

SECOND DIVISION

[G.R. No. 118387, October 11, 2001]

MARCELO LEE, ALBINA LEE-YOUNG, MARIANO LEE, PABLO LEE, HELEN LEE, CATALINO K. LEE, EUSEBIO LEE, EMMA LEE, AND TIU CHUAN, PETITIONERS, VS. COURT OF APPEALS AND HON. LORENZO B. VENERACION AND HON. JAIME T. HAMOY, IN THEIR CAPACITIES AS PRESIDING JUDGE OF BRANCH 47, REGIONAL TRIAL COURT OF MANILA AND BRANCH 130, REGIONAL TRIAL COURT OF KALOOKAN CITY, RESPECTIVELY AND RITA K. LEE, LEONCIO LEE TEK SHENG IN THEIR PERSONAL CAPACITIES AND ROSA K. LEE-VANDERLEK, MELODY K. LEE-CHIN, LUCIA K. LEE TEK SHENG, JULIAN K. LEE, HENRY K. LEE, MARTIN K. LEE, VICTORIANO K. LEE, NATIVIDAD K. LEE-MIGUEL, AND THOMAS K. LEE, REPRESENTED BY RITA K. LEE, RESPONDENTS.

DECISION

DE LEON, JR., J.:

This Petition for Review on *Certiorari*, with Prayer for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction, seeks the reversal of the Decision^[1] of the Court of Appeals dated October 28, 1994 in CA-G.R. SP NO. 31786^[2]. The assailed decision of the Court of Appeals upheld the Orders issued by respondents Judges Hon. Lorenzo B. Veneracion^[3] and Hon. Jaime T. Hamoy^[4] taking cognizance of two (2) separate petitions filed by private respondents before their respective salas for the cancellation and/or correction of entries in the records of birth of petitioners pursuant to Rule 108 of the Revised Rules of Court.

This is a story of two (2) sets of children sired by one and the same man but begotten of two (2) different mothers. One set, the private respondents herein, are the children of Lee Tek Sheng and his lawful wife, Keh Shiok Cheng. The other set, the petitioners herein, are allegedly children of Lee Tek Sheng and his concubine, Tiu Chuan.

Rita K. Lee, Leoncio Lee Tek Sheng, Rosa K. Lee-Vanderlek, Melody K. Lee-Chin, Lucia K. Lee Tek Sheng-Ong, Julian K. Lee, Henry K. Lee, Martin K. Lee, Victoriano K. Lee, Natividad K. Lee-Miguel and Thomas K. Lee (hereinafter referred to as private respondents) filed two (2) separate petitions for the cancellation and/or correction of entries in the records of birth of Marcelo Lee, Albina Lee-Young, Mariano Lee, Pablo Lee, Helen Lee, Catalino K. Lee, Eusebio Lee, and Emma Lee (hereinafter referred to as petitioners). On December 2, 1992, the petition against all petitioners, with the exception of Emma Lee, was filed before the Regional Trial Court (RTC) of Manila and docketed as SP. PROC. NO. 92-63692^[5] and later assigned to Branch 47 presided over by respondent Judge Lorenzo B. Veneracion. On February 3, 1993, a similar petition against Emma Lee was filed before the RTC

of Kalookan and docketed as SP. PROC. NO. C-1674^[6] and assigned to the sala of respondent Judge Jaime T. Hamoy of Branch 130.

Both petitions sought to cancel and/or correct the false and erroneous entries in all pertinent records of birth of petitioners by deleting and/or canceling therein the name of "Keh Shiok Cheng" as their mother, and by substituting the same with the name "Tiu Chuan", who is allegedly the petitioners' true birth mother.

The private respondents alleged in their petitions before the trial courts that they are the legitimate children of spouses Lee Tek Sheng and Keh Shiok Cheng who were legally married in China sometime in 1931. Except for Rita K. Lee who was born and raised in China, private respondents herein were all born and raised in the Philippines.

Sometime in October, 1948, Lee Tek Sheng, facilitated the arrival in the Philippines from China of a young girl named Tiu Chuan. She was introduced by Lee Tek Sheng to his family as their new housemaid but far from becoming their housemaid, Tiu Chuan immediately became Lee Tek Sheng's mistress. As a result of their illicit relations, Tiu Chuan gave birth to petitioners.

Unknown to Keh Shiok Cheng and private respondents, every time Tiu Chuan gave birth to each of the petitioners, their common father, Lee Tek Sheng, falsified the entries in the records of birth of petitioners by making it appear that petitioners' mother was Keh Shiok Cheng.

Since the birth of petitioners, it was Tiu Chuan who gave maternal care and guidance to the petitioners. They all lived in the same compound Keh Shiok Cheng and private respondents were residing in. All was well, therefore, before private respondents' discovery of the dishonesty and fraud perpetrated by their father, Lee Tek Sheng.

The tides turned after Keh Shiok Cheng's demise on May 9, 1989. Lee Tek Sheng insisted that the names of all his children, including those of petitioners', be included in the obituary notice of Keh Shiok Cheng's death that was to be published in the newspapers. It was this seemingly irrational act that piqued private respondents' curiosity, if not suspicion.^[7]

Acting on their suspicion, the private respondents requested the National Bureau of Investigation (NBI) to conduct an investigation into the matter. After investigation and verification of all pertinent records, the NBI prepared a report that pointed out, among others, the false entries in the records of birth of petitioners, specifically the following:

1. As per Birth Certificate of MARCELO LEE (Annex F-1), their father, LEE TEK SHENG made it appear that he is the 12th child of Mrs. KEH SHIOK CHENG, but upon investigation, it was found out that her Hospital Records, the mother who gave birth to MARCELO LEE had given birth for the 1st time, as per diagnosis of the attending physician, Dr. R. LIM, it was "GRAVIDA I, PARA I" which means "first pregnancy, first live birth delivery" (refer to: MASTER

PATIENT'S RECORDS SUMMARY - Annex I). Also, the age of the mother when she gave birth to MARCELO LEE as per record was only 17 years old, when in fact and in truth, KEH SHIOK CHENG's age was then already 38 years old. The address used by their father in the Master Patient record was also the same as the Birth Certificate of MARCELO LEE (2425 Rizal Avenue, Manila). The name of MARCELO LEE was recorded under Hospital No. 221768, page 73.

2. As per Birth Certificate of ALBINA LEE (Annex F-2), it was made to appear that ALBINA LEE was the third child which is without any rationality, because the 3rd child of KEH SHIOK CHENG is MELODY LEE TEK SHENG (Annex E-2). Note also, that the age of the mother as per Hospital Records jump (sic) from 17 to 22 years old, but the only age gap of MARCELO LEE and ALBINA LEE is only 2 years.
3. As per Birth Certificate of MARIANO LEE (Annex F-3), it was made to appear that MARIANO LEE was the 5th child, but the truth is, KEH SHIOK CHENG's 5th child is LUCIA LEE TEK SHENG (Annex E-4). As per Hospital Record, the age of KEH SHIOK CHENG was only 23 years old, while the actual age of KEH SHIOK CHENG, was then already 40 years old.
4. As per Birth Certificate of PABLO LEE (Annex F-4), it was made to appear that PABLO LEE was the 16th child of KEH SHIOK CHENG which is impossible to be true, considering the fact that KEH SHIOK CHENG have stopped conceiving after her 11th child. Also as per Hospital Record, the age of the mother was omitted in the records. If PABLO LEE is the 16th child of KEH SHIOK CHENG, it would only mean that she have (sic) given birth to her first born child at the age of 8 to 9 years, which is impossible to be true.

Based on the birth record of MARIANO LEE in 1953, the recorded age of KEH SHIOK CHENG was 23 years old. Two years after PABLO LEE was born in 1955, the difference is only 2 years, so it is impossible for PABLO LEE to be the 16th child of KEH SHIOK CHENG, as it will only mean that she have (sic) given birth at that impossible age.

5. As per Birth Certificate of HELEN LEE (Annex F-5), it was made to appear that she is the 6th child of KEH SHIOK CHENG, but as per Birth Certificate of JULIAN LEE (Annex E-5), he is the true 6th child of KEH SHIOK CHENG. Per Hospital Record, KEH SHIOK CHENG is only 28 years old, while KEH SHIOK CHENG'S true age at that time was 45 years old.
6. EMMA LEE has no record in the hospital because, as per complainant's allegation, she was born at their house, and was later admitted at Chinese General Hospital.

7. As per Birth Certificate of CATALINO LEE (Annex F-7), it was made to appear that he is the 14th child of KEH SHIOK CHENG, and that the age of KEH SHIOK CHENG a.k.a. Mrs. LEE TEK SHENG, jumped from 28 years old at the birth of HELEN LEE on 23 August 1957 to 38 years old at the birth of CATALINO LEE on 22 April 1959.
8. As per Birth Certificate of EUSEBIO LEE, the alleged last son of KEH SHIOK CHENG, the age of the mother is 48 years old. However, as per Hospital Record, the age of Mrs. LEE TEK SHENG, then was only 39 years old. Considering the fact, that at the time of MARCELO's birth on 11 May 1950. KEH SHIOK CHENG's age is 38 years old and at the time of EUSEBIO's birth, she is already 48 years old, it is already impossible that she could have given birth to 8 children in a span of only 10 years at her age. As per diagnosis, the alleged mother registered on EUSEBIO's birth indicate that she had undergone CEASARIAN SECTION, which Dr. RITA K. LEE said is not true.

In view of the foregoing facts, the NBI concluded that:

10. In conclusion, as per Chinese General Hospital Patients Records, it is very obvious that the mother of these 8 children is certainly not KEH SHIOK CHENG, but a much younger woman, most probably TIU CHUAN. Upon further evaluation and analysis by these Agents, LEE TEK SHENG, is in a quandary in fixing the age of KEH SHIOK CHENG possibly to conform with his grand design of making his 8 children as their own legitimate children, consequently elevating the status of his 2nd family and secure their future. The doctor lamented that this complaint would not have been necessary had not the father and his 2nd family kept on insisting that the 8 children are the legitimate children of KEH SHIOK CHENG.^[8]

It was this report that prompted private respondents to file the petitions for cancellation and/or correction of entries in petitioners' records of birth with the lower courts.

The petitioners filed a motion to dismiss both petitions - SP. PROC. NO. 92-63692 and SP. PROC. NO. C-1674 - on the grounds that: (1) resort to Rule 108 is improper where the ultimate objective is to assail the legitimacy and filiation of petitioners; (2) the petition, which is essentially an action to impugn legitimacy was filed prematurely; and (3) the action to impugn has already prescribed.^[9]

On February 12, 1993, respondent Judge Veneracion denied the motion to dismiss SP. PROC. NO. 92-63692 for failure of the herein petitioners (defendants in the lower court) to appear at the hearing of the said motion.^[10] Then on February 17,

1993, Judge Veneracion issued an Order, the pertinent portion of which, reads as follows:

Finding the petition to be sufficient in form and substance, the same is hereby given due course. Let this petition be set for hearing on March 29, 1993 at 8:30 in the morning before this Court located at the 5th Floor of the City Hall of Manila.

Notice is hereby given that anyone who has any objection to the petition should file on or before the date of hearing his opposition thereto with a statement of the grounds therefor.

Let a copy of this Order be published, at the expense of the petitioners, once a week for three (3) consecutive weeks in a newspaper of general circulation in the Philippines.

Let copies of the verified petition with its annexes and of this Order be served upon the Office of the Solicitor General, and the respondents, and be posted on the Bulletin Board of this Court, also at the expense of the petitioners.

SO ORDERED.^[11]

On the other hand, respondent Judge Hamoy issued an Order dated April 15, 1993 taking cognizance of SP. PROC. No. C-1674, *to wit*:

It appearing from the documentary evidence presented and marked by the petitioners that the Order of the Court setting the case for hearing was published in "Media Update" once a week for three (3) consecutive weeks, that is on February 20, 27, and March 6, 1993 as evidenced by the Affidavit of Publication and the clippings attached to the affidavit, and by the copies of the "Media Update" published on the aforementioned dates; further, copy of the order setting the case for hearing together with copy of the petition had been served upon the Solicitor General, City Prosecutor of Kalookan City, Civil Registrar of Kalookan City and the private respondents, the Court holds that the petitioners have complied with the jurisdictional requirements for the Court to take cognizance of this case.

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SO ORDERED.^[12]

Petitioners' attempts at seeking a reconsideration of the above-mentioned orders of Judge Veneracion and Judge Hamoy failed, hence their recourse to the Court of Appeals *via* a Petition for Certiorari and Prohibition with Application for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction. Petitioners