

FIRST DIVISION

[G.R. No. 153883, January 13, 2004]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. CHULE Y. LIM,
RESPONDENT.**

DECISION

YNARES-SATIAGO, J.:

This petition for review on certiorari under Rule 45 of the Rules of Court stemmed from a petition for correction of entries under Rule 108 of the Rules of Court filed by respondent Chule Y. Lim with the Regional Trial Court of Lanao del Norte, Branch 4, docketed as Sp. Proc. No. 4933.

In her petition, respondent claimed that she was born on October 29, 1954 in Buruan, Iligan City. Her birth was registered in Kauswagan, Lanao del Norte but the Municipal Civil Registrar of Kauswagan transferred her record of birth to Iligan City. She alleged that both her Kauswagan and Iligan City records of birth have four erroneous entries, and prays that they be corrected.

The trial court then issued an Order,^[1] which reads:

WHEREFORE, finding the petition to be sufficient in form and substance, let the hearing of this case be set on December 27, 1999 before this Court, Hall of Justice, Rosario Heights, Tubod, Iligan City at 8:30 o'clock in the afternoon at which date, place and time any interested person may appear and show cause why the petition should not be granted.

Let this order be published in a newspaper of general circulation in the City of Iligan and the Province of Lanao del Norte once a week for three (3) consecutive weeks at the expense of the petitioner.

Furnish copies of this order the Office of the Solicitor General at 134 Amoroso St., Legaspi Vill., Makati City and the Office of the Local Civil Registrar of Iligan City at Quezon Ave., Pala-o, Iligan City.

SO ORDERED.

During the hearing, respondent testified thus:

First, she claims that her surname "Yu" was misspelled as "Yo". She has been using "Yu" in all her school records and in her marriage certificate.^[2] She presented a clearance from the National Bureau of Investigation (NBI)^[3] to further show the consistency in her use of the surname "Yu".

Second, she claims that her father's name in her birth record was written as "Yo Diu

To (Co Tian)" when it should have been "Yu Dio To (Co Tian)."

Third, her nationality was entered as Chinese when it should have been Filipino considering that her father and mother never got married. Only her deceased father was Chinese, while her mother is Filipina. She claims that her being a registered voter attests to the fact that she is a Filipino citizen.

Finally, it was erroneously indicated in her birth certificate that she was a legitimate child when she should have been described as illegitimate considering that her parents were never married.

Placida Anto, respondent's mother, testified that she is a Filipino citizen as her parents were both Filipinos from Camiguin. She added that she and her daughter's father were never married because the latter had a prior subsisting marriage contracted in China.

In this connection, respondent presented a certification attested by officials of the local civil registries of Iligan City and Kauswagan, Lanao del Norte that there is no record of marriage between Placida Anto and Yu Dio To from 1948 to the present.

The Republic, through the City Prosecutor of Iligan City, did not present any evidence although it actively participated in the proceedings by attending hearings and cross-examining respondent and her witnesses.

On February 22, 2000, the trial court granted respondent's petition and rendered judgment as follows:

WHEREFORE, the foregoing premises considered, to set the records of the petitioner straight and in their proper perspective, the petition is granted and the Civil Registrar of Iligan City is directed to make the following corrections in the birth records of the petitioner, to wit:

1. Her family name from "YO" to "YU";
2. Her father's name from "YO DIU TO (CO TIAN)" to "YU DIOTO (CO TIAN)";
3. Her status from "legitimate" to "illegitimate" by changing "YES" to "NO" in answer to the question "LEGITIMATE?"; and,
4. Her citizenship from "Chinese" to "Filipino".

SO ORDERED.^[4]

The Republic of the Philippines appealed the decision to the Court of Appeals which affirmed the trial court's decision.^[5]

Hence, this petition on the following assigned errors:

I

THE COURT OF APPEALS ERRED IN ORDERING THE CORRECTION OF THE CITIZENSHIP OF RESPONDENT CHULE Y. LIM FROM "CHINESE" TO

"FILIPINO" DESPITE THE FACT THAT RESPONDENT NEVER DEMONSTRATED ANY COMPLIANCE WITH THE LEGAL REQUIREMENTS FOR ELECTION OF CITIZENSHIP.

II

THE COURT OF APPEALS ERRED IN ALLOWING RESPONDENT TO CONTINUE USING HER FATHER'S SURNAME DESPITE ITS FINDING THAT RESPONDENT IS AN ILLEGITIMATE CHILD.^[6]

To digress, it is just as well that the Republic did not cite as error respondent's recourse to Rule 108 of the Rules of Court to effect what indisputably are substantial corrections and changes in entries in the civil register. To clarify, Rule 108 of the Revised Rules of Court provides the procedure for cancellation or correction of entries in the civil registry. The proceedings under said rule may either be summary or adversary in nature. If the correction sought to be made in the civil register is clerical, then the procedure to be adopted is summary. If the rectification affects the civil status, citizenship or nationality of a party, it is deemed substantial, and the procedure to be adopted is adversary. This is our ruling in *Republic v. Valencia*^[7] where we held that even substantial errors in a civil registry may be corrected and the true facts established under Rule 108 provided the parties aggrieved by the error avail themselves of the appropriate adversary proceeding. An appropriate adversary suit or proceeding is one where the trial court has conducted proceedings where all relevant facts have been fully and properly developed, where opposing counsel have been given opportunity to demolish the opposite party's case, and where the evidence has been thoroughly weighed and considered.^[8]

As likewise observed by the Court of Appeals, we take it that the Republic's failure to cite this error amounts to a recognition that this case properly falls under Rule 108 of the Revised Rules of Court considering that the proceeding can be appropriately classified as adversarial.

Instead, in its first assignment of error, the Republic avers that respondent did not comply with the constitutional requirement of electing Filipino citizenship when she reached the age of majority. It cites Article IV, Section 1(3) of the 1935 Constitution, which provides that the citizenship of a legitimate child born of a Filipino mother and an alien father followed the citizenship of the father, unless, upon reaching the age of majority, the child elected Philippine citizenship.^[9] Likewise, the Republic invokes the provision in Section 1 of Commonwealth Act No. 625, that legitimate children born of Filipino mothers may elect Philippine citizenship by expressing such intention "in a statement to be signed and sworn to by the party concerned before any officer authorized to administer oaths, and shall be filed with the nearest civil registry. The said party shall accompany the aforesaid statement with the oath of allegiance to the Constitution and the Government of the Philippines."^[10]

Plainly, the above constitutional and statutory requirements of electing Filipino citizenship apply only to legitimate children. These do not apply in the case of respondent who was concededly an illegitimate child, considering that her Chinese father and Filipino mother were never married. As such, she was not required to comply with said constitutional and statutory requirements to become a Filipino