



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

REPUBLIC OF THE PHILIPPINES, G.R. No. 203371

Petitioner, **Present:**

PERALTA, C.J., Chairperson,
CAGUIOA,
HERNANDO,*
LAZARO-JAVIER, and
LOPEZ, JJ.

- versus -

CHARLIE MINTAS FELIX, a.k.a.
SHIRLEY MINTAS FELIX,

Promulgated

JUN 30 2020

Respondent.

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DECISION

LAZARO-JAVIER, J.:

The Case

This Petition for Review on *Certiorari*¹ assails the following dispositions of the Court of Appeals in CA G.R. CV No. 94253:

* Justice Ramon Paul L. Hernando designated as additional member. Justice Jose C. Reyes, Jr., recused from the case for having concurred in the assailed Court of Appeals decision.

¹ Under Rule 45, *Rollo*, pp. 8-26.

1. Decision² dated April 23, 2012 affirming the grant of respondent's petition for correction of entries and the trial court's directive for cancellation of respondent's second birth certificate;
2. Resolution³ dated August 30, 2012 denying the Republic's motion for reconsideration.

The Proceedings Before the Trial Court

In his Petition for Correction of Entries⁴ dated July 30, 2007, respondent Charlie Mintas Felix a.k.a. Shirley Mintas Felix essentially alleged that he was born on October 1, 1976 in Itogon, Benguet. His birth was registered with the Local Civil Registrar (LCR)-Itogon, Benguet where his birth certificate bore the following erroneous entries: his first name "Shirley" instead of "Charlie," his gender "female" instead of "male," and his father's surname "Filex" instead of "Felix". But he has another birth registration, this time, with the LCR-Carranglan, Nueva Ecija where his birth certificate carried the correct entries: his first name as Charlie, his gender as male, and his father's surname as "Felix".

In all his subsequent official transactions, he used the birth certificate registered with LCR-Carranglan, Nueva Ecija. But when he subsequently requested for authenticated copy of his birth certificate from the National Statistics Office (NSO), what it officially released to him was the erroneous birth certificate with LCR-Itogon, Benguet.⁵

He, thus, prayed for correction of his birth certificate with the LCR-Itogon, Benguet and cancellation of his second birth certificate with the LCR-Carranglan, Nueva Ecija.⁶

The Republic of the Philippines, through the Office of the Solicitor General (OSG), prayed for the dismissal of the petition on ground that the RTC-La Trinidad, Benguet did not have jurisdiction over the LCR-Carrangalan, Nueva Ecija which ought to implement the directive for cancellation of respondent's second birth certificate,⁷ should be the same be granted by the trial court.

Following compliance with the requisite publication, notices and posting, the case was heard on the merits. Respondent testified on his petition and offered his two (2) certificates of birth and other documents including the corresponding medical certificate and scrotal ultrasound result indicating that respondent is male.

² *Rollo*, pp. 29-33, penned by Associate Justice Priscilla J. Baltazar-Padilla and concurred by Associate Justices Jose C. Reyes, Jr. (now a member of this Court) and Agnes Reyes-Carpio.

³ *Rollo*, pp. 35-36.

⁴ Record, pp.1-3.

⁵ *Id.*

⁶ Record, pp. 1-3; *rollo*, p. 31.

⁷ Record, pp. 10-14;

The Trial Court's Ruling

By Decision⁸ dated July 23, 2009, the trial court granted the petition, in this wise:

WHEREFORE, there being satisfactory proof that the Order setting the case for hearing was duly published as directed; that the allegations of the petition are true and correct and that it is appearing that there is proper and valid cause for the grant of the relief prayed for.

IT IS HEREBY DECREED that for all legal intents and purposes, the Administrator and Civil Registrar General of the National Statistics Office and the Local Civil Registrar of Itogon, Benguet are ordered to change and correct from its records the following entries in the Certificate of Live Birth of Charlie Mintas Felix, viz:

1. His sex/gender from female to MALE;
2. His first name from Shirley to CHARLIE; and
3. His father's surname from Filex to FELIX.

Furthermore, the Local Civil Registrar of Carranglan, Nueva Ecija is hereby ordered to cancel from its record the registration of the facts of birth of Charlie Mintas Felix.

Furnish copy of this Decision to the Office of the Local Civil Registrar of Itogon, Benguet to correct its record and to issue an amended Birth Certificate to said Charlie Mintas Felix upon his request after payment of the required fees.

Further, furnish copies hereof to the Office of the Solicitor General, Makati city; the Provincial Prosecutor of Benguet; the Administrator and Civil Registrar General of the National Statistics Office, Manila; the Office of the Local Civil Registrar of La Trinidad, Benguet; the petitioner and his counsel.

SO ORDERED.⁹

The Proceedings Before the Court of Appeals

On appeal, the Republic assailed the trial court for taking cognizance of the case, albeit, it had no jurisdiction to order the LCR-Carranglan, Nueva Ecija to cancel respondent's second birth registration therewith.¹⁰

Respondent, nonetheless, countered that to require him to file another petition to cancel his second birth certificate with the LCR-Carranglan, Nueva

⁸ *Id.* at 46-48.

⁹ *Id.* at 47.

¹⁰ *CA rollo*, pp. 27-39.

Ecija was unnecessary and would only result in the further clogging of the court docket.¹¹

The Court of Appeals' Ruling

By Decision¹² dated April 23, 2012, the Court of Appeals affirmed. It ruled that the RTC-La Trinidad, Benguet had jurisdiction over the petition for correction of entries in respondent's first birth certificate with the LRC-Itogon, Benguet. The consequent cancellation of his second birth certificate with the LCR-Carranglan, Nueva Ecija was merely incidental to and a necessary consequence of his action for correction of entries.¹³

The Court of Appeals further held that the correction of respondent's NSO officially recognized birth certificate with the LCR-Itogon, Benguet and the consequent cancellation of respondent's second birth certificate with LCR-Carranglan, Nueva Ecija may be joined in the same case for correction of entries. Splitting them violated the rule against multiplicity of suits.¹⁴

The Republic's motion for reconsideration was denied through Resolution dated August 30, 2012.¹⁵

The Present Petition

The Republic now urges the Court to exercise its discretionary appellate jurisdiction to review and reverse the dispositions of the Court of Appeals.

The Republic repleads its argument that the RTC-La Trinidad, Benguet has no jurisdiction over the LCR-Carranglan, Nueva Ecija, hence, could not have validly ordered the latter to cancel respondent's second birth certificate. According to the Republic, just because the second registration appears to be a mere surplusage does not cure the jurisdictional infirmity which incipiently tainted the proceedings below.¹⁶

In refutation, respondent reiterates that the joinder of both actions for correction and cancellation of entries in respondent's birth certificates conformed with the rule against multiplicity of suits.¹⁷

¹¹ *Id.* at 99-108.

¹² *Rollo*, pp. 29-33.

¹³ *Id.* at 32.

¹⁴ *Id.* at 33.

¹⁵ *Id.* at 35-36.

¹⁶ *Id.* at 17-23.

¹⁷ *Id.* at 46-52.

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Issues

First. Did the Court of Appeals commit reversible error when it rejected the Republic's challenge against the trial court's jurisdiction to direct the LCR-Carranglan, Nueva Ecija to cancel respondent's second birth certificate as a consequence of its order to correct respondent's first birth certificate?

Second. Did Republic Act No. 9048 (RA 9048) as amended by Republic Act No. 10172 (RA 10172) divest the regional trial courts of jurisdiction over petitions for correction of entries in the civil registry?

Ruling

The Court of Appeals correctly upheld the trial court's jurisdiction to order the LCR – Carranglan, Nueva Ecija to cancel respondent's second birth certificate.

It is settled that jurisdiction over the main case embraces all incidental matters arising therefrom and connected therewith under the doctrine of ancillary jurisdiction.

Here, the trial court has jurisdiction over respondent's petition for correction of entries in his first birth certificate on file with the LCR-Itogon, Benguet. The trial court has jurisdiction, as well, to direct the cancellation of respondent's second birth certificate with the LCR- Carranglan, Nueva Ecija as an incident or as a necessary consequence of the action to correct the entries sought by respondent. Indeed, demands, matters, or questions ancillary or incidental to, or growing out of, the main action, and coming within the above principles, may be taken cognizance of by the court and determined, since such jurisdiction is in aid of its authority over the principal matter, *even though the court may thus be called on to consider and decide matters which, as original causes of action, would not be within its cognizance.*¹⁸

*Mendez vs. Shari'a District Court, 5th Shari'a District, et al.*¹⁹ is in point:

To rule that the ShCC is without jurisdiction to resolve issues on custody after it had decided on the issue of divorce, simply because it appears to contravene Article 143 of P.D. No. 1083, would be antithetical to the doctrine of ancillary jurisdiction. "While a court may be expressly granted the incidental powers necessary to effectuate its jurisdiction, a grant of jurisdiction, in the absence of prohibitive legislation, implies the necessary and usual incidental powers essential to effectuate it, and, subject to existing laws and constitutional provisions, every regularly constituted court has power to do all things that are reasonably necessary for the administration of justice within the scope of its jurisdiction and for the enforcement of its

¹⁸ *Defensor-Santiago v. Vasquez, Ombudsman, et al.*, 291 Phil. 664, 680 (1993).

¹⁹ 777 Phil. 143, 164-165 (2016).

judgments and mandates. Hence, demands, matters or questions ancillary or incidental to, or growing out of, the main action, and coming within the above principles, may be taken cognizance of by the court and determined, since such jurisdiction is in aid of its authority over the principal matter, even though the court may thus be called on to consider and decide matters which, as original causes of action, would not be within its cognizance."

Following the doctrine, the ShCC, in cases involving divorce, possesses the power to resolve the issue of custody, it being a *related issue* to the main cause of action.

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A distinction must be made between a case for divorce wherein the issue of custody is an *ancillary issue* and a case where custody is the *main issue*. Jurisdiction in the former, as discussed above, lies with the ShCC, as the main cause of action is divorce. The latter on the other hand, where the main cause of action is one of custody, the same must be filed with the ShDC, pursuant to Article 143 of P.D. No. 1083.

The Court of Appeals, therefore, correctly affirmed the trial court's directive to cancel respondent's second birth certificate on file with the LCR-Carranglan, Nueva Ecija, as a consequence of the main relief sought by and granted to respondent. To file two (2) separate petitions, one for correction of entries in his first birth certificate with the LCR-Itogon, Benguet and two, for cancellation of his second birth certificate with LCR-Carranglan, Nueva Ecija --- will certainly violate the rule against multiplicity of suits.

More important, a petition for correction is an action *in rem*. A decision therein binds not only the parties themselves but the whole world, as well. An *in rem* proceeding entails publication as a jurisdictional requirement--- to give notice to and bring the whole world as a party into the case. Surely, the LCR-Carranglan, Nueva Ecija is part of the world and based on the records, was in fact duly notified of the petition. Consequently, it is bound by the judgment rendered there in the case.

RA 9048, as amended does not divest the regional trial courts of jurisdiction over petitions for correction of entries in the civil registry.

Relevant to the issue of jurisdiction, the Court now brings to fore what seems to be an overlap of jurisdictions over petitions for correction of entries under Sec. 19 of Batas Pambansa Blg. 129 (BP129) in relation to Rule 108 of the Revised Rules of Court, on one hand, and RA Nos. 9048 as amended by 10172 on the other.

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Sec. 19 of BP 129 provides:

Section 19. *Jurisdiction in civil cases.* – Regional Trial Courts shall exercise exclusive original jurisdiction:

(1) In all civil actions in which the subject of the litigation is incapable of pecuniary estimation;

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Deemed included therein are petitions for correction of entries under Rule 108 of the Revised Rules of Court, being themselves incapable of pecuniary estimation. Rule 108 states:

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Section 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) marriage; (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.

Section 3. *Parties.* — When cancellation or correction of an entry in the civil register is sought, the civil registrar and all persons who have or claim any interest which would be affected thereby shall be made parties to the proceeding.

Section 4. *Notice and publication.* — Upon the filing of the petition, the court shall, by an order, fix the time and place for the hearing of the same, and cause reasonable notice thereof to be given to the persons named in the petition. The court shall also cause the order to be published once a week for three (3) consecutive weeks in a newspaper of general circulation in the province.

Section 5. *Opposition.* — The civil registrar and any person having or claiming any interest under the entry whose cancellation or correction is sought may, within fifteen (15) days from notice of the petition, or from the last date of publication of such notice, file his opposition thereto.

Section 6. *Expediting proceedings.* — The court in which the proceeding is brought may make orders expediting the proceedings and may also grant preliminary injunction for the preservation of the rights of the parties pending such proceedings.

Section 7. *Order.* — After hearing, the court may either dismiss the petition or issue an order granting the cancellation or correction prayed for. In either case, a certified copy of the judgment shall be served upon the civil registrar concerned who shall annotate the same in his record.

On April 22, 2001, RA 9048²⁰ took effect, thus:

²⁰ Otherwise known as “An Act Further Authorizing the City or Municipal Civil Registrar or The Consul General to Correct Clerical or Typographical Errors in The Day and Month in The Date of Birth or Sex of a Person Appearing in The Civil Register Without Need of a Judicial Order, Amending for This Purpose Republic Act Numbered Ninety Forty-Eight”, was passed into law on August 15, 2012 and took effect on October 24, 2012.

Section 1. Authority to Correct Clerical or Typographical Error and Change of First Name or Nickname – No entry in a civil register shall be changed or corrected without a judicial order, except for clerical or typographical errors and change of first name or nickname which can be corrected or changed by the concerned city or municipal civil registrar or consul general in accordance with the provisions of this Act and its implementing rules and regulations.

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Section 3. Who May File the Petition and Where. – Any person having direct and personal interest in the correction of a clerical or typographical error in an entry and/or change of first name or nickname in the civil register may file, in person, a verified petition with the local civil registry office of the city or municipality where the record being sought to be corrected or changed is kept.

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On August 15, 2012, R.A. No. 9048 was amended by **R.A. No. 10172**²¹ expanding the scope of the entries in the civil registry which may be administratively corrected, viz:

Section 1. Section 1 of Republic Act No. 9048, hereinafter referred to as the Act, is hereby amended to read as follows:

"SECTION 1. *Authority to Correct Clerical or Typographical Error and Change of First Name or Nickname.* – No entry in a civil register shall be changed or corrected without a judicial order, except for clerical or typographical errors and change of first name or nickname, **the day and month in the date of birth or sex of a person** where it is patently clear that there was a clerical or typographical error or mistake in the entry, which can be corrected or changed by the concerned city or municipal civil registrar or consul general in accordance with the provisions of this Act and its implementing rules and regulations." (Emphasis supplied)

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Here, respondent resorted to judicial proceedings when he sought the correction of the entries in his birth certificate. For while RA 9048 allowed the administrative correction of respondent's first name and the typographical error in his father's surname, it did not allow correction of the entry pertaining to respondent's biological sex.

For it was only on October 24, 2012 that the amendatory law RA 10172 took effect long before respondent initiated his petition with the court. Had RA 10172 taken effect on or before he initiated his petition, he could have resorted to the administrative process under these twin laws just for the purpose of correcting all at once the three (3) entries in his birth certificate.

²¹ An Act Further Authorizing the City or Municipal Civil Registrar or The Consul General to Correct Clerical or Typographical Errors in The Day and Month in **The Date of Birth or Sex of a Person Appearing** in The Civil Register Without Need of a Judicial Order, Amending for This Purpose Republic Act Numbered Ninety Forty-Eight.



He could have then saved a substantial amount of time and expense which precisely what RA Nos. 9048 and 10172 seek to accomplish, among others.

But then again, respondent's petition came before RA 10172 took effect, this time allowing correction of erroneous entries pertaining to one's biological sex. Surely, to pursue the administrative procedure prescribed under RA 9048 with respect to his first name and typographical error in his father's name and a judicial procedure under Rule 108 with respect to the correction of his biological sex is anathema to the proscription against splitting a cause of action under Section 4, Rule 2 of the Revised Rules of Court, thus:

Section 4, Rule 2. *Splitting a single cause of action; effect of.* — If two or more suits are instituted on the basis of the same cause of action, the filing of one or a judgment upon the merits in any one is available as a ground for the dismissal of the others.

The next question is – Does RA 9048, as amended by RA 10172 divest the regional trial courts of its jurisdiction over petitions for correction of entries under BP 129 in relation Rule 108 of the Revised Rules of Court?

*Republic v. Gallo*²² bears the answer, viz:

Following the procedure in Rule 103, Rule 108 also requires a petition to be filed before the Regional Trial Court. The trial court then sets a hearing and directs the publication of its order in a newspaper of general circulation in the province. After the hearing, the trial court may grant or dismiss the petition and serve a copy of its judgment to the Civil Registrar.

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However, Republic Act No. 9048 amended Articles 376 and 412 of the Civil Code, effectively removing clerical errors and changes of the name outside the ambit of Rule 108 and putting them under the jurisdiction of the civil register.

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Thus, a person may now change his or her first name or correct clerical errors in his or her name through administrative proceedings. **Rules 103 and 108 only apply if the administrative petition has been filed and later denied.**

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Under the doctrine of exhaustion of administrative remedies, a party must first avail of all administrative processes available before seeking the courts' intervention. The administrative officer concerned

²² See G.R. No. 207074, January 17, 2018.

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must be given every opportunity to decide on the matter within his or her jurisdiction. Failing to exhaust administrative remedies affects the party's cause of action as these remedies refer to a precedent condition which must be complied with prior to filing a case in court.

However, failure to observe the doctrine of exhaustion of administrative remedies does not affect the court's jurisdiction. Thus, the doctrine may be waived as in *Soto v. Jareno*:²³

Failure to observe the doctrine of exhaustion of administrative remedies does not affect the jurisdiction of the court. We have repeatedly stressed this in a long line of decisions. The only effect of non-compliance with this rule is that it will deprive the complainant of a cause of action, which is a ground for a motion to dismiss. If not invoked at the proper time, this ground is deemed waived and the court can then take cognizance of the case and try it. (Emphasis supplied)

Verily, even with the advent of RA 9048, as amended by RA 10172 prescribing the administrative remedy for correction of entries with the civil registry, the regional trial courts are not divested of their jurisdiction to hear and decide petitions for correction of entries “Even the failure to observe the doctrine of exhaustion of administrative remedies does not affect the jurisdiction of the court.”²⁴

So must it be.

Accordingly, the petition is **DISMISSED**. The Decision dated April 23, 2012 and Resolution dated August 30, 2012 of the Court of Appeals in CA G.R. CV No. 94253 are **AFFIRMED**.

SO ORDERED.


AMY C. LAZARO-JAVIER
Associate Justice

²³ See *Republic v. Gallo* citing *Soto v. Jareno*, 228 Phil. 117, 119 (1986).

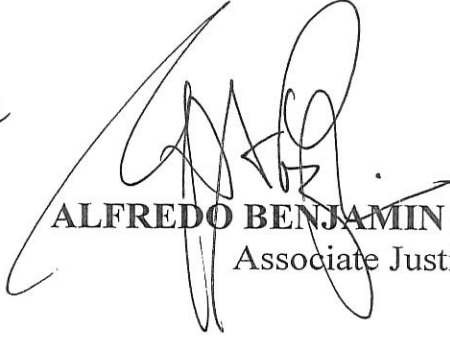
²⁴ *Supra* note 22.

WE CONCUR:

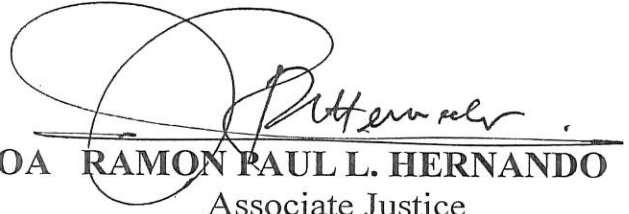


DIOSDADO M. PERALTA
Chief Justice

*See
Separate
Opinion*

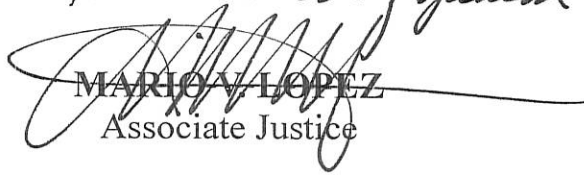


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



RAMON PAUL L. HERNANDO
Associate Justice

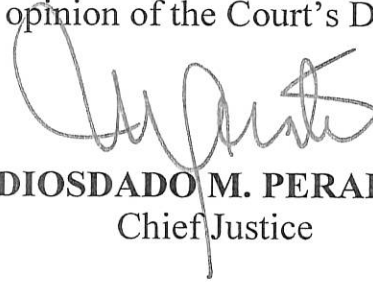
see concurring opinion



MARIA V. LOPEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA
Chief Justice

