



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

REPUBLIC OF THE PHILIPPINES G.R. No. 234251

*Petitioner,*

Members:

PERALTA, *CJ., Chairperson*  
CAGUIOA,  
REYES, J., JR.,  
LAZARO-JAVIER, and  
LOPEZ, *JJ.*

- versus-

SALOME C. TIMARIO,

*Respondent.*

Promulgated:

JUN 30 2020

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DECISION

LAZARO-JAVIER, *J.:*

The Case

This petition for review on certiorari assails the following dispositions of the Court of Appeals in CA-G.R. CV No. 04366-MIN entitled, *“In the Matter of the Correction of the Birth Record of Salome Casera Timario particularly the name of the father from Pedro Langam to Antonio Casera and Date of Birth from November 17, 1949 to November 17, 1950, Salome C. Timario v. The Local Civil Registrar of Ozamis City, Republic of the Philippines”*:

1. Decision<sup>1</sup> dated May 31, 2017 denying the Republic’s appeal and

<sup>1</sup> Penned by Associate Justice Edgardo T. Lloren and concurred in by Associate Justices Ronaldo B. Martin and Louis P. Acosta; *rollo*, pp. 36-42.

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affirming the grant of respondent's petition for correction of entries; and

2. Resolution dated August 29, 2017 denying reconsideration.

### **Antecedents**

In her petition for correction of entries dated November 5, 2015,<sup>2</sup> respondent Salome C. Timario essentially alleged:

She was born on November 17, 1950 as the eldest daughter of Spouses Rosenda B. Acasio and Antonio A. Casera. Her birth record was duly registered with the Local Civil Registrar, Ozamiz City under Registry No. 2013-7336.<sup>3</sup> All her personal and official records reflected "Antonio Casera" as her father's name. Too, her Voter Certification,<sup>4</sup> Baptismal Certificate<sup>5</sup> and Marriage Contract<sup>6</sup> stated that her date of birth was November 17, 1950.

When she was securing official documents for her survivorship benefits with the Government Service Insurance System (GSIS), she was surprised to discover that she had another birth certificate<sup>7</sup> registered with the Local Civil Registrar, Ozamiz City under Registry No. 92-03432. It erroneously indicated that she was born on November 17, 1949 and her father's name was "Pedro Langan".<sup>8</sup>

Hence, on November 5, 2015, she filed the petition to cancel Registry No. 92-03432. The petition was published for three (3) consecutive weeks in *The Panguil Bay Monitor*,<sup>9</sup> a newspaper of general circulation. The case was set for initial hearing on December 10, 2015.<sup>10</sup>

On February 19, 2016, the Office of the Solicitor General (OSG) entered its appearance as counsel for the Republic and deputized the Office of the City Prosecutor of Ozamiz City to appear and litigate the case before the trial court.<sup>11</sup>

On February 29, 2016, the trial court allowed respondent to present her evidence *ex parte*.<sup>12</sup>

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<sup>2</sup> *Rollo*, pp. 61 -64.

<sup>3</sup> *Id.* at 54-55.

<sup>4</sup> *Id.* at 65.

<sup>5</sup> *Id.* at 66.

<sup>6</sup> *Id.* at 56.

<sup>7</sup> *Id.* at 59-60.

<sup>8</sup> *Id.* at 62.

<sup>9</sup> *Id.* at 88-93.

<sup>10</sup> *Id.* at 37.

<sup>11</sup> *Id.* at 38.

<sup>12</sup> *Id.* at 83-87.

### The Trial Court's Ruling

After due proceedings, the trial court rendered its Decision<sup>13</sup> dated April 8, 2016 granting the petition for correction of entries, viz:

WHEREFORE, premises considered, judgment is hereby rendered directing the Local Civil Registrar of Ozamiz City to effect the correction of the birth certificate of Salome Casera Timario as follows:

- a) Name of Father From Pedro P. Langam to **Antonio Casera**
- b) Date of birth From November 17, 1949 to **November 17, 1950.**

SO ORDERED.<sup>14</sup>

It held that respondent's Voter Certification, Baptismal Certificate and Marriage Contract clearly established there was indeed a need to correct the erroneous entries in Registry No. 92-03432.<sup>15</sup>

The Republic filed its Comment/Opposition dated April 26, 2016,<sup>16</sup> claiming it was only able to receive copy of the petition on April 21, 2016. The Republic averred that the proceedings were void for respondent's failure to comply with the jurisdictional requirements under Section 3, Rule 108 of the Revised Rules of Court. Under this provision, respondent was required to implead both her purported fathers "Pedro Langam" and "Antonio Casera", her mother "Rosenda B. Acasio", as well as her siblings since their successional rights and filiation might be affected by the outcome of the proceedings.<sup>17</sup> Strict compliance with Rule 108 was warranted as the correction sought would affect respondent's filiation with her supposed father "Pedro Langam" or "Antonio Casera."<sup>18</sup>

The Republic further asserted that respondent failed to adduce sufficient proof to entitle her to the relief prayed for:<sup>19</sup>

**First.** Respondent's claim that she just "recently discovered" the existence of her two (2) birth certificates was suspicious. For she herself caused the registration of both Registry No. 92-03432 and Registry No. 2013-7336 in 1992 and 2013, respectively.<sup>20</sup>

**Second.** Respondent also failed to establish that she had no criminal, civil, or other derogatory record which would have shown that her petition was not for the purpose of evading any liability or derogatory record.

<sup>13</sup> Penned by Executive Judge Salome P. Dungog; *rollo*, pp. 47-49.

<sup>14</sup> *Rollo*, p. 113.

<sup>15</sup> *Id.* at 112-113.

<sup>16</sup> *Id.* at 77-82.

<sup>17</sup> *Id.* at 78.

<sup>18</sup> *Id.* at 79-80.

<sup>19</sup> *Id.* at 78.

<sup>20</sup> *Id.*

**Third.** Being an entry in the official record made by a public officer in the performance of his duty, a birth certificate is *prima facie* evidence of the facts stated therein.<sup>21</sup> Accordingly, its evidentiary value should be sustained in the absence of strong, complete, and conclusive proof of its falsity or nullity.<sup>22</sup> Too, Section 1, Rule 131, in relation to Section 1, Rule 133 of the 1989 Rules on Evidence imposed the burden of proof upon the party who alleges the truth of his or her claim.<sup>23</sup> Respondent failed to discharge this burden.

Obviously, the Republic's Comment/Opposition was deemed mooted by the decision already rendered by the trial court granting the petition. In view of this development, the Republic interposed an appeal from the Amended Order dated May 30, 2016.<sup>24</sup>

### The Court of Appeals' Ruling

The Republic essentially reiterated the arguments in its Comment/Opposition in support of its appeal before the Court of Appeals.<sup>25</sup>

By Decision dated May 31, 2017,<sup>26</sup> the Court of Appeals affirmed. It ruled that the petition complied with all the jurisdictional requirements under Rule 108. Respondent's supposed failure to implead indispensable parties was deemed cured when the trial court's order setting the case for initial hearing was posted and published for three (3) consecutive weeks in a newspaper of general circulation.<sup>27</sup>

Notices of hearings, too, were duly served on the OSG, the City Prosecutor of Ozamis City and the local civil registrar. Since the city prosecutor who was deputized by the OSG did not oppose respondent's motion to present evidence *ex parte*, the OSG may no longer complain that the proceedings before the trial court were irregular.<sup>28</sup>

As for respondent's alleged failure to present valid grounds and credible evidence to justify subject substantial correction, it ruled that evidence on record clearly reflected "Antonio Casera" as her father and "November 17, 1950" as her date of birth.<sup>29</sup>

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<sup>21</sup> Section 44, Rule 130 of the Revised Rules of Court.

<sup>22</sup> *Rollo*, p. 79.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at 96.

<sup>25</sup> *Id.* at 103-105.

<sup>26</sup> Penned by Associate Justice Edgardo T. Lloren and concurred in by Associate Justices Ronaldo B. Martin and Louis P. Acosta; *Rollo*, pp. 36-42.

<sup>27</sup> *Rollo*, pp. 40-41.

<sup>28</sup> *Id.* at 41.

<sup>29</sup> *Id.*

By its assailed Resolution<sup>30</sup> dated August 29, 2017, the Court of Appeals denied the Republic's motion for reconsideration.

### The Present Petition

The Republic prays that the assailed dispositions be reversed and set aside.

The Republic basically adopts its arguments before the courts below. It also faults the Court of Appeals for holding that the publication of the petition was deemed to have cured respondent's failure to implead indispensable parties *i.e.* "Antonio Casera", "Pedro Langam", her mother "Rosenda Acasio", and her siblings.<sup>31</sup>

Too, the Court of Appeals is faulted for ruling that the Republic was duly represented by the deputized prosecutor when, in fact, the presentation of evidence was done *ex parte* before the Clerk of Court. Thus, the Republic was deprived of the opportunity to cross-examine respondent during the *ex parte* hearing.<sup>32</sup>

Respondent did not file her comment to the petition despite our directive under Resolution dated January 22, 2018.<sup>33</sup>

### Threshold Issue

Did the trial court acquire jurisdiction over the petition for correction of entries?

### Ruling

The petition is meritorious.

Rule 108 of the Revised Rules of Court outlines the procedure for cancellation or correction of entries in the civil registry. The proceedings may either be summary or adversary, depending on whether the correction sought is clerical or substantial.<sup>34</sup> If the correction is clerical, the procedure to be adopted is summary. Otherwise, it is adversary.<sup>35</sup> Corrections in either name or names of an individual's parent or parents in his or her birth

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<sup>30</sup> *Id.* at 44-46.

<sup>31</sup> *Id.* at 20

<sup>32</sup> *Id.* at 23.

<sup>33</sup> *Id.* at 124.

<sup>34</sup> If the rectification affects the civil status, citizenship, paternity or filiation of a party, it is deemed substantial.

<sup>35</sup> See *Republic v. Tipay*, G.R. No. 209527, February 14, 2018.

certificate involve substantial matters which require an adversarial proceeding.<sup>36</sup>

Section 3, Rule 108 of the Rules of Court ordains:

**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.

The provision is plain and clear. All persons who stand to be affected by a substantial correction of an entry in the civil registrar must be impleaded as indispensable parties. Failure to do so renders all proceedings subsequent to the filing of the complaint including the judgment ineffectual.<sup>37</sup> This requirement hinges on the fact that the books making up the civil register and all documents relating thereto may only be the facts therein contained. Indeed, if entries in the civil register could be corrected or changed through mere summary proceedings, the door to fraud or other mischief would be set open, the consequence of which might be detrimental and far reaching.<sup>38</sup>

Here, respondent failed to implead her two (2) purported fathers “Pedro Langam” and “Antonio Casera”, her mother “Rosenda B. Acasio” and her siblings in violation of Section 3, Rule 108 of the Revised Rules of Court.

The Court of Appeals nonetheless reckoned with *Barco v. Court of Appeals*<sup>39</sup> which ruled that publication was deemed to have cured respondent’s failure to implead indispensable parties in the petition. Notably, in *Barco*, Nadina Maravilla sought to correct the entries in her daughter June’s birth certificate, alleging that June’s real biological father was “Armando Gustilo,” not “Francisco Maravilla” as declared in June’s birth certificate. At first, Nadina impleaded only the Local Civil Registrar of Makati City but subsequently amended her petition to also implead both Francisco and Armando. The trial court eventually granted the petition.

Several years later, June’s half siblings Jose Vicente Gustilo and Mary Joy Gustilo, represented by her mother Milagros Barco, surfaced and sought to annul the grant of the petition on ground that Nadina failed to implead them, Armando’s children, as indispensable parties in her petition for correction of entries. The Court of Appeals denied the petition for annulment of judgment. On appeal, this Court granted the petition and affirmed the trial court’s ruling. The Court ruled that when Nadina amended her petition to

<sup>36</sup> *Tan v. Office of the Local Civil Registrar of the City of Manila*, G.R. No. 211435, April 10, 2019.

<sup>37</sup> *Almojuela v. Republic*, 793 Phil. 780, 790 (2016).

<sup>38</sup> *Republic v. Lugasay Uy*, 716 Phil. 254, 266 (2013).

<sup>39</sup> 465 Phil. 39, 64-65 (2004).

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implead Francisco and Armando, she manifested her earnest effort to comply with the jurisdictional requirement under Section 3 of Rule 108. As for Jose Vicente and Mary Joy, who surfaced only years after the trial court had decreed the correction of June's birth certificate, the Court pronounced that it was not Nadina's fault that when she amended her petition to implead indispensable parties, she did not know as yet of the existence of the persons claiming to be her late father Armando's legitimate or illegitimate offsprings.

The case here is different. Respondent had known from the start that she had two (2) registered fathers "Antonio Casera" and "Pedro Langam". She knew her mother "Rosenda Acasio" and all her siblings. Yet, she failed to implead them and offered no explanation therefor.

In cases where publication may be deemed to cure one's failure to implead indispensable parties in a petition for correction of substantial entries in the birth certificate, special circumstances must be present to justify the non-inclusion of indispensable parties, such as when earnest efforts were made by petitioners in bringing to court all possible interested parties;<sup>40</sup> the interested parties themselves initiated the corrections proceedings;<sup>41</sup> there was no actual or presumptive awareness of the existence of the interested parties;<sup>42</sup> or when the party was inadvertently left out.<sup>43</sup>

None of these exceptions are present here. There was no proof that the indispensable parties who were not impleaded were aware of the petition, let alone, the status of the proceedings.

At any rate, the conflicting entries in respondent's birth certificates were based on the information she herself had given to the Local Civil Registrar, Ozamiz City. Thus, bringing in her "two fathers", her mother, and her siblings as indispensable parties here will afford them the chance to be heard as the corrections being sought will also affect their own personal circumstances, the names they bear, their filiation and even their successional rights.

All told, the petition for correction of entries below should be dismissed. The trial court's failure to acquire jurisdiction over indispensable parties rendered all proceedings therein, including the decision itself, void.

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<sup>40</sup> *Republic v. Manda*, G.R. No. 200102, September 18, 2019.

<sup>41</sup> *See Republic v Kho*, 553 Phil. 161 (2007).

<sup>42</sup> *Supra* note 39.

<sup>43</sup> *See Republic v. Coseteng-Magpayo*, 656 Phil. 550 (2011).

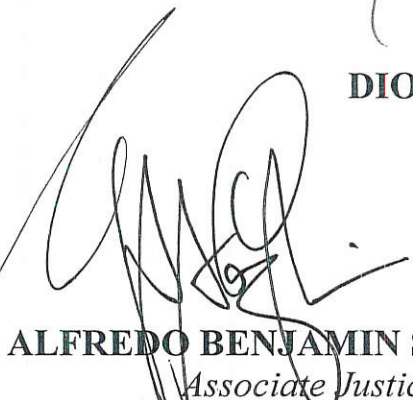
**ACCORDINGLY**, the petition is **GRANTED** and the Decision dated May 31, 2017 and Resolution dated August 29, 2017 in CA-G.R. CV No. 04366-MIN **REVERSED AND SET ASIDE**.

**SO ORDERED.**

  
**AMY C. LAZARO-JAVIER**  
*Associate Justice*

**WE CONCUR:**

  
**DIOSDADO M. PERALTA**  
*Chief Justice*

  
**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*

  
**JOSE C. REYES, JR.**  
*Associate Justice*

  
**MARION N. 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*