

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. HON. SOFRONIO SAYO, PRESIDING JUDGE OF THE CFI OF NUEVA VIZCAYA, BRANCH I, AND RAMON TAN BIANA, JR., RESPONDENTS.*G.R. No. 61565. August 20, 1990*

Ponente: FELICIANO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-61565/>**FELICIANO, J.:**

Private respondent Ramon Tan Biana, Jr. was born on 9 January 1952 in Solano, Nueva Vizcaya, as the fifth legitimate child of the spouses Ramon Tan Biana and Tiu Muy. His birth was registered on the same day in the Office of the Local Civil Registrar of Solano, Nueva Vizcaya, by the nurse who attended the parturition of Ramon's mother. Private respondent claims that, in the process, the attending nurse erroneously reported to the Local Civil Registrar that Ramon's citizenship, and the citizenship of his parents, as "Chinese" instead of "Filipino". Private respondent claims that his "true and real citizenship", and that of his parents, is Philippine citizenship.

On 2 February 1982, private respondent filed a petition before the then Court of First Instance of Bayombong, Nueva Vizcaya, Branch 1, entitled "In the Matter of the Correction of the Birth Certificate of Ramon Tan Biana, Jr., Ramon Tan Biana, Jr., Petitioner v. The Civil Registrar of Solano, Nueva Vizcaya, Respondent", docketed as Special Proceedings No. 847. In this petition, private respondent sought the correction of entries in the Civil Registry of Solano, Nueva Vizcaya, relating to his citizenship and the citizenship of his legitimate parents, as appearing in his Certificate of Birth.

Copies of the petition were furnished to the Office of the Provincial Fiscal, Bayombong, Nueva Vizcaya, the Office of the Solicitor General, Makati, Metropolitan Manila and the Local Civil Registrar of Solano, Nueva Vizcaya. On 2 February 1982, notice of hearing was issued by the trial court, setting the petition for hearing on 15 April 1982. A copy of the notice of hearing served upon the Office of the Solicitor General, the Office of the Provincial Fiscal of Nueva Vizcaya and the Local Civil Registrar, Solano Nueva Vizcaya. A copy of the notice of hearing was also posted by the Sheriff in the bulletin board of the townhall of Solano, Nueva Viscaya on 26 February 1982. The notice of hearing was also published in the "Vizcaya Advocate", a newspaper of general circulation published in Solano, Nueva Vizcaya, once a week for three (3) consecutive weeks. [1]

At the initial hearing of the petition on 15 April 1982, no appearance was entered by the Office of the Solicitor General, notwithstanding its receipt of a copy of the petition and of the notice of hearing. Assistant Provincial Fiscal Leo G. Rosario, however, appeared on behalf of the Government. In view of the failure of a representative of the Office of the Solicitor General to appear, the trial court reset the hearing of the petition to 14 May 1982 and in an Order of the court, requested the Solicitor General to file either an opposition, comment or any other responsive pleading to the petition since "the court believe[d] that the petition [was] significant, involving, as it does, a change of citizenship of petitioner".[2] Notwithstanding this order of the court of 15 April 1982, no pleading was received by the trial court from the Solicitor General's Office. Accordingly, the trial court proceeded

to receive evidence for the petitioner on 14 May 1982, with the Office of the Provincial Fiscal representing the Government.

The evidence submitted at the hearing by private respondent in respect of his claim of Filipino citizenship was summarized by the trial court in the following manner:

"To support the claim of petitioner that his parents are filipinos and that his citizenship is, likewise, filipino, petitioner presented to the Court a decision of the Bureau of Immigration in I.C. No. 2480 dated June 18, 1947, (Exh. 'F') the dispositive part of which reads as follows:

'IN VIEW THEREOF, this Board is of the opinion, and so holds that the herein applicant, RAMON TAN BIANA, being a natural son of Marciana Goco, a Filipino woman, is entitled to re-admission into this country as a Filipino citizen.'

The Petitioner also submitted to the Court as Exh. 'H' another decision of the Bureau of Immigration in I.C. No. 12890-C dated April 4, 1956, a portion of which is quoted as follows:

'However, with respect to Tiu Muy, who claims to be the wife of Ramon Tan Biana by virtue of an alleged legal union in February, 1928, in Amoy, China, the doubt may be resolved favorably in view of their marriage in Arayat, Pampanga, on September 14, 1953, as evidenced by their corresponding marriage certificate. As a consequence of this marriage, which is in full force and effect, it cannot be denied that TIU MUY is the legal wife of Ramon Tan Biana, and therefore, imbued with the latter's Philippine nationality. (Paragraph 1 of Sec. 15, C.A. 473)' "[3]

By a decision dated 13 July 1982, the trial court ordered the Local Civil Registrar of Solano, Nueva Vizcaya, to make in the entries and records of this office "with particular reference to Register No. 41, Book No. III, of the Register of Births of that municipality", the corrections sought by private respondent so as to reflect a change in the citizenship of Ramon Tan Biana, Jr. as well as his parents Ramon Tan Biana and Tiu Muy from "Chinese" to "Filipino" and to furnish copies of the corrected Certificate of Birth to "all other offices concerned."

On 4 August 1982, the Office of the Solicitor General finally appeared and filed a motion for reconsideration of the decision of the trial court, arguing that the entries ordered corrected by the court were "not merely clerical of a harmless or innocuous nature but [were] substantial in as much as they involved the citizenship of petitioner and his parents". The Office of the Solicitor General prayed that the trial court reconsider its decision and render a new one dismissing the petition. The motion for reconsideration was denied.

In the instant Petition for Review, petitioner alleges that the trial court should not have ordered the correction of the relevant entries in the Local Civil Registry since they involved substantial matters which should not have been decided in "a merely summary proceeding" but rather in "an appropriate action wherein all parties who may be affected by the entries are notified or represented".

Private respondent, on the other hand, counters that he does not seek a judicial declaration of his citizenship but rather merely a correction of an entry in the Local Civil Registrar's Office as to his citizenship and that of his parents, considering that the citizenship of his parents had already been passed upon by the Bureau of Immigration. Private respondent further contends that the proceedings taken before the trial court were not summary in nature, and that the decision was rendered only after the required notices had been given and after a hearing.

The basic issue presented in this case was passed upon and settled by this Court in *Republic of the Philippines v. Leonor Valencia*.^[4] There the Court 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 citizen-ship, 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. Excludes an adoption proceeding.' (Platt v. Magagnini, 187 p. 716, 718, 110 Was. 39).

x x x x x x x x[5]

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."[6]

Tested by the standards projected in Valencia, the proceedings taken in the instant case appear to us to be appropriate adversary proceedings. As indicated earlier, a copy of the petition was sent both to the Office of the Nueva Vizcaya Provincial Fiscal and the Office of the Solicitor General. The petition was set for hearing on 15 April 1982, and a notice of hearing dated 2 February 1982 was served upon the Office of the Provincial Fiscal of Nueva Vizcaya, the Local Civil Registrar of Solano, Nueva Vizcaya and the Office of the Solicitor General, Makati, Metro Manila; posted by the Sheriff in the bulletin board of the municipal townhall of Solano, Nueva Vizcaya, and published once a week for three (3) consecutive weeks in a newspaper of general circulation in Solano, Nueva Vizcaya.[7] Upon failure of the Solicitor General's Office to appear at the first hearing set by the trial court, the latter reset the hearing for the succeeding month and expressly requested the Solicitor General to appear and to file a responsive pleading considering that the changes in the Local Civil Registry requested by petitioner were "significant" involving the citizenship of the petitioner. Notwithstanding the resetting of the hearing, and despite having received notice of the rescheduled hearing, the Office of the Solicitor General entered no appearance and filed no pleading before the trial court. The Assistant Provincial Fiscal appeared on behalf of the Government and was present when the court proceeded to receive evidence for the petitioner on the rescheduled hearing. The Assistant Provincial Fiscal did not file any opposition to the petition. It must be assumed that the Assistant Provincial Fiscal did not do so because he saw no need to file such an opposition. We do not

believe that his failure to file an opposition changed the adversarial character of the proceedings. It certainly was not private respondent's fault that neither the Assistant Provincial Fiscal nor anyone else saw fit to oppose the petition for correction.

Both in the motion for reconsideration filed by the Solicitor General of the decision of the trial court and in the Petition for Review filed before this Court, the Solicitor General did not question the genuineness, authenticity, relevancy or sufficiency of the evidence submitted before the trial court relating to petitioner's citizenship and that of his parents. The Office of the Solicitor General, both before the trial court and before us, has limited itself to contending that substantial changes of entries in the Local Civil Registry are not to be made pursuant to "a summary proceeding".

The Court considers that the procedure followed in the case at bar satisfies the requirements of "appropriate adversary proceedings".

It remains only to note that the evidence submitted by private respondent before the trial court consisted of the following:

1. The Voter's Identification Card (Exhibit "E") of his father, Ramon Tan Biana, Sr. y Goco, showing his father to be a registered voter;
2. A decision of the Board of Special Inquiry of the Bureau of Immigration in I.C. No. 2480, dated 18 June 1947 (Exhibit "F") stating that private respondent's father being a natural son of Marciana Goco, a Filipino citizen, was entitled to re-admission into the country as a Philippine citizen;
3. A certification issued by the Bureau of Immigration (Exhibit "G") stating that Ramon Tan Biana, Sr. is a Philippine citizen;
4. The decision of the Bureau of Immigration in I.C. No. 12890-C dated 4 April 1956 (Exhibit "H") stating that private respondent's mother, Tiu Muy, being the legal wife of Ramon Tan Biana, was also a Philippine citizen;
5. The Birth Certificate of Alfred Tan (Exhibit "I"), a brother of private respondent, stating that he is the sixth child of Ramon Tan Biana, Sr. and Tiu Muy, who are both Philippine citizens; and
6. The Voter's Identification Card (Exhibit "J") of private respondent showing him to be a registered voter in the Philippines.[8]

ACCORDINGLY, the Court Resolved to DENY the Petition for lack of merit. The Decision of the trial court dated 13 June 1982 is hereby AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Fernan, C.J., Gutierrez, Jr., Bidin, and Cortes, JJ., concur.

[1] Decision of the trial court, Rollo, p. 18; Memorandum for the Private Respondent, id., p. 94.

[2] Decision of the trial court, id., p. 18.

[3] Rollo, p. 19.

[4] G.R. No. L-32181, March 5, 1986; 141 SCRA 462 (1986).

[5] 141 SCRA at 468-469; underscoring supplied.

[6] 141 SCRA at 473-474; underscoring supplied.

[7] Memorandum for Private Respondent, Rollo, p. 94.

[8] Memorandum for the Private Respondent, Rollo, p. 94.

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