

SIXTEENTH DIVISION

[CA-G.R. CV No. 99772, June 06, 2014]

**IN RE: PETITION FOR CORRECTION OF ENTRY IN THE RECORDS
OF BIRTH OF ACE YADAO TORTOSA,**

**ACE YADAO TORTOSA, PETITIONER-APPELLEE, VS. THE LOCAL
CIVIL REGISTRAR OF SINAIT, ILOCOS SUR AND THE CIVIL
REGISTRAR GENERAL, MANILA, RESPONDENTS-APPELLANTS.**

D E C I S I O N

MACALINO, J:

This is an Appeal under Rule 41 of the Rules of Court assailing the 3 September 2012 Decision^[1] ("assailed Decision") of the Regional Trial Court of Cagayan de Oro, Ilocos Sur, Branch 24 in SP Proc. No. 1320-KS entitled "*In Re: Petition for Correction of Entry in the Records of Birth of Ace Yadao Tortosa*". The dispositive portion of the assailed Decision reads:

"WHEREFORE, premises considered, the petition is hereby GRANTED. The Civil Registrar General, National Statistics Office and the Local Civil Registrar of Sinait, Ilocos Sur are directed to correct petitioner's sex from **FEMALE to MALE**.

SO ORDERED."^[2]

The Facts of the Case^[3]

On 23 February 2012, Petitioner-Appellee Ace Yadao Tortosa ("Petitioner-Appellee") filed a Petition^[4] for correction of his sex as it appeared in his Certificate of Live Birth- from female to male.

In his Petition, Petitioner-Appellee alleged that on 29 April 1980, he was born to Spouses Isidro Tortosa and Gloria Yadao in Sinait, Ilocos, Sur. His birth was duly registered with the Local Civil Registrar of Sinait, Ilocos Sur and with the National Statistics Office. Petitioner further alleged that he is biologically male but in his record of birth, his gender is female. Thus, he filed the above said Petition.

In order to support his allegations, Petitioner-Appellee attached to his Petition the following: (a) Certificate of Live Birth from the Local Civil Registrar of Sinait, Ilocos Sur;^[5] (b) Certificate of Live Birth from the National Statistics Office;^[6] (c) Medical Certificate indicating that Petitioner is biologically male;^[7] (d) Voter's Certification^[8] and (e) his whole body photograph.^[9]

Finding the Petition to be sufficient in form and in substance, the trial court ordered the publication of the Notice of Hearing^[10] in a newspaper of general circulation in Ilocos Sur, once a week for three (3) consecutive weeks.

In compliance therewith, Petitioner-Appellee caused the publication of the Notice of Hearing in Tawid News Magazine on 27 February 2012, 5 March 2012 and 12 March 2012.^[11] The Solicitor General entered his appearance and authorized the Office of the Provincial Prosecutor in Cabañatuan, Ilocos Sur to appear in his behalf.^[12]

Thereafter, Petitioner-Appellee took the witness stand to testify on matters alleged in the Petition.

Subsequently, on 3 September 2012, the trial court rendered the assailed Decision granting the Petition. The trial court ordered the Civil Registrar General and the Local Civil Registrar of Sinait, Ilocos Sur to correct Petitioner's sex from female to male.

On 18 September 2012, the Office of the Solicitor General (OSG) filed a Motion for Reconsideration^[13] of the assailed Decision which elicited a Comment^[14] from Petitioner.

However, in an Order^[15] dated 8 October 2012, the trial court denied Respondents-Appellants' Motion for Reconsideration.

Thus, the OSG timely interposed an appeal praying for the reversal and setting aside of the assailed Decision.^[16]

On 21 June 2013, Respondents-Appellants filed their Brief.^[17]

On 4 November 2013, Petitioner-Appellee filed his Brief.^[18]

Meanwhile, Respondents-Appellants failed to file their Reply Brief.^[19] Hence, the instant case was deemed submitted for decision without the same.^[20]

The Issue

In support of the instant Appeal, Respondents-Appellants assign the following lone error allegedly committed by the trial court for our consideration:

THE TRIAL COURT ERRED IN GIVING PROBATIVE VALUE TO THE MEDICAL CERTIFICATE CONSIDERING THAT THE PHYSICIAN WHO CONDUCTED THE EXAMINATION AND ISSUED THE CORRESPONDING MEDICAL CERTIFICATE WAS NEVER PRESENTED IN COURT TO IDENTIFY THE SAME.^[21]

The Court's Ruling

In granting the Petition, the trial court ratiocinated:

"In support of his petition, petitioner presented a Medical Certificate issued by Dr. Manny Roehl Allan Bumanglag of the Corpuz Clinic and Hospital, Sinait, Ilocos Sur, attesting to the fact that petitioner is "biologically male". Also, petitioner presented a copy of his Voter Certification issued by the Office of the Election Officer of Sinait, Ilocos Sur, as well as a copy of his latest photograph showing his sex as male.

Considering the evidence presented, the Court is convinced that the petitioner is entitled to the reliefs prayed for."