

THIRD DIVISION

[G.R. No. 132980, March 25, 1999]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. GLADYS C. LABRADOR, RESPONDENT.

D E C I S I O N

PANGANIBAN, J.:

Summary proceedings provided under Rule 108 of the Rules of Court and Article 412 of the Civil Code may be used only to correct clerical, spelling, typographical and other innocuous errors in the civil registry. Substantial or contentious alterations may be allowed only in adversarial proceedings, in which all interested parties are impleaded and due process is observed.

The Case

Before us is a Petition for Review on *certiorari* seeking to set aside the March 5, 1998 Decision of the Regional Trial Court of Cebu City in Special Proceedings No. 6861-CEB.^[1] The assailed Decision^[2] ordered the civil registrar of Cebu City to make the necessary corrections in the birth certificate of Sarah Zita Cañon Erasmo in the local civil registry, viz.:

"WHEREFORE, judgment is hereby rendered granting the petition. Accordingly, the erroneous entry with respect to the name of [the] child appearing in the birth certificate of Sarah Zita Cañon Erasmo is hereby ordered corrected from SARAH ZITA CAÑON ERASMO to SARAH ZITA CAÑON and the erroneous entry in said birth certificate with respect to the name of [the] mother is likewise hereby ordered corrected from ROSEMARIE B. CAÑON to MARIA ROSARIO CAÑON.

"The Local Civil Registrar of Cebu City is hereby ordered to make the foregoing corrections in the birth records of SARAH ZITA CAÑON ERASMO and to issue a birth certificate reflecting said corrections.

"Furnish a copy of this Decision to the petitioner, her counsel, the Solicitor General, Asst. City Prosecutor Generosa C. Labra and the Local Civil Registrar of Cebu City."

Disagreeing with the above disposition, the solicitor general brought this Petition directly to this Court on a pure question of law.^[3]

The Facts

Respondent Gladys C. Labrador filed with the Regional Trial Court of Cebu City on

September 26, 1997, a Petition for the correction of entries in the record of birth of Sarah Zita Erasmo, her niece. In her Petition, respondent alleged the following:

"1. Petitioner is of legal age, married, a resident of 493-17, Archbishop Reyes Ave., Barrio Luz, Cebu City, where she can be served with the processes of this Honorable Court;

"2. Respondent Local Civil Registrar of Cebu City is impleaded herein in his official capacity; he can be served with summons and other processes of this Honorable Court in his office at the City Health Department, Cebu City;

"3. Petitioner is the sister of Maria Rosario Cañon who is presently residing in the United States of America;

"4. Sometime in 1986, petitioner's sister, Maria Rosario Cañon, had a common law relationship with a certain Degoberto Erasmo, and during such cohabitation, petitioner's sister begot two (2) illegitimate children, one of which is SARAH ZITA B. ERASMO, who was born on April 27, 1988, as shown in her birth certificate, a copy of which is hereto attached as ANNEX "A";

"5. During the registration of the birth of SARAH ZITA, petitioner's sister told the respondent Local Civil Registrar that she was not legally married to the father of SARAH ZITA;

"6. However, herein respondent erroneously entered the name of Sarah Zita in her birth record as SARAH ZITA C. ERASMO, instead of SARAH ZITA CAÑON. Not only that, the name of petitioner's sister, being the mother, was also erroneously written by the herein respondent as Rosemarie Cañon, instead of Maria Rosario Cañon,

"7. In order to straighten the record of birth of SARAH ZITA ERASMO and pursuant to Article 176 of the Family Code which provides:

Art. 176. Illegitimate children shall use the surname and shall be under the parental authority of the mother xxx

[t]here is a need to correct the entry in the record of birth of SARAH ZITA ERASMO to SARAH ZITA CAÑON and to correct the name of her mother as appearing in her birth certificate from ROSEMARIE CAÑON to MARIA ROSARIO CAÑON.

xxx xxx xxx"[4]

On September 17, 1997, the trial court set the case for hearing on October 29, 1997. It also directed the publication of the notice of hearing in a newspaper of general circulation in Cebu City once a week for three consecutive weeks.[5]

On October 29, 1997, evidence was presented to establish the jurisdiction of the trial court to hear the petition.[6] Respondent Labrador was represented by Atty. Bienvenido V. Baring; the Republic, by Assistant City Prosecutor Generosa C. Labra.

When Respondent Labrador testified on January 8, 1998, she repeated the allegations in her Petition. She stated that Sarah Zita Erasmo was her niece because Maria Rosario Cañon, the mother of the child, was her (respondent's) sister. On cross-examination, respondent explained that she was the one who had reported the birth of Sarah to the local civil registrar, to whom she had erroneously given "Rosemarie" as the first name of the child's mother, instead of the real one, "Maria Rosario." Labrador explained that her sister was more familiarly known as Rosemarie; thus, the error. Respondent likewise averred that Rosemarie and Maria Rosario were one and the same person, and that she had no other sister named Rosemarie. She added that Maria Rosario was abroad where she lived with her foreigner husband.^[7]

Labrador then formally offered her evidence which included Maria Rosario's birth certificate^[8] and a certification from the Office of the Civil Registrar that it had no record of marriage between Maria Rosario Cañon and Degoberto Erasmo.^[9] Prosecutor Labra, who conducted the cross-examination, did not object to the evidence offered.

The Trial Court's Ruling

The trial court granted Respondent Labrador's Petition, ratiocinating as follows:

"From the evidence adduced, the Court is convinced that the allegations in the petition have been satisfactorily substantiated, the requisites for the publication have been complied with, and there is a need for the correction of the erroneous entries in the birth certificate of Sarah Zita Cañon Erasmo. The entry in said birth certificate with respect to the name of the child should be corrected from SARAH ZITA CAÑON ERASMO to SARAH ZITA CAÑON and the entry with respect to the name of the mother should be corrected from ROSEMARIE B. CAÑON to MARIA ROSARIO CAÑON."

The Issues

Petitioner posits the following issues:

"(a) Whether or not a change in the record of birth in a civil registry, which affects the civil status of a person, from "legitimate" to "illegitimate" may be granted in a summary proceeding;

"(b) Whether or not Rule 108 of the Revised Rules of Court is the proper action to impugn the legitimacy of a child."

The main issue is whether Rule 108 of the Rules of Court may be used to changed the entry in a birth certificate regarding the filiation of a child.

The Court's Ruling

The petition is meritorious. The lower court erred in ordering the corrections.

Main Issue:
Rule 108 Inapplicable

Petitioner contends that the summary proceedings under Rule 108 of the Rules of court and Article 412 of the Civil Code may be used only to correct or change clerical or innocuous errors. It argues that Rule 108 "cannot be used to modify, alter or increase substantive rights, such as those involving the legitimacy or illegitimacy of the child, which respondent desires to do. The change sought will result not only in substantial correction in the child's record of birth but also in the child's rights which cannot be effected in a summary action."^[10] We Agree.

This issue has been resolved in *Leonor v. Court of Appeals*.^[11] In that case, Respondent Mauricio Leonor filed a petition before the trial court seeking the cancellation of the registration of his marriage to Petitioner Virginia Leonor. He alleged, among others, the nullity of their legal vows arising from the "non-observance of the legal requirements for a valid marriage." In debunking the trial court's ruling granting such petition, the Court held as follows:

"On its face, the Rule would appear to authorize the cancellation of any entry regarding "marriages" in the civil registry for any reason by the mere filing of a verified petition for the purpose. However, it is not as simple as it looks. Doctrinally, the only errors that can be canceled or corrected under this Rule are typographical or clerical errors, not material or substantial ones like the validity or nullity of a marriage. A clerical error is one which is visible to the eyes or obvious to the understanding; error made by a clerk or a transcriber; a mistake in copying or writing (*Black vs. Republic*, L-10869, Nov. 28, 1958); or some harmless and innocuous change such as a correction of name that is clearly misspelled or of a mis-statement of the occupation of the parent (*Ansalada vs. Republic*, L-10226, Feb. 14, 1958).

"Where the effect of a correction in a civil registry will change the civil status of petitioner and her children from legitimate to illegitimate, the same cannot be granted except only in an adversarial proceeding. xxx

"Clearly and unequivocally, the summary procedure under Rule 108, and for that matter under Article 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. xxx" (Emphasis supplied.)

Thus, where the effect of a correction of an entry in a civil registry will change the status of a person from "legitimate" to "illegitimate," as in Sarah Zita's case, the same cannot be granted in summary proceedings.

In *Republic v. Valencia*,^[12] we likewise held that corrections involving the nationality or citizenship of a person were substantial and could not be effected except in adversarial proceedings.

"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