

## NINTH DIVISION

[ CA-G.R. CV NO. 99099, November 18, 2014 ]

**JAN BLAIR UDELL QUINTAN (A MINOR), REP. BY HER FATHER,  
JADE HILARIO QUINTAN PETITIONER-APPELLEE, VS. THE LOCAL  
CIVIL REGISTRAR OF LIGAO CITY, ALBAY, AND THE CIVIL  
REGISTRAR GENERAL NATIONAL STATISTICS OFFICE,  
RESPONDENTS.  
REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.**

### DECISION

**PERALTA, JR., E. B., J.:**

To the question of whether the procedure in Rule 108 of the Revised Rules of Court can be characterized as summary or adversarial, the Supreme Court again underscored in *Republic v. Olaybar*,<sup>[1]</sup> that:

*"Rule 108 of the Rules of Court provides the procedure for cancellation or correction of entries in the civil registry. The proceedings may either be summary or adversary. If the correction 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. Since the promulgation of Republic v. Valencia in 1986, the Court has repeatedly ruled that "even substantial errors in a civil registry may be corrected through a petition filed under Rule 108, with the true facts established and the parties aggrieved by the error availing themselves of the appropriate adversarial 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.*

*It is true that in special proceedings, formal pleadings and a hearing may be dispensed with, and the remedy [is] granted upon mere application or motion. However, a special proceeding is not always summary. The procedure laid down in Rule 108 is not a summary proceeding per se. It requires publication of the petition; it mandates the inclusion as parties of all persons who may claim interest which would be affected by the cancellation or correction; it also requires the civil registrar and any person in interest to file their opposition, if any; and it states that although the court may make orders expediting the proceedings, it is after hearing that the court shall either dismiss the petition or issue an order granting the same. Thus, as long as the procedural requirements in*

*Rule 108 are followed, it is the appropriate adversary proceeding to effect substantial corrections and changes in entries of the civil register.”*

Was the method before the court *a quo* summary in nature when it agreed to effect a change on the birth certificate of the minor whose mother’s citizenship was modified from Filipino to American *vis-a-vis* the Republic’s appeal now before Us?<sup>[2]</sup>

On November 4, 2011,<sup>[3]</sup> petitioner Jan Blair Quintan, through her father, sought to correct the citizenship of her mother in her birth record. Per the Petition,<sup>[4]</sup> Jan Blair alleged that she was born on January 29, 2009 in Ligao City, Albay to common-law spouses Jade Hilario Quintan and Feliza Star Udell. According to Jan Blair's father,<sup>[5]</sup> when he caused the registration of petitioner’s nativity, he was unaware that Feliza Star Udell was an American citizen. When he and Feliza planned to get married, it was only then that he discovered the American citizenship of Feliza when Feliza was advised by the Local Civil Registrar of Ligao City to submit a Certificate of Legal Capacity to Contract Marriage.<sup>[6]</sup>

For her Petition, Jan Blair submitted her Certificate of Live Birth,<sup>[7]</sup> the Consular Report of Birth Abroad<sup>[8]</sup> issued by the United States of America, to the effect that Feliza Star Udell acquired United States Citizenship at birth, the Certificate of Live Birth of her mother<sup>[9]</sup> and the Marriage Contract<sup>[10]</sup> of her mother's parents.

Based on the incipient Order for hearing, with a concomitant instruction for the requisite publication,<sup>[11]</sup> petitioner adduced documents therefor.<sup>[12]</sup>

After a brief hearing, during which occasion petitioner’s father reinforced the crux of the Petition,<sup>[13]</sup> the impugned Decision was promulgated in this manner:<sup>[14]</sup>

*“WHEREFORE, in view of all the foregoing, judgment is hereby rendered DIRECTING the Civil Registrar of Ligao City, Albay and the Civil Registrar General, National Statistics Office, to correct the entry as regards the citizenship of Feliza Star Udell, the mother of herein petitioner, JAN BLAIR UDELL QUINTAN, from that of a “FILIPINO”, to that of an “AMERICAN” in the Certificate of Live Birth, and birth records of herein petitioner, JAN BLAIR UDELL QUINTAN. ”*

*SO ORDERED.”*

In granting the Petition, the lower court was convinced that there was substantial error in the Certificate of Live Birth of petitioner with respect to the citizenship of her mother. It was opined, too, that to avoid confusion and fraud, the correction of citizenship of petitioner's mother was imperative.<sup>[15]</sup>

Dismayed by the outcome of the Petition, the Republic, through the OSG, filed the present appeal on the sole ground that the correction made on petitioner's birth

certificate was substantial and must only be effected through an appropriate adversary proceeding, with the participation of the opposing counsel.<sup>[16]</sup>

By contrast, appellee disagreed and argued that the proceeding before the trial court was adversarial in nature inasmuch as there was service of copies of the Petition and annexes upon the Civil Registrar of Ligao, the Civil Registrar General, and the OSG; the posting of copies of the notice of hearing in at least four public places; the delegation by the OSG to the City Prosecutor of Ligao City to appear on behalf of the Republic; the publication of the notice of hearing in a newspaper of general circulation for three consecutive weeks; and the fact that no oppositor appeared on the scheduled hearing.<sup>[17]</sup>

It can hardly be ignored that there was adherence by petitioner with jurisdictional preconditions in regard to publication requirements which are vital for Rule 108 of the Revised Rules of Court. Such observation may well apply to the lower court inasmuch as the hearing for presentation of petitioner's evidence unfolded with the active participation of,<sup>[18]</sup> *namely*, cross-examination<sup>[19]</sup> conducted by, the Public Prosecutor<sup>[20]</sup> after petitioner adduced pieces of documentation<sup>[21]</sup> in the presence of the State's representative,<sup>[22]</sup> as prelude to the Court's authority to proceed thereafter. Verily, when petitioner formally offered the exhibits,<sup>[23]</sup> the Public Prosecutor's Comment to Formal Offer of Exhibits<sup>[24]</sup> interposed no serious reservation thereto and the trial court resolved to admit petitioner's exhibits *sans* contradictory evidence from the State.<sup>[25]</sup>

However, even as the proceedings below were adversarial with respect to aspects of jurisdiction and the opportunity extended to the State to demolish the proponent's cause,<sup>[26]</sup> it would appear, at first blush, that there were serious concerns over petitioner's quest from the standpoint of how American citizenship could have been supposedly vested upon her.

From available datum, the National Statistics Office copies presented below revealed that Jon C. Udell, an American, married Maximina L. Repomanta, a Filipino, at Subic, Zambales on June 7, 1989.<sup>[27]</sup> Before their nuptial, Feliza Star Udell, the mother of Jan Blair Udell Quintan, was born on August 28, 1988 at Olongapo City.<sup>[28]</sup> Thereafter, Jan Blair Udell Quintan, was born at Olongapo City on January 29, 2009 whose parents were identified as Jade Hilario Quintan, the acknowledged Filipino father, and Feliza Star Udell, as mother but whose citizenship was referred to as Filipino.<sup>[29]</sup>

Anent available papers, there was **no direct** indication as to how the mother of Jan Blair Udell Quintan became an American citizen which can be the matrix of the proposed correction on the corresponding entry of Jan Blair Udell Quintan's Birth Certificate. What the record revealed was a Consular Report of Birth Abroad of Feliza Star Udell, which attested to her acquisition of American citizenship following her birth at Olongapo City, Zambales on August 28, 1988 and whose parents were Jon Charles Udell and Maximina Udell, based on "...documentary evidence presented to the Consular Service of the United States at Manila, Philippines on February 24, 1993."

What We encountered, too, was the presentation, formal offer and admission of a portion of Feliza Star Udell's passport issued by the United States of America,<sup>[30]</sup> which impliedly suggested that Feliza Star Udell is an American citizen, inclusive of colored reproductions of her United States Social Security Number Card, Virginia driver's license, and California identification card.<sup>[31]</sup>

Before We discuss the legal significance of the use of a foreign passport, and by way of *en passant*, it may be recalled that after Feliza Star Udell's birth on August 28, 1988, Jon C. Udell married Maximina L. Repomanta, on June 7, 1989 at Subic, who were the alleged parents of Feliza Star Udell. Reflected on the Marriage Certificate of Feliza Star Udell's parents was the Filipino citizenship of her mother Maximina L. Repomanta and despite the marital knot in 1989, Maximina L. Repomanta did not necessarily become an American citizen on account of the *caveat* under Section 4, Article 4 of the 1987 Constitution:

*"Citizens of the Philippines who marry aliens shall retain their Philippine citizenship, unless by their act or omission they are deemed, under the law, to have renounced it."*

In his commentaries, Fr. Bernas remarked on the net effect of marriage to an alien spouse in regard to citizenship:<sup>[32]</sup>

*"Commonwealth Act No. 63, Section 1 (7), provided that a Filipino woman lost her Philippine citizenship "upon her marriage to a foreigner if, by virtue of the laws in force in her husband's country, she acquires his nationality." The 1973 constitutional provision repealed the above statutory rule. The fact alone of marriage to an alien cannot strip a Filipino woman of her Philippine citizenship. Only acts and omissions, which under Article III, Section 4, Congress may prescribe, constitute explicit or implicit renunciation of citizenship. The 1973 provision, therefore, like Section 1(2), placed the Filipino woman on the same level as the Filipino male.*

*The provision, however, is prospective. It does not serve to restore citizenship already lost by marriage under the old law."*

In relation to the marriage in 1989 of her parents, and Feliza Star Udell's birth prior thereto, or in 1988, a fundamental tenet in Philippine law is the rule on *jus sanguinis*, or acquisition of citizenship on the basis of blood relationship.<sup>[33]</sup> Corollary thereto, a factual foundation for Feliza Star Udell's legitimation<sup>[34]</sup> was the marriage of her parents in 1989 and We thus proceed on the assumption that she was, in fact legitimated by sheer marriage,<sup>[35]</sup> with the same rights as a legitimate child,<sup>[36]</sup> and the effect of such legitimation shall retroact to the time of Feliza's birth in 1988.<sup>[37]</sup> Even then:<sup>[38]</sup>