

IN RE: PETITION FOR CORRECTION OF ENTRY IN THE REGISTER OF DEATHS OF THE CIVIL REGISTRY OF DAVAO CITY, FROM THE NAME “FLAVIANO CASTRO ZAPANTA” TO “FLORENCIO B. ZAPANTA,” “GLICER...

G.R. No. 55380. September 26, 1994

Ponente: VITUG, J.

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VITUG, J.:

The case at bench has been certified to us by the Court of Appeals after its assessment that it merely raises a pure question of law.

The case stemmed from the filing of a "Petition for Correction of Entry in the Register of Deaths of the Civil Registry of Davao City from the name 'Flaviano Castro Zapanta' to 'Florencio B. Zapanta,'" by Glicerica S. Zapanta before the then Court of First Instance (now Regional Trial Court) of Davao (docketed Sp. No. 1913).

The narration of the case by the Court of Appeals is hereunder quoted:

"The petition alleges that petitioner Glicerica S. Zapanta is the widow of the late 'Florencio B. Zapanta;' that said deceased was born in Sta. Rita, Pampanga, on 24 October 1899, as evidenced by his certificate of baptism (p. 5, Record on Appeal); that on 5 August 1965, the late Florencio B. Zapanta was admitted and confined at the San Pedro Hospital, Davao City, and met his untimely demise on 11 August 1965 (p. 6, Record on Appeal); that after the traditional church ceremonies at the Sta. Ana Church, Davao City, the remains of the deceased was entombed at the municipal cemetery of Davao City on 12 August 1965; that when petitioner requested the Local Civil Registrar of Davao City for a certified true copy of the death certificate of her late husband, she discovered, to her dismay and surprise, that the name indicated in said death certificate was 'Flaviano Castro Zapanta,' albeit the date of death and all other circumstances and information reflected therein clearly and conclusively revealed that the person referred to therein was no other than her late husband, Florencio B. Zapanta (p. 7, Record on Appeal). Hence, petitioner prays that, after due notice and hearing, an order be issued directing the Local Civil Registrar of Davao City to correct the death certificate of her deceased husband by changing his name from 'Flaviano Castro Zapanta' to 'Florencio B. Zapanta.'

"After due publication of the notice of hearing, the Assistant City Fiscal of Davao City filed a motion to dismiss the petition, advancing inter-alia that petitioner seeks to correct not only a clerical error, but indeed a substantial one. In support of the opposition, heavy reliance has been made in the cases of *Schultz vs. Republic*, L-10055, 13 Sept. 1958; *Black vs. Republic*, L-10869, 10 Nov. 1958; *Ty Kong Tin vs. Republic*, 50 O.G. 1078; *Ansaldó vs. Republic*, 55 O.G. 6541; *Balite vs. Republic*, L-17332, 29 Nov. 1961; *Tan Su vs. Republic*, L-12140, 29 April 1959, where all substantial corrections in the civil registry were denied because only innocuous or clerical error could be corrected (p. 10, Record on Appeal). Said motion to dismiss was opposed by petitioner."

In dismissing the petition, in its 31st January 1975 Order, the court a quo rationalized that the correction of the name "Flaviano Castro Zapanta" to "Florencio B. Zapanta," was not merely clerical but substantial in nature and

that it thereby did not have the power to grant the relief prayed for.

The trial court committed a reversible error.

Article 407 of the Civil Code provides that "(a)cts, events and judicial decrees concerning the civil status of persons shall be recorded in the Civil Register." The civil status referred to pertains to one's birth, marriage, death, legal separation, annulment of marriage, judgment declaring the nullity of marriage, legitimation, adoption, acknowledgement of natural children, naturalization, loss or recovery of citizenship, civil interdiction, judicial determination of filiation, voluntary emancipation of a minor and change of name.[1] Any change or correction in a civil registry record is not allowed without a judicial order.[2]

The general perception, following *Ty Kong Tin vs. Republic*[3] and cases contemporary and closely subsequent to it,[4] was that the judicial proceeding under Art. 412 of the Civil Code, implemented by Rule 108[5] of the Rules of Court, could only justify the correction of innocuous or clerical errors apparent on the face of the record and capable of being corrected by mere reference to it,[6] such as misspellings and obvious mistakes. Starting, however, with the case of *Republic vs. Hon. Macli-ing*,[7] the Court, through Justice Melencio-Herrera, explained:

"It is true that the change from Esteban Sy to Sy Piao would necessarily affect the identity of the father. In that sense, it can be said to be substantial. However, we find indubitable evidence to support the correction prayed for. In the Alien Certificate of Registration of the father, his name appears as 'Sy Piao.' The same is true in his Immigrant Certificate of Residence. x x x The school records of Oscar Sy both in high school and at St. Louis University in Baguio, recorded the name of his father as 'Sy Piao' x x x.

"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."

Thereafter, in *Republic vs. Valencia*,[8] the Court, through Justice Gutierrez, Jr., discussed, rather at length, the phrase "appropriate proceeding" that could warrant the correction of even non-clerical errors. There, Leonor Valencia, for and in behalf of her minor children, Bernardo Go and Jessica Go, filed with the then Court of First Instance of Cebu a petition for the cancellation and correction of the entries of birth of Bernardo Go and Jessica Go in the Civil Registry of Cebu City. The Solicitor General opposed the petition, alleging that the petition for correction of entry in the Civil Registry pursuant to Article 412 of the Civil Code, in relation to Rule 108 of the Revised Rules of Court, contemplated a summary proceeding solely to allow innocuous changes in registry entries. The Court ruled:

"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.'

"What is meant by 'appropriate adversary proceeding?' Black's Law Dictionary defines 'adversary proceeding' as follows:

“One having opposing parties; contested, as distinguished from an ex parte application, one of which the party seeking relief has given legal warning to the other party, and afforded the latter an opportunity to contest it. x x x’

"xxx xxx xxx.

"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.'

"The pertinent sections of Rule 108 provide: x x x

"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.

"xxx xxx xxx

"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."

The doctrine was reiterated in *Chiao Ben Lim v. Zosa*[9] and *Republic v. Flojo*.[10]

Accordingly, the dismissal by the trial court of Gliceria's petition must now be reversed. The records show that the publication requirement has already been complied with. The next step would thus be for the court a quo to consider the petition before it to be, in substance, an adversary proceeding and to allow petitioner and all adverse and interested parties their day in court.

WHEREFORE, the questioned Order of the then Court of First Instance (now Regional Trial Court) of Davao is hereby SET ASIDE and Special Proceedings No. 1913 is ordered reinstated. No costs.

SO ORDERED.

Feliciano,(Chairman), Romero, and Melo, JJ., concur.
Bidin, J., on leave.

[1] Art. 410, Civil Code.

[2] Article 412, Civil Code.

[3] 94 Phil. 321.

[4] See *Republic vs. Bartolome*, 138 SCRA 442; *De Castro vs. Republic*, 134 SCRA 12.

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

[6] Barretto vs. Local Civil Registrar of Manila, 74 SCRA 257.

[7] 135 SCRA 367.

[8] 141 SCRA 462.

[9] 146 SCRA 366.

[10] 152 SCRA 550.

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