

## SEVENTH DIVISION

[ CA-G.R. SP NO. 129000, August 27, 2014 ]

**ANTONIO ROJE I. MACASINAG, PETITIONER, VS. HON. CECILYN E. BURGOS-VILLAVERT, PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 89, QUEZON CITY AND MA. LUISA F. MARTINEZ, RESPONDENTS.**

### DECISION

**REYES, JR., J.C., J.:**

This resolves the Petition for Certiorari filed under Rule 65 of the 1997 Rules of Civil Procedure seeking to annul and set aside the following Orders issued by the Regional Trial Court (RTC) of Quezon City, Branch 89 through public respondent Judge Cecilyn E. Burgos-Villavert, in Civil Case No. Q-97-31523, to wit:

1. Order dated June 18, 2012 (Rollo, pp. 17-18) which denied petitioner's Motion for Correction of Clerical Errors;
2. Order dated October 9, 2012 (Rollo, p. 16) which denied petitioner's Motion for Reconsideration and Supplement to the Motion for Reconsideration; and
3. Order dated November 28, 2012 (Rollo, p. 15) which denied petitioner's Notice of Appeal.

On July 4, 1997, private respondent Ma. Luisa F. Martinez filed a Petition for Declaration of Nullity of Marriage on the ground of psychological incapacity of petitioner Antonio Roje Macasinag (Macasinag). The case was captioned as "*Ma. Luisa F. Martinez vs. Antonio Roje J. Macasinag*" and was docketed as Civil Case No. Q-97-31523. One of the documents presented as evidence is the marriage contract (Rollo, p. 26) of the parties. The said marriage contract bears the name that appears to be Antonio Roje J. Macasinag. Petitioner Macasinag did not participate in the proceedings of the case.

On December 13, 1999, a Decision (Rollo, pp. 39-52) was rendered by Judge Elsa I. de Guzman granting the petition for declaration of nullity of marriage of the parties. On February 25, 2011, the said decision became final and executory (See; Entry of Judgment, Rollo, p. 54).

On January 18, 2012, petitioner Macasinag filed a "Motion for Correction of Clerical Error in the Decision dated 13 December 1999" (Rollo, pp.55-57). In the said Motion, petitioner Macasinag asserted that the RTC had an oversight that amounts to clerical error when it indicated in the Decision his name as Antonio Roje J. Macasinag instead of Antonio Roje I. Macasinag. He insisted that his name as recorded in the parties' marriage contract appears to be Antonio Roje I. Macasinag. His middle name "I" stands for Ilo. Petitioner Macasinag believes that said clerical

error could be corrected through a judgment *nunc pro tunc*.

On June 18, 2012, the RTC of Quezon City, through public respondent Judge Burgos-Villavert issued the now assailed Order denying the Motion. Thus, she ruled:

“(Respondent’s) assertion that a judgment *nunc pro tunc* should be issued to correct the clerical error committed by the Court will not lie. The recorded name of the (respondent) in the Marriage Contract appears to be Antonio Roje J. Macasinag. Further, the name of the (respondent) in caption/title of the original petition and two amended petitions filed by the (petitioner) is the same name appearing in the marriage contract. Therefore, the Court did not commit any clerical error as it based its decision on the informations indicated in the petition and amended petitions supplied by the (petitioner) herself” (*parentheses supplied*) (Rollo, p. 18).

Petitioner Macasinag filed a Motion for Reconsideration (Rollo, pp. 58-59) explaining that his middle initial of appearing in the marriage contract was not legibly written, hence, there was an oversight that amounts to a clerical error which could be corrected through a judgment *nunc pro tunc*. Thereafter petitioner Macasinag filed a Supplement to the Motion for Reconsideration (See: Rollo, p. 61), showing an NSO-issued copy of his Certificate of Birth which revealed that his mother’s name is “Elena Ilo”, for which reason, his middle initial should be “I” and not “J”.

Resolving the pending motions, public respondent judge, on October 9, 2012, issued the assailed Order dated October 9, 2012, denying both petitioner’s Motion for Reconsideration and Supplement to the Motion for Reconsideration.

Dissatisfied, petitioner Macasinag, on November 14, 2012, filed a Notice of Appeal (Rollo, p. 64) questioning the June 18, 2012 and October 9, 2012 Orders of the RTC, for being contrary to evidence, existing law and jurisprudence. On November 28, 2012, public respondent judge denied the said Notice of Appeal, ruling that “no appeal maybe taken from an order denying a petition for relief or any similar motion seeking relief from judgment (See: Rollo, p. 15).

Undaunted, petitioner Macasinag filed the instant Petition for Certiorari with this Court on the lone ground that -

“PUBLIC RESPONDENT, WITH DUE RESPECT, ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION WHEN IT ISSUED THE QUESTIONED ORDERS, DENYING THE PETITIONER’S NOTICE OF APPEAL, DENYING HIS MOTION FOR RECONSIDERATION AND SUPPLEMENT TO THE MOTION FOR RECONSIDERATION, AS WELL AS DENYING HIS MOTION FOR CORRECTION OF CLERICAL ERROR IN THE DECISION, DESPITE THE APPEAL BEING MERITORIOUS.” (Rollo, p. 6).

This is a case which involves a Petition for the Declaration of Nullity of Marriage that has been granted and has become final and executory, were it not for some alleged clerical errors which petitioners sought to be corrected. Thus, notwithstanding the final and executory nature of the Decision, petitioner, in seeking to rectify said error, filed a “Motion for Correction of Clerical Error in the Decision”. This Motion was denied by public respondent RTC. Petitioner moved for reconsideration and the same