

SIXTEENTH DIVISION

[CA-G.R. CV NO. 99437, November 27, 2014]

**REVILLA LATAUAN MARTIN CARTA, PETITIONER-APPELLEE, VS.
THE LOCAL CIVIL REGISTRAR OF TUAO, CAGAYAN,
RESPONDENT,
REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.**

D E C I S I O N

BATO, JR., J.:

This is an appeal from the Decision^[1] dated July 11, 2012 issued by the Regional Trial Court of Tuao, Cagayan, Branch XI, in Spec. Proc. Case No. 770-12-T, the dispositive portion of which reads:

WHEREFORE, in view of all the foregoing, the petition is GRANTED. Corollary thereto, the Local Civil Registrar, Tuao, Cagayan, is hereby ordered to correct petitioner's Certificate of Live Birth particularly her date of birth from November 8, 2012 (sic) to October 20, 1975.

SO ORDERED.

The facts are not complicated.

Petitioner-appellee Revilla Latauan Martin Carta claims that she is the biological daughter of Spouses Cecilio Martin and Virginia Latauan; that she was born on October 20, 1975; that what is recorded in the Certificate of Live Birth as her date of birth is November 8, 1975; and that she has long known that October 20, 1975 is her real date of birth and has consistently used the same, as shown by her Certificate of Baptism (Exhibit "H"), Certificate of Marriage (Exhibit "I"), Social Security System (SSS) Personal Data Record (Exhibit "J") and Certificate of Compensation Payment/Tax Withheld (BIR Form 2316) (Exhibit "K").

On May 17, 2012 petitioner-appellee filed a Petition^[2] for Correction of Wrong Entry of Date of Birth. Appearing for the Republic of the Philippines was the Office of the Solicitor General (OSG). For purposes of attending the hearings, the OSG deputized the Office of the Provincial Prosecutor of Cagayan. After petitioner-appellee complied with the jurisdictional requirements, she was allowed to present her evidence *ex parte* before Atty. Mariano B. Martin, the court *a quo*'s Clerk of Court VI.

On July 11, 2012, the court *a quo* issued its now assailed Decision granting the petition and ordering the Local Civil Registrar of Tuao, Cagayan to correct petitioner's Certificate of Live Birth, particularly her date of birth, from November 8, 1975 to October 20, 1975.

On August 29, 2012, oppositor-appellant Republic of the Philippines, through the OSG, filed a *Notice of Appeal*.^[3] In its *Appellant's Brief*, it claims that:

THE COURT A QUO ERRED IN ALLOWING THE CORRECTION OF PETITIONER-APPELLEE'S DATE OF BIRTH FROM "NOVEMBER 8, 1975" AS APPEARING ON HER BIRTH CERTIFICATE TO "OCTOBER 20, 1975" CONSIDERING THE INSUFFICIENT EVIDENCE SHE HAD PRESENTED BEFORE IT.^[4]

More specifically, oppositor-appellant alleges that the lower court erred in giving credence to the petitioner-appellee's pieces of evidence; that the certificate of baptism, not being a public document, is not *prima facie* evidence of the facts stated therein; and that the other evidence presented have no direct correlation with petitioner-appellee's alleged correct date of birth.

In her *Appellee's Brief*, petitioner-appellee alleges that she presented sufficient evidence to warrant the correction of her date of birth from November 8, 1975 to October 20, 1975. She cites Republic Act No. 10172 which allows "baptismal certificate and other documents issued by religious authorities" as evidence for correction of clerical and typographical errors appearing in the records of the Civil Registry.

Thus, the issue in this appeal is whether or not the court *a quo* committed reversible error in granting the petition for correction of date of birth and in ordering the Local Civil Registrar of Tuao, Cagayan to correct petitioner's Certificate of Live Birth, particularly her date of birth, from November 8, 1975 to October 20, 1975.

The appeal is bereft of merit.

Rule 108 of the Rules of Court is the rule which governs the cancellation or correction of entries in the Civil Registry by judicial order. Section 2 of the Rule provides:

SEC. 2. Entries subject to cancellation or correction.—Upon good and valid grounds, the following entries in the civil register may be cancelled or corrected: (a) births; (b) marriages; (c) deaths; (d) legal separations; (e) judgments of annulments of marriage; (f) judgments declaring marriages void from the beginning; (g) legitimations; (h) adoptions; (i) acknowledgments of natural children; (j) naturalization; (k) election, loss or recovery of citizenship; (l) civil interdiction; (m) judicial determination of filiation; (n) voluntary emancipation of a minor; and (o) changes of name.

In addition, under Republic Act No. 9048,^[5] as amended by Republic Act No. 10172, the City or Municipal Civil Registrar or the Consul General is now allowed to correct a clerical or typographical error in an entry or change the first name or nickname in the Civil Register without need of a judicial order.

But, there is a well-defined difference between the procedure under this law and that under Rule 108 of the Rules of Court. In *Republic vs. Benemerito*,^[6] the Supreme Court explained that Republic Act No. 9048, as amended, contemplates only clerical or typographical errors while Rule 108 involves substantial changes, thus:

Parenthetically, the recent enactment of Republic Act 9048, otherwise also known as "An Act Authorizing the City or Municipal Civil Registrar or the Consul General to Correct a Clerical or Typographical Error in an Entry and/or Change of First Name or Nickname in the Civil Register Without Need of Judicial Order," only empowers the City or Municipal Civil Registrar or the Consul General to correct clerical or typographical errors and to allow a change in the first name or nickname in an entry in the civil registry without further need of a judicial order. **The obvious effect of Republic Act 9048 is merely to make possible the administrative correction of clerical or typographical errors or change of first name or nickname in entries in the civil register, leaving to Rule 108 the correction of substantial changes in the civil registry in appropriate adversarial proceedings.** (Emphasis supplied)

The distinction was reiterated in *Silverio vs. Republic*,^[7] where it was held that:

Together with Article 376 of the Civil Code, this provision was amended by RA 9048 in so far as clerical or typographical errors are involved. The correction or change of such matters can now be made through administrative proceedings and without the need for a judicial order. **In effect, RA 9048 removed from the ambit of Rule 108 of the Rules of Court the correction of such errors. Rule 108 now applies only to substantial changes and corrections in entries in the civil register.** (Emphasis supplied)

In the case at bar, petitioner-appellee sought to change her date of birth from November 8, 1975 to October 20, 1975, by judicial order, although under Republic Act No. 9048, as amended, the same could have been corrected administratively.

Under settled jurisprudence, petitioner-appellee's birth certificate is *prima facie* evidence of the fact of her birth.^[8] To overthrow the presumption in favor of the said document, convincing evidence of its inaccuracy must be presented. Thus, in *Babiera vs. Catotal*,^[9] it was held that, while it is true that an official document such as petitioner's Birth Certificate enjoys the presumption of regularity, the specific facts attendant in the case at bar, as well as the totality of the evidence presented during trial, sufficiently negate such presumption. Also, in an earlier case, *Tolentino vs. Paras*,^[10] it was ruled that, while documents, such as death and birth certificates, are public and entries therein are presumed to be correct, such presumption is merely disputable and will have to yield to more positive evidence establishing their inaccuracy.