

## **EIGHTEENTH DIVISION**

**[ CA-G.R. CV No. 04340, August 12, 2014 ]**

**AIDA ALAPAG BERON, PETITIONER-APPELLEE, VS. THE LOCAL  
CIVIL REGISTRAR OF PINTUYAN, SOUTHERN LEYTE,  
RESPONDENT-APPELLEE.**

**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<sup>[1]</sup> of the Regional Trial Court, 8th Judicial Region, Branch 39, Sogod, Southern Leyte dated February 4, 2012 in SP. PROC. NO. R-246, entitled In the Matter of the Petition for Change/Correction of Entries in the Birth Records of Aida Alapag Beron: Aida Alapag Beron vs. the Local Civil Registrar of Pintuyan, Southern Leyte, in Her Official Capacity, the dispositive portion of which reads as follows:

**"WHEREFORE**, as prayed for, judgment is hereby rendered GRANTING the petition.

**ACCORDINGLY**, the Local Civil Registrar (LCR) of Pintuyan, Southern Leyte and the National Statistics Office (NSO), Quezon City are hereby ordered to effect the necessary changes/corrections in the Registry of Birth of AIDA ALAPAG BERON, as follows:

1. To change/correct therein her First Name from "RAUL" to "AIDA" under column First Name of the child;
2. To change/correct therein her SEX entry from "M" or "MALE" to "F" or "FEMALE" under column SEX of the child;
3. To change/correct therein the Date of Marriage of her Parents from "MAY 7, 19/NOVEMBER 10, 1959" to "NOVEMBER 5, 1958" under column Date of Marriage of the Parents of the child; and
4. To supply/fill in therein the Place of Marriage of her Parents from "BLANK" to "PINTUYAN, SOUTHERN LEYTE" under column Place of Marriage of the Parents of the child.

SO ORDERED."

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

The instant case originated from a Petition<sup>[2]</sup> dated May 10, 2011 filed by Aida Alapag Beron with the Regional Trial Court of Sogod, Southern Leyte, Branch 39, docketed as SP Proc. No R-246 entitled "In the Matter of the Petition for Change/Correction of Entries in the Birth Records of Aida Alapag Beron: Aida Alapag Beron vs. the Local Civil Registrar of Pintuyan, Southern Leyte, in her Official Capacity."

In an Order<sup>[3]</sup> dated June 27, 2011, the RTC, finding the petition to be sufficient in form and substance, directed that the Office of the Solicitor General, the Provincial Prosecutor's Office, the Local Civil Registrar of Pintuyan, Southern Leyte and the National Statistics Office be furnished a copy of the petition, and that the petition be published in a newspaper of general circulation in the Province of Southern Leyte once a week for three (3) consecutive weeks.

The Solicitor General and the Local Civil Registrar of Pintuyan, Southern Leyte were subsequently furnished with copies of the petition as evidenced by the registry receipts attached to the records of the case. A Notice of Appearance<sup>[4]</sup> dated June 9, 2011 was then filed by the Solicitor General and the Office of the Provincial Prosecutor of Sogod, Southern Leyte, was deputized 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 "The Southern Leyte Times" in its issues of July 16-22, 2011; July 23-29, 2011; and July 30-August 5, 2011 per Affidavit of Publication<sup>[5]</sup> executed by Antonio M. Reyes, Publisher.

During the initial hearing of the case, petitioner, through counsel, presented evidence establishing jurisdictional facts and formally offered the same which were all admitted without objection from the State. No oppositor appeared during the said hearing hence, the RTC issued an order of general default against the whole world except the State.<sup>[6]</sup>

The presentation of evidence *ex-parte* was thereafter conducted. Petitioner testified in her behalf and her testimony<sup>[7]</sup> is hereunder summarized as follows:

She is the same Aida Alapag Beron who is the petitioner in this case. She filed the instant petition to correct errors on certain entries in her Birth Certificates from the NSO and from LCR-Pintuyan. What appeared in the LCR copy of her Birth Certificate<sup>[8]</sup> as the date of marriage of her parents was November 10, 1959 but the correct date of marriage of her parents is November 5, 1958.

The NSO copy of her Birth Certificate<sup>[9]</sup> also contained erroneous entries as follows: her first name was erroneously entered as Raul when it should have been Aida; her sex was erroneously entered as male when it should have been female; and the entry on the place of marriage of her parents was left blank.

To prove the correct information that should have been entered in her

birth certificates, she presented and identified the Marriage Contract<sup>[10]</sup> of her parents where it was indicated that the date of marriage was on November 5, 1958 and that they were married at Pintuyan, Southern Leyte.

She also presented and identified the Birth Certificate of her sister Charlita Alapag Beron<sup>[11]</sup> reflecting the correct date of marriage of their parents.

To prove that she is indeed female, she also presented and identified a medical certificate<sup>[12]</sup> signed by the Municipal Health Officer of Pintuyan, Southern Leyte certifying that petitioner was physically examined and was found to be genetically female.

She also presented and identified her Baptismal Certificate<sup>[13]</sup> to prove that her first name is Aida and not Raul, as well as her Secondary Student's Permanent Record<sup>[14]</sup> and NBI Clearance.<sup>[15]</sup>

On cross examination, she averred that she does not know Raul Alapag Beron. She also stated that the Birth Certificate she secured from the NSO is hers because of her date of birth (April 1, 1978) that appeared thereat as well the name of her parents.

Based on the foregoing, the RTC found that there exists valid grounds to correct the birth certificates and held that the petition was well supported by law and the duly established facts. The RTC then rendered its decision in the manner and tenor quoted above.

A Notice of Appeal<sup>[16]</sup> 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.<sup>[17]</sup>

The following assignments of errors were raised, to wit:

## I

THE COURT A *QUO* ERRED IN TAKING COGNIZANCE OF THE PETITION TO CHANGE THE NAME OF PETITIONER-APPELLEE FROM "RAUL" TO "AIDA" - A PETITION WHICH FALLS WITHIN THE PROVISIONS OF RULE 103 OF THE REVISED RULES OF COURT - DESPITE SUBSTANTIAL DEFECT IN THE PETITION.

## II

ASSUMING ARGUENDO THAT PETITIONER-APPELLEE AVAILED OF THE REMEDIES UNDER RULE 108 OF THE RULES OF COURT, THE COURT A *QUO* ERRED IN GRANTING PETITIONER-APPELLEE'S PETITION CONSIDERING THAT THE ENTRY SOUGHT TO BE CORRECTED IN HER

CERTIFICATE OF LIVE BIRTH CAN ONLY BE GRANTED IN AN ADVERSARIAL PROCEEDING WHEREIN INDISPENSABLE PARTIES MUST BE NOTIFIED AND IMPEADED AS PARTIES TO THE CASE.

The appeal does not merit this Court's consideration.

Appellant contends that the RTC erred in granting the petition for change/correction of entries in the birth records of Aida Alapag Beron inasmuch as the provisions of Rule 103 of the Revised Rules of Court on change of name have not been complied with, the petition having been decided under Rule 108 of the Revised Rules of Court.

We are not persuaded.

The Supreme Court in the case of *REPUBLIC OF THE PHILIPPINES vs. MERLYN MERCADERA* through her Attorney-in-Fact, EVELYN M. OGA,<sup>[18]</sup> has ruled that:

"It appears from these arguments that there is, to some extent, confusion over the scope and application of Rules 103 and Rule 108. Where a "change of name" will necessarily be reflected by the corresponding correction in an entry, as in this case, the functions of both rules are often muddled. While there is no clear-cut rule to categorize petitions under either rule, this Court is of the opinion that a resort to the basic distinctions between the two rules with respect to alterations in a person's registered name can effectively clear the seeming perplexity of the issue. Further, a careful evaluation of circumstances alleged in the petition itself will serve as a constructive guide to determine the propriety of the relief prayed for.

The "change of name" contemplated under Article 376 and Rule 103 must not be confused with Article 412 and Rule 108. A change of one's name under Rule 103 can be granted, only on grounds provided by law. In order to justify a request for change of name, there must be a proper and compelling reason for the change and proof that the person requesting will be prejudiced by the use of his official name. To assess the sufficiency of the grounds invoked therefor, there must be adversarial proceedings.<sup>[19]</sup>

In petitions for correction, only clerical, spelling, typographical and other innocuous errors in the civil registry may be raised. Considering that the enumeration in Section 2, Rule 108<sup>[20]</sup> also includes "changes of name," the correction of a patently misspelled name is covered by Rule 108. Suffice it to say, not all alterations allowed in one's name are confined under Rule 103. Corrections for clerical errors may be set right under Rule 108.

This rule in "names," however, does not operate to entirely limit Rule 108 to the correction of clerical errors in civil registry entries by way of a summary proceeding. As explained above, *Republic v. Valencia* is the authority for allowing substantial errors in other entries like citizenship,