

EIGHTEENTH DIVISION

[CA-G.R. CV. NO. 04549, October 24, 2014]

WALTER SIGUAN TY, PETITIONER-APPELLEE, VS. THE LOCAL CIVIL REGISTRAR OF THE CITY OF CEBU AND CIVIL REGISTRAR OF MANILA, RESPONDENTS-APPELLEES.

REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.

D E C I S I O N

INGLES, G. T., J.:

Before us is an appeal seeking to annul and reverse the Decision^[1] of the Regional Trial Court, 7th Judicial Region, Branch 10, Cebu City dated November 25, 2011 in SP. PROC. NO. 18181-CEB, entitled In the Matter of the Change of Name in the Certificate of Live Birth/Birth Records of Walter Ty from Baby Ligan to Walter Siguan Ty and for the Cancellation and Correction of Certain Entries Thereat: Walter Siguan Ty versus the Local Civil Registrar of the City of Cebu and The Civil Registrar, Manila, the dispositive portion of which reads as follows:

"WHEREFORE, PREMISES CONSIDERED, this Court hereby RESOLVES:

1. To GRANT the petition for change of name in the records of birth of petitioner herein from BABY LIGAN to WALTER SIGUAN TY and for the correction of the civil status of of (sic) his parents from married to single, respectively and;
2. To DIRECT the Local Civil Registrar of Cebu City and the Civil Registrar General, National Statistics Office, Quezon City, to make the corresponding change of name and correction of entries in the birth records of Walter Siguan Ty.

Let copies of this Decision be furnished to the Local Civil Registrar of Cebu City, the Office of the Solicitor General, the National Statistics Office, thru the Civil Registrar General, Carmelita N. Ericta, Prosecutor Raul V. Cristoria, and to the petitioner and his counsel.

SO ORDERED."

The facts of the case as culled from the records are as follows:

The instant case originated from a Petition^[2] dated December 3, 2010 filed by Walter Siguan Ty with the Regional Trial Court of Cebu City, Branch 10, docketed as

SP Proc. No 18181-CEB entitled "In the Matter of the Change of Name in the Certificate of Live Birth/Birth Records of Walter Ty from Baby Ligan to Walter Siguan Ty and for the Cancellation and Correction of Certain Entries Thereat: Walter Siguan Ty versus the Local Civil Registrar of the City of Cebu and The Civil Registrar, Manila."

In an Order^[3] dated March 3, 2011, the RTC, finding the petition to be sufficient in form and substance, directed that the Office of the Solicitor General (OSG) and the Local Civil Registrar (LCR) of Cebu City be furnished with a copy of the petition with its annexes, and that the petition be published in a newspaper of general circulation in the cities and province of Cebu for three (3) consecutive weeks, the last publication of which must be made at least four (4) months before the date of initial hearing which was set on September 20, 2011.

The Solicitor General, the Local Civil Registrar of Cebu City, the Civil Registrar General, National Statistics Office (NSO), Prosecutor Raul V. Cristoria, petitioner and his counsel as well as Atty. Jeoffrey S. Joaquino of the Office of the Clerk of Court were subsequently furnished with copies of the March 3, 2011 Order as evidenced by the Notice of Order^[4] dated March 14, 2011. A Notice of Appearance^[5] dated April 4, 2011 was then filed by the Solicitor General and the Office of the City Prosecutor of Cebu City, was deputized^[6] to assist the Office of the Solicitor General in the instant case.

As ordered by the court, publication of the petition was made in the newspaper "Banat News" in its issues of May 19, 26 and 30, 2011 per Affidavit of Publication^[7] executed by Wenceslao S. Celendron, News Editor.

During the initial hearing of the case, the Court Interpreter announced the case three times to determine whether there is any oppositor thereto. No oppositor appeared during the said hearing hence, petitioner, through counsel, proceeded to present evidence establishing jurisdictional facts as follows:

Exhibit "A"		Petition
"A-4"	-	
Exhibit "A-5"	-	Signature of the Petitioner
Exhibit "B"	-	Order dated March 3, 2011
Exhibit "C"	-	Notice of Order dated March 14, 2011
Exhibit "C-1"	-	Notice sent to the petitioner
Exhibit "C-2"	-	Notice sent to the OSG
Exhibit "C-3"	-	Notice sent to the LCR of Cebu City
Exhibit "C-4"	-	Notice sent to the NSO
Exhibit "C-5"	-	Notice sent to Pros. Raul V. Cristoria
Exhibit "C-6"	-	Notice sent to counsel for petitioner
Exhibit "C-7"	-	Notice sent to to the Office of the Clerk of Court, RTC-Cebu City

- Exhibit "D" - Affidavit of Publication
- Exhibit "D-1" - Newspaper clipping dated May 19, 2011
- Exhibit "D-2" - Newspaper clipping dated May 26, 2011
- Exhibit "D-3" - Newspaper clipping dated May 30, 2011
- Exhibit "E" - Notice of Appearance from the OSG
- Exhibit "E-1" - Authority given to the City Prosecutor's Office of Cebu City

The Branch Clerk of Court was then designated as Commissioner who received further evidence, both documentary and testimonial, on September 21, 2011. On said date, petitioner and his mother testified and their testimonies are hereunder summarized by the RTC as follows:

"First presented as witness was the petitioner himself, who testified that he is Walter Siguan Ty, 51 years old, married, a government employee and resident of 29 Bonifacio St., Cebu City. His parents are Felicidad Siguan Ty (now Felicidad Ty Bacay) and Vivencio Ligan, who were not legally married to each other at the time of his birth and never got married to each other thereafter. Being an illegitimate child, he is supposed to carry his mother's surname, which is TY. However, in his Certificate of Live Birth procured from the National Statistics Office,^[8] his name was entered as BABY LIGAN and the civil status of his parents were indicated as MARRIED. Such entries are incorrect, because he never used and carried the name BABY LIGAN, nor were her parents legally married.

To support his claim, petitioner presented his Certificate of Baptism,^[9] issued by Rev. Fr. Christopher Amores, Asst. Parish Priest of Santo Rosario Parish, Cebu City, wherein his name is clearly indicated as WALTER TY. Moreover, it can be noted that only his mother's name appears therein, while the father's name was left blank because he is an illegitimate child. When he started schooling, his mother enrolled him with the name WALTER TY, which name he consistently used until he finished the degree of Bachelor of Science in Commerce (B.S.C. - Business Administration) at the University of San Carlos, Cebu City, as certified to by Mr. Sencio Norberto P. Jayme,^[10] University Registrar, and as clearly indicated in his official Transcript of Records.^[11]

When he got married to Salvacion Suan Gerong on February 7, 1976, his true and correct name WALTER TY was indicated in their Certificate of Marriage,^[12] issued by Msgr. Romualdo A. Kintanar, Parish Priest of the Archdiocesan Shrine of Sta. Teresa de Avila Parish, Talisay City, Cebu. This is likewise the same name he carried and used when he applied and eventually landed a job with Bangko Sentral ng Pilipinas, as indicated in his I.D. and likewise in the Government Service Insurance System I.D.,^[13] respectively. All throughout his life, he had always been called and known as WALTER TY and has never used the name BABY LIGAN.

Petitioner added that he only came to know about the discrepancy regarding his name, when he was required to produce his birth certificate, in view of his coming retirement. Since he started schooling and until the present, he has only presented his baptismal certificate, when required to show proof of his birth. It is, thus, his prayer that the Court would grant his petition in order that his records of birth would be straightened.

Felicidad Ty Bacay was also presented and she testified that she is the biological mother of petitioner Walter Siguan Ty. She corroborated her son's statement that when the latter enrolled in the first grade, she only presented the baptismal certificate and she herself gave her son's name as WALTER TY. It is only recently that they learned and found out that what was entered in her son's records of birth is the name BABY LIGAN. She admitted that petitioner's natural father is Vivencio Ligan, with whom she was not legally married to and never lived with although there is no legal impediment for them to do so. In fact, she got married to Orlando Bacay in 1959, several years after petitioner's birth on September 5, 1951, at Emmanuel Maternity Clinic, then located at Mabolo, Cebu City. Since then and until the present, her son has always and consistently carried the name WALTER TY and is known among their family and relatives and in their community as well, by such name. Her son also used said name in all his personal and legal dealings. She was not the one who provided the data regarding the facts of birth of herein petitioner as she was still unconscious and weak and presumed that it was her son's paternal grandmother, who was then in attendance when she gave birth to Walter.

She admitted and identified her affidavit,^[14] the statements of which she confirms and affirms to be true and correct."

Petitioner thereafter formally offered his exhibits and the same were all admitted without objection from the State. The State manifested that it has no *contra-evidence* to present, hence the RTC then issued an order pronouncing that the case is already submitted for decision.^[15]

On November 25, 2011, the RTC rendered its decision granting the petition in the manner and tenor quoted above. The state moved^[16] for the reconsideration thereof but the same was denied per Order^[17] dated March 6, 2012.

A Notice of Appeal^[18] was then filed by the Republic of the Philippines through the Office of the Solicitor General which was granted and given due course by the RTC.^[19]

The following assignment of error was raised, to wit:

THE COURT A QUO ERRED IN GRANTING PLAINTIFF-APPELLEE'S PETITION CONSIDERING THAT THE ENTRIES SOUGHT TO BE

CORRECTED IN HIS CERTIFICATE OF BIRTH CAN ONLY BE GRANTED IN AN ADVERSARIAL PROCEEDING WHERE HIS FATHER, AN INDISPENSABLE PARTY, MUST BE NOTIFIED AND IMPEADED AS A PARTY TO THE CASE.

The appeal is impressed with merit.

Appellant contends that the RTC erred in granting the petition for change/correction of entries in the birth records of Walter Siguan Ty inasmuch as the provision of Rule 108 of the Revised Rules of Court requiring an adversarial proceeding for substantial and controversial matters has not been complied with.

Appellant further posits that the desired corrections in petitioner's birth certificate, particularly the change in the civil status of his mother and father from married to single, is substantial. Hence, the petition cannot be granted except in an appropriate adversarial proceeding.

Appellant argued that the proceedings before the RTC was not adversarial in nature inasmuch as petitioner's father, who is an indispensable party in the instant case, was not impleaded.

Appellee, on the other hand, opined that since a general default was ordered by the court *a quo* after publication of the order of the RTC finding the petition to be meritorious in form and substance, then, there is no need to apply the rule on compulsory joinder of indispensable parties as each person having interest but failed to oppose at the proper time, is already covered by the order of general default. This is in accordance with the ruling of the Supreme Court in the case of ROSENDO ALBA, MINOR, REPRESENTED BY HIS MOTHER AND NATURAL GUARDIAN, ARMI A. ALBA, AND ARMI A. ALBA, IN HER PERSONAL CAPACITY VS. COURT OF APPEALS AND ROSENDO C. HERRERA,^[20] to wit:

"In *Barco v. Court of Appeals*, the trial court granted a petition for correction/change of entries in a minor's birth certificate to reflect the name of the minor's real father as well as to effect the corresponding change of her surname. In seeking to annul said decision, the other children of the alleged father claimed that they are indispensable parties to the petition for correction, hence, the failure to implead them is a ground to annul the decision of the trial court. The Court of Appeals denied the petition which was sustained by this Court on the ground, *inter alia*, that while petitioner is indeed an indispensable party, the failure to implead her was cured by the publication of the order of hearing. Thus -

Undoubtedly, Barco is among the parties referred to in Section 3 of Rule 108. Her interest was affected by the petition for correction, as any judicial determination that June was the daughter of Armando would affect her ward's share in the estate of her father. It cannot be established whether Nadina knew of Mary Joy's existence at the time she filed the petition