoria Miclat especially with regard to petitioner's name which appears in both certificates as "Beatriz Labayo/Labayu" and as regards her civil status and date of marriage which appears in the birth certificate of Victoria Miclat as "married" with the year appearing "1953 Bulan." [3]

In the order dated December 3, 1970, Judge Malcolm Sarmiento, finding the petition to be sufficient in form and substance, granted the petition and set the case for hearing on January 20, 1971.[4] As directed by the court, the said order was published in Voice, a local newspaper of general circulation in Pampanga for three (3) consecutive weeks, particularly in its issues of December 6, 13, and 20, 1970.[5] The Republic was represented by Assistant Provincial Fiscal Jose R. Paras who appeared for the Solicitor General.

At the hearing, petitioner testified that her nickname is Beatriz and Emperatriz J. Labayo is her real name; that the entry in Victoria Miclat's birth certificate stating her civil status as "married" is not correct because she was never married to Vicente Miclat, the father of her child; that the date and place of marriage appearing in the said birth certificate as 1953-Bulan is not true as they were never married; that the questioned entries were reported by Vicente Miclat; and that she is at present married to an American by the name of William Rowe.

Finding merit in the petition, the presiding judge issued an order dated January 25, 1971 directing the local civil registrar of San Fernando, Pampanga to correct the entries under Register No. 2083, Series of 1961, and to change the name of the mother appearing as Beatriz Labayo to Emperatriz Labayo. The court also directed the civil registrar to correct the name of the mother appearing as Beatriz V. Labayu/Beatriz Labayo to Emperatriz Labayo, her civil status from "married" to "single" and the date and place of marriage from "1953-Bulan" to "No marriage."

On February 19, 1971, the Assistant Provincial Fiscal of Pampanga filed a notice of appeal together with the record on appeal, praying that the same be approved and forwarded to the Court of Appeals. There being no objection interposed and since the record on appeal was filed within the reglementary period, the same was approved and directed to be forwarded to the Court of Appeals in an Order dated March 22, 1971.[6]

In its appeal, the Republic questions the propriety of the lower court's order to correct the civil status and the date and place of marriage of the petitioner below as appearing in the birth certificate of Victoria Miclat. Anchoring its argument in the ruling of this Court in *Chua Wee vs. Republic*,^[7] and *Go vs. Civil Registrar of the Municipality of Malabon*,^[8] the Republic prays for the reversal of the order of the lower court dated January 25, 1971. It likewise prayed that the appeal be elevated to this Court as it involves a pure question of law.^[9]

The Court of Appeals was of the view that the question on appeal pertains only to the propriety of the lower court's order dated January 25, 1971 directing the changes in the entries of the birth certificate of Victoria Miclat. In its Resolution dated December 28, 1979,^[10] the appellate court ordered the certification and elevation of the case to this Court inasmuch as the appeal involves a pure question of law.

Article 412 of the Civil Code provides that "(n)o entry in a civil register shall be changed or corrected without judicial order." It has been held that the corrections contemplated in Article 412 include only corrections of mistakes that are clerical in nature. In *Go vs. Civil Registrar of the Municipality of Malabon*,^[11] this Court ruled that the clerical errors which might be corrected through judicial sanction under the said article should be those harmless and innocuous changes such as the correction of names clearly misspelled,^[12] occupation of parents, errors that are visible to the eye or obvious to the understanding, errors made by a clerk or transcriber, or a mistake in copying or writing.^[13]

If the purpose of the petition is merely to correct the clerical errors which are visible to the eye or obvious to the understanding,^[14] the court may, under a summary procedure, issue an order for the correction of the mistake.^[15] However, as repeatedly construed, changes which may affect the civil status from legitimate to illegitimate, as well as sex, are substantial and controversial alterations which can only be allowed after appropriate adversary proceedings^[16] depending upon the nature of the issues involved.^[17] This opinion is predicated upon the theory that the procedure contemplated in Article 412 is summary in nature which does not cover cases involving controversial issues.^[18] Changes which affect the civil status or citizenship of a party are substantial in character and should be threshed out in a proper action depending upon the nature of the issues in controversy,^[19] and wherein all the parties who may be affected by the entries are notified or represented and evidence is submitted to prove the allegations of the complaint, and proof to the contrary admitted.^[20] The philosophy behind this requirement lies in the fact that the books making up the civil register and all documents relating thereto shall be prima facie evidence of the facts therein contained.^[21] If the entries in the civil register could be corrected or changed through mere summary proceedings and not through appropriate action wherein all parties who may be affected by the entries are notified or represented, the door to fraud or other mischief would be set open, the consequence of which might be detrimental and far reaching.^[22] For these reasons, the law has placed the necessary safeguards to forestall such an eventuality so that even on matters which call for a correction of clerical mistakes, the intervention of the courts was found necessary.

As earlier noted, the petition for correction of entries in the civil registry which is now before Us on appeal by the Republic does not only involve the correction of petitioner Labayo's name and surname registered as "Beatriz Labayo/Beatriz Labayu" in the birth certificates of her children. The petition also seeks the change of her status from "married" to "not married" at the time of her daughter's birth, thereby changing the status of her child Victoria Miclat from "legitimate" to "illegitimate." The change of petitioner's name from Beatriz Labayo/Beatriz Labayu to Emperatriz Labayo is a mere innocuous alteration wherein a summary proceeding is appropriate. The Republic, however, is appealing the part of the questioned order which directed as well the change of the petitioner's status from "married" to "not married" and Victoria Miclat's filiation from "legitimate" to "illegitimate."

In *David vs. Republic*,^[23] this Court held that where the petition for correction of entries in the civil registry, if

granted, will have the effect of changing not only the civil status of the petitioner but as well as her child's filiation from "legitimate" to "illegitimate," the same cannot be granted except in an adversary proceeding. The matter should be threshed out in an appropriate action as the corrections involve substantial alterations, and not mere clerical errors.[24] An appropriate proceeding is required wherein all the indispensable parties should be made parties to the case as required under Section 3, Rule 108 of the Revised Rules of Court.

In the case before Us, since only the Office of the Solicitor General was notified through the Office of the Provincial Fiscal, representing the Republic of the Philippines as the only respondent, the proceedings taken, which is summary in nature, is short of what is required in cases where substantial alterations are sought. Aside from the Office of the Solicitor General, all other indispensable parties should have been made respondents. They include not only the declared father of the child but the child as well, together with the paternal grandparents, if any, as their hereditary rights would be adversely affected thereby.[25] All other persons who may be affected by the change should be notified or represented.[26] The truth is best ascertained under an adversary system of justice.[27]

The right of the child Victoria to inherit from her parents would be substantially impaired if her status would be changed from "legitimate" to "illegitimate." Moreover, she would be exposed to humiliation and embarrassment resulting from the stigma of an illegitimate filiation that she will bear thereafter. The fact that the notice of hearing of the petition was published in a newspaper of general circulation and notice thereof was served upon the State will not change the nature of the proceedings taken. Rule 108, like all the other provisions of the Rules of Court, was promulgated by the Supreme Court pursuant to its rule-making authority under Section 13, Article VIII of the 1973 Constitution,[28] which directs that such rules "shall not diminish, increase or modify substantive rights." If Rule 108 were to be extended beyond innocuous or harmless changes or corrections of errors which are visible to the eye or obvious to the understanding, so as to comprehend substantial and controversial alterations concerning citizenship, legitimacy of paternity or filiation, or legitimacy of marriage, without observing the proper proceedings as earlier mentioned, said rule would thereby become an unconstitutional exercise which would tend to increase or modify substantive rights. This situation is not contemplated under Article 412 of the Civil Code.

WHEREFORE, premises considered, the Order appealed from is hereby MODIFIED by nullifying the portion which directs the change of petitioner's civil status as well as the filiation of the child Victoria Micalat. Let a copy of this decision be served upon the Local Civil Registrar of San Fernando, Pampanga for proper implementation. No costs. This decision is immediately executory.

SO ORDERED.

Cruz, (Acting Chairman), Griño-Aquino, and Medialdea, JJ., concur.
Narvasa, J., on leave.

[1] Atty. Avelino L. Liangco.

[2] Sp. Proc. No. 2228.

[3] Pages 4 & 5, Record on Appeal.

[4] Page 8, Id.

[5] Order dated January 25, 1971, pp. 8-10, Id.

[6] Pages 12-13, Rollo.

[7] 38 SCRA 409 (1971).

[8] 39 SCRA 350 (1971).

[9] Pages 3-5, Brief for the Appellant.

[10] Penned by Associate Justice Benjamin K. Gorospe and concurred in by Justices Crisolito Pascual and Carlos L. Sundiam.

[11] Supra.

[12] Barillo vs. Republic, 13 SCRA 725 (1961).

[13] Wong vs. Republic, 115 SCRA 496 (1982).

[14] Chua Wee vs. Republic, supra.

[15] Ty Kong Tin vs. Republic of the Phil. 94 Phil. 321 (1954); 50 O.G. 1077-1079.

[16] Espiritu vs. Republic, 55 O.G. 4832; Balete vs. Republic, 3 SCRA 582 (1961).

[17] Republic vs. Medina, 119 SCRA 210 (1982).

[18] Go vs. Civil Registrar of the Municipality of Malabon, supra.

[19] Reyes vs. Republic, 12 SCRA 377 (1964).

[20] Lui Lin vs. Nuño, 9 SCRA 707 (1963).

[21] Article 410, Civil Code.

[22] Ty Kong Tin vs. Republic, supra.

[23] 15 SCRA 438 (1965).

[24] Chung Sui vs. Local Civil Registrar of Manila, 20 SCRA 877 (1967).

[25] Articles 887, 888, 893 and 895 of the Civil Code.

[26] Wong vs. Republic, supra.

[27] Republic vs. Valencia, 141 SCRA 462 (1986).

[28] Now Section 5, Article VIII of the 1987 Constitution.

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