

## SECOND DIVISION

[ G.R. No. 208005, November 21, 2018 ]

**RE: ADOPTION OF KAREN HERICO LICERIO. JOEL H. BORROMEO AND CARMEN H. BORROMEO, PETITIONERS.**

### D E C I S I O N

**REYES, A., JR., J.:**

Before this Court is a petition for review on *certiorari*<sup>[1]</sup> taken under Rule 45 of the Rules of Court seeking to nullify the Order<sup>[2]</sup> dated May 23, 2013 and Order<sup>[3]</sup> dated July 1, 2013 of the Regional Trial Court (RTC) of Marikina City.

#### The Factual Antecedents

Joel H. Borrromeo and Carmen H. Licerio (petitioners) are husband and wife with two legitimate minor children, Kristian Andrew and Karl Joseph.<sup>[4]</sup> They desire to jointly adopt Karen Herico Licerio (Karen), the minor illegitimate daughter of petitioner Carmen.<sup>[5]</sup>

The petitioners filed a verified Petition for Adoption of Karen with the RTC of Marikina City on May 26, 2005.<sup>[6]</sup>

#### The Ruling of the RTC of Marikina City

On June 27, 2006, finding that the adoption of Karen will promote her general welfare, the RTC of Marikina granted the petition to jointly adopt Karen as the petitioners' legitimate daughter. The dispositive portion of the Decision reads:<sup>[7]</sup>

**WHEREFORE**, foregoing premises considered, the petition is **GRANTED** and pursuant to Section 16 of Republic Act No. 8552 also known as the New Rules on Adoption which took effect on August 22, 2002 and Article 37 of P.D. 603 also known as the Child and Youth Welfare Code, judgment is hereby rendered as follows:

- 1) declaring the minor **KAREN HERICO LICERIO** as the legitimate and legal heir of petitioner-spouses Joel H. Borrromeo and Carmen L. Borrromeo;
- 2) declaring that the minor KAREN HERICO LICERIO shall now be known as **KAREN LICERIO BORROMEO**;
- 3) ordering the adopters to submit a certified true copy of the decree of adoption and the certificate of finality to the City Civil Registrar of Marikina City within thirty (30) days from receipt of the certificate of finality;
- 4) ordering the City Civil Registrar of Quezon City to:
  - a) rectify and annotate on the original certificate of birth the

- decree of adoption within thirty (30) days from receipt of the certificate of finality;
- b) issue a certificate of birth of the minor **KAREN LICERIO BORROMEO** which shall not bear any notation that it is new or amended;
  - c) to seal the original certificate of birth in the civil registry records and can only be opened upon order of this Court; and
  - d) to submit proof of compliance with all the foregoing within thirty (30) days from receipt of this decree.

Let a copy of this Decision be furnished the following agencies, the City Civil Registrar of Marikina City and the National Statistics Office for record purposes.

**SO ORDERED.**<sup>[8]</sup>

On July 12, 2006, the petitioners went to the Office of the Civil Registrar (OCR) of Quezon City to implement the decision of the RTC of Marikina City. However, they were informed that the birth of Karen was registered in both the OCR of Quezon City and Caloocan City.<sup>[9]</sup> Thus, they were advised that in order to implement the June 27, 2006 Decision, the registration of Karen's birth in the OCR of Caloocan City must be cancelled.<sup>[10]</sup>

Following this advice, petitioners filed a Petition for Cancellation in the RTC of Caloocan City.<sup>[11]</sup>

**The Ruling of the RTC of Caloocan City**

On May 23, 2012, the RTC of Caloocan City issued an Order for the correction of entries in the Certificate of Live Birth of Karen Licerio, to wit:<sup>[12]</sup>

Accordingly, the Office of the Local Civil Registry, Caloocan City is hereby ordered to correct the entries in the Certificate of Live Birth of KAREN LICERIO TORRES registered in the said office under Registry No. 99-25361 as follows:

- a) Under Entry No. 1, the name Karen Licerio Torres should be corrected to reflect the name Karen Licerio;
- b) Under Entry No. 12, the date and place of marriage of parents entered therein as January 7, 1992 be corrected to reflect the words "not married".

Notably, the RTC of Caloocan City did not cancel the Certificate of Live Birth of Karen as prayed for.<sup>[13]</sup>

It is important to note that the June 27, 2006 Decision is addressed to the OCR of Quezon City, thus, it cannot be executed by the OCR of Caloocan City.<sup>[14]</sup>

To execute the decision granting Karen's adoption, petitioners filed a Motion to Correct the June 27, 2006 Decision on February 19, 2013 to insert the phrase "City Civil Registrar of Caloocan City" in lieu of the "City Civil Registrar of Quezon City."

[15]

### **The Order of the RTC of Marikina City**

On May 23, 2013, the RTC of Marikina City issued an Order<sup>[16]</sup> denying the Motion to Correct, to wit:

WHEREFORE, the Motion to Correct dated February 14, 2013 of the petitioners is hereby **denied** for lack of merit.

SO ORDERED.

The RTC of Marikina City found that its June 27, 2006 Decision has long become final and executory, which made it immutable and unalterable.<sup>[17]</sup> It also ruled that none of the three (3) exceptions to the rule on the immutability of final judgements was found because there was (1) no correction of clerical errors, (2) no so-called *nunc pro tunc* entries, and (3) no void judgment to correct.<sup>[18]</sup> It also pointed out that issue regarding the alleged duplicitous registration of Karen's birth was not previously presented to the court. Hence, the requested change of the OCR in the Decision cannot be a *nunc pro tunc* amendment.<sup>[19]</sup>

While the RTC of Marikina City commiserates with the petitioners, it enunciated that in this case it has no competence to rule on the proper OCR that will implement its decision.<sup>[20]</sup> The evidence before it only showed that Karen was born in Quezon City, not Caloocan City. Hence, it rightly directed the OCR of Quezon City to implement its decision.<sup>[21]</sup>

Dissatisfied with this decision, petitioners filed a Motion for Reconsideration which was denied in an Order dated July 1, 2013.<sup>[22]</sup>

### **The Present Petition**

Unfazed, petitioners filed herein petition for review on *certiorari* dated August 1, 2013 asserting the following arguments; (1) adoption and correction of entries in the civil registry are special proceedings; (2) Section 6, Rule 39 of the Rules of Court does not apply to special proceedings; and (3) final judgement may be modified or altered to harmonize the same with justice and the facts.<sup>[23]</sup>

On February 14, 2014, the Office of the Solicitor General filed its Comment agreeing that the adoption and correction of entries are special proceedings, and Section 6, Rule 39 of the Rules of Court does not apply. However, it alleged that another suit or action that will examine the relevance of Karen's birth records in the OCR of Caloocan City is in order.

Petitioners filed their Reply<sup>[24]</sup> on November 18, 2014.

In sum, the issue for this Court's resolution is whether the RTC of Marikina City erred in dismissing petitioners' Motion to Correct the decision because of the doctrine of immutability of judgment.

### **This Court's Ruling**

*The petition is meritorious.*

One of the exceptions to the doctrine of immutability of judgment applies.

In *Antonio Mendoza v. Fil-Homes realty Development Corporation*,<sup>[25]</sup> this Court discussed that "under the doctrine of finality of judgment or immutability of judgment, a decision that has acquired finality becomes immutable and unalterable, and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact and law."

In the same case, however, this Court also pointed out the four (4) exceptions to the doctrine on immutability of judgement, to wit:<sup>[26]</sup>

- (1) The correction of clerical errors;
- (2) The so-called *nunc pro tunc* entries which cause no prejudice to any party;
- (3) Void judgements; and
- (4) **Whenever circumstances transpire after the finality of the decision rendering its execution unjust and inequitable.**  
(Emphasis supplied)

The fourth exception is further discussed in the case of *City of Butuan v. Ortiz*,<sup>[27]</sup> where this Court held as follows:

Obviously a prevailing party in a civil action is entitled to a writ of execution of the final judgment obtained by him within five years from its entry (Section 443, Code of Civil Procedure). **But it has been repeatedly held, and it is now well-settled in this jurisdiction, that when after judgment has been rendered and the latter has become final, facts and circumstances transpire which render its execution impossible or unjust, the interested party may ask the court to modify or alter the judgment to harmonize the same with justice and the facts** (Molina vs. De la Riva, 8 Phil. 569; Behn, Meyer & Co. vs. McMicking, 11 Phil. 276; Warner, Barnes & Co. vs. Jaucian, 13 Phil. 4; Espiritu vs. Crossfield and Guash, 14 Phil. 588; Flor Mata vs. Lichauco and Salinas, 36 Phil. 809). In the instant case the respondent Cleofas alleged that subsequent to the judgment obtained by Sto. Domingo, they entered into an agreement which showed that he was no longer indebted in the amount claimed of P995, but in a lesser amount. Sto. Domingo had no right to an execution for the amount claimed by him. (De la Costa vs. Cleofas, 67 Phil. 686-693).<sup>[28]</sup> (Emphasis and underscoring supplied)

The fourth exception to the doctrine on immutability of judgement is present in this case. After the June 27, 2006 Decision granting the adoption of Karen has become final and executory, new facts and circumstances occurred which made its execution inequitable and impossible.