

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. THE HONORABLE GLICERIO V. CARRIAGA, JR., AND ANTONIO TAN LIM, RESPONDENTS.

G.R. No. 54159, March 18, 1988

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

The Republic of the Philippines asks us to annul and set aside the decision of the then Court of First Instance of Cotabato on the ground that the proceedings conducted in the case below under Rule 108 of the Revised Rules of Court were summary in nature and therefore, not the appropriate proceedings for the substantial correction of entries in the civil registry.

On April 23, 1979, the private respondent, Antonio Tan Lim, filed with the Court of First Instance of Cotabato a petition for the correction of entries in the birth certificates of his children as follows:

"1)

With respect to Frederick Sespeñe-Lim: The father's nationality should be changed from Chinese to Filipino. The father's religion should be changed from Catholic to Islam. The father's race should be brown not yellow. The date of marriage of the parents should be changed from February 1, 1958 to April 28, 1957.

"2)

With respect to Patrick Sespeñe-Lim: The name Patrick should be spelled Patrick Sespeñe-Lim. The marriage of the child's parents is April 28, 1957, not April 14, 1957.

"3)

With respect to Janebelle Sespeñe-Lim: The name looks tampered, hence, it should be ordered written clearly as Janebelle.

"4)

With respect to Antonio Sespeñe-Lim Jr.: The name of the child's mother is wrongly written Leyte. It should be written Letty."(Rollo, pp. 12-13)

The petitioner was informed of the order of the trial court which set the case for hearing on June 26, 1979. The petitioner filed its opposition to the petition for correction of entries on the grounds that the changes authorized under Rule 108 are corrections of mistakes that are clerical in nature; that they do not include substantial matters

such as the nationality or citizenship of a person which can only be threshed out in an appropriate action, and therefore, the trial court had no jurisdiction over the nature of the action and/or the petition stated no cause of action.

The opposition was apparently not acted upon positively. Instead a trial was conducted and on May 21, 1980, the respondent court granted the petition. Hence, the petitioner filed this petition before us raising the sole issue of whether or not the supposed erroneous entries in the birth certificate of Frederick Sespeñe-Lim are mere clerical errors that can be changed or altered by means of a petition for correction of entry under Rule 108 of the Revised Rules of Court.

The petitioner maintains that it is already settled jurisprudence that the summary procedure for correction of entries in the civil registry under Article 412 of the Civil Code is confined to "innocuous or clerical errors, such as misspellings and the like, errors that are visible to the eyes or obvious to the understanding" (citing the cases of *Ansaldo v. Republic*, 102 Phil. 1046 and *Republic v. Castañeda, Jr.*, 80 SCRA 111). In the present case, however, the private respondent sought relief under Rule 108 of the Revised Rules of Court which merely implements Article 412 of the New Civil Code.

We reiterate our ruling on this issue in the case of *Republic v. Valencia* (141 SCRA 462) where we stated:

"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.'"

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"Provided the trial court has conducted proceedings where all relevant facts have been fully and properly developed, where opposing counsel have been given opportunity to demolish the opposite party's case, and where the evidence has been thoroughly weighed and considered, the suit or proceeding is 'appropriate'"

xxx xxx xxx

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"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 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. The safeguards in *Republic v. Valencia* were followed.

True, the City Fiscal decided not to submit any evidence in opposition to the averments in the petition, but the private respondent submitted satisfactory evidence to prove his case. As the trial court found:

"Regarding the mistake in the certificate of live birth of Frederick Sespeñe Lim concerning the date of the marriage of the parents, the same should be corrected from February 1, 1958 to April 28, 1957 which is the very date the parents married at Nuling, Maguindanao, as shown in Exhibit "Y" and testified to by the petitioner, Antonio Tan Lim. x x x Regarding the religion, it should be corrected from Catholic to Islam as testified to by the petitioner who is partly of Muslim blood. Regarding the change of nationality from Chinese to Filipino, the Court is of the honest opinion that the same should be given due course, as testified to by the petitioner, that all the mistakes cited in the certificates of live birth of his children were caused by the midwife who caused voluntarily to inform the facts to the Local Civil Registrar. The midwife for the first three deliveries was Miss Panda who is now dead and could no longer testify and the other midwife was a Chinese mestiza who is not available. The Court is of the honest opinion that the mistakes of Miss Panda, the midwife, in furnishing the nationality of the father in the case of the certificate of live birth of Frederick Sespeñe Lim as Chinese is based on the family name, Lim, which could be a surname of Chinese. That was an honest mistake. All the certificates of live birth of the other children, namely: Patrick Sespeñe Lim which is Exhibit "V", Janebelle Sespeñe Lim which is Exhibit "W" and Antonio Sespeñe Lim, Jr. which is Exhibit "X" show that the nationality of the father is Filipino. Hence, the Court concludes that it is a mistake, otherwise if it was not a mistake, the nationality of the father in all the certificates of live birth should be Chinese. Furthermore, the evidence shows that the father of the petitioner who is the grandfather of Frederick had been a Municipal Councilor and Teniente del Barrio of the then town of Cotabato, now Cotabato City, and there are plenty of documentary evidences to the effect that the petitioner is a Filipino. Among them are the clearance certificates issued by the Office of the City Attorney, by the National Bureau of Investigation, by the Armed Forces of the Philippines and several affidavits and certifications even from the Bureau of Domestic Trade and other government agencies, petitioner Antonio Tan Lim was entered as a Filipino. Hence, the same was a mistake insofar only as the certificate of live birth of Frederick Sespeñe Lim is concerned." (Rollo, pp. 35-36)

Thus, since a full-blown trial was conducted which complied with all the requirements of an "appropriate" or "adversary" proceeding as opposed to a "summary" proceeding, and following the doctrine enunciated in the *Valencia* ruling, we find that the present petition must necessarily fail.

WHEREFORE, the petition is hereby DISMISSED for lack of merit. No costs.

SO ORDERED.

Fernan, (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

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