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NOV 08 2019

Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

SUPREME COURT OF THE PHILIPPINES
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GLENN M. MILLER, substituted by his surviving legal heirs, namely:

[1] EVELYN L. MILLER; [2] JENNIFER ANN L. MILLER; [3] LESLIE ANN L. MILLER; [4] RACHEL ANN L. MILLER; and [5] VALERIE ANN L. MILLER,
Petitioners,

G.R. No. 200344

Present:

PERALTA, J., Chairperson,
LEONEN,
REYES, A., JR.,
HERNANDO,* and
INTING, JJ.

-versus-

JOAN MILLER y ESPENIDA a.k.a. JOHNLYN MILLER y ESPENIDA and the LOCAL CIVIL REGISTRAR OF GUBAT, SORSOGON,
Respondents.

Promulgated:
August 28, 2019
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DECISION

LEONEN, J.:

The legitimacy and filiation of children cannot be collaterally attacked in a petition for correction of entries in the certificate of live birth.

* On wellness leave.

This Court resolves a Petition for Review on Certiorari¹ assailing the Decision² and Resolution³ of the Court of Appeals, which affirmed the Regional Trial Court Judgment⁴ denying the Petition for Correction of Entries in the Certificate of Live Birth of Joan Miller y Espenida.

John Miller (John) and Beatriz Marcaida were legally married. They bore four (4) children, namely: (1) Glenn M. Miller (Glenn); (2) Charles Miller; (3) Betty Miller (Betty); and (4) and John Miller, Jr.⁵

After John's death, Joan Miller (Joan), through her mother Lennie Espenida (Lennie), filed before the Regional Trial Court a Petition for Partition and Accounting of John's estate with a prayer for preliminary attachment, receivership, support, and damages. Alleging that she is John's illegitimate child with Lennie, Joan presented her Certificate of Live Birth which showed John to be her registered father.⁶

Glenn filed a separate Petition praying that Joan's Certificate of Live Birth be canceled. With it, he also prayed that the Local Civil Registrar of Gubat, Sorsogon be directed to replace Joan's surname, Miller, with Espenida, and that Joan use Espenida instead of Miller in all official documents.

Glenn claimed that John did not acknowledge Joan as a natural child,⁷ pointing out that John's signature was not in her birth certificate. It was also not shown that John knew and consented that his name would be indicated in the certificate.⁸

Joan countered that from 1978 until John's death in 1990, her mother Lennie and John had an amorous relationship,⁹ out of which she was born on June 25, 1982. While she admitted that John did not sign her birth certificate,¹⁰ he "openly and continuously recognized [her] as [his] child during his lifetime."¹¹ She narrated that she grew up in his ranch and went to

¹ *Rollo*, pp. 8–38. Filed under Rule 45 of the Rules of Court.

² *Id.* at 40–47. The Decision dated June 30, 2011 was penned by Associate Justice Samuel H. Gaerlan, and concurred in by Associate Justices Rosmari D. Carandang (now a member of this Court) and Ramon R. Garcia of the Ninth Division, Court of Appeals, Manila.

³ *Id.* at 62–63. The Resolution dated February 3, 2012 was penned by Associate Justice Samuel H. Gaerlan, and concurred in by Associate Justices Rosmari D. Carandang (now a member of this Court) and Ramon R. Garcia of the Former Ninth Division, Court of Appeals, Manila.

⁴ *Id.* at 110–114. The Judgment dated November 26, 2004 was penned by Judge Jacinta B. Tambago of Branch 48, Regional Trial Court, Masbate City.

⁵ *Id.* at 41, Court of Appeals Decision. The cited page mistakenly indicated "Beatiz."

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at 41 and 110, Regional Trial Court Judgment.

⁹ *Id.* at 41.

¹⁰ *Id.*

¹¹ *Id.*

John Miller Primary School with John financing her studies. John also mentioned her name in his July 5, 1984 letter to Lennie. Moreover, in his holographic will, he gave Joan a 1/8 share of his estate. Further, in a February 14, 1987 document, he assigned Betty to act as Joan's guardian and her inheritance's administrator until she attains the age of majority. Also, by his bidding, Betty obtained an educational plan for her.¹²

Joan further claimed that Glenn knew that John recognized her as his child. She alleged that his Petition was merely filed to harass her because she filed the partition case. She prayed for the award of moral and exemplary damages and litigation expenses as counterclaim.¹³

Glenn, however, countered that the authenticity of the July 5, 1984 and February 14, 1987 documents and the July 1985 holographic will was not proven. Since Joan failed to prove that John wrote and signed these documents, Glenn claimed that they failed to establish Joan's filiation.¹⁴

Trial then ensued.

Before the trial court, Glenn presented Apulio Ferreras¹⁵ who brought Joan's birth record. It was revealed that Joan had two (2) existing birth certificates. The first, dated June 30, 1982 and registered as Local Civil Registrar No. 760,¹⁶ indicated Johnlyn Espenida Miller as the child and John Manares Miller as the father.¹⁷ The second, dated July 20, 1982 and registered as Local Civil Registrar No. 825,¹⁸ pertained to Joan Espenida Miller as the child and John (Manyares) Miller as the father.¹⁹ Neither certificate bore a name or signature on the space provided for the parent's Affidavit of Acknowledgment. Further, the July 20, 1982 birth certificate was the document submitted to the then National Census and Statistics Office.²⁰

Glenn testified that after his father's death, he discovered that Joan was staying in their ranch. He later found out the existence of her two (2) birth certificates, none of which bore his father's signature acknowledging Joan as his child. Hence, he wanted Joan to stop using the surname Miller.²¹

¹² Id. at 42 and 111.

¹³ Id. at 111.

¹⁴ Id. at 42.

¹⁵ Id. at 111. Ferreras appeared by virtue of a subpoena *duces tecum* and *ad testificandum* issued by the trial court.

¹⁶ Id. at 136.

¹⁷ Id. at 111.

¹⁸ Id. at 135.

¹⁹ Id. at 111.

²⁰ Id. at 112.

²¹ Id.

Joan and her mother Lennie testified for the defense. They claimed that Joan was Lennie's child with John, and was registered first as Johnlyn Miller on June 30, 1982. At John's instance, she was registered again as Joan Miller on July 20, 1982. They alleged that, despite John's failure to acknowledge Joan in the birth certificate, their evidence—the letters, the holographic will, and the document assigning Betty as Joan's guardian—preponderantly prove that he acknowledged Joan as his illegitimate child.²²

On November 26, 2004, the Regional Trial Court issued a Judgment²³ in favor of Joan. It held that the “due recognition of an illegitimate child in a record of birth, a will, a statement before a court of record, or in any authentic writing is, in itself, a consummated act of acknowledgment of the child, and no further action is required[.]”²⁴

The trial court treated John's order to Betty to secure a scholarship for Joan and the corresponding College Assurance Plan, based on the Certificate of Nomination and the scholarship funding agreement, as proof that he voluntarily acknowledged Joan as his child. Moreover, Glenn failed to show that John did not personally write the letters or that his signatures were forged.²⁵ The dispositive portion of the Judgment read:

WHEREFORE, judgment is hereby rendered in favor of the respondents and against the petitioner by:

- (a) Ordering the dismissal of the instant petition;
- (b) Ordering respondent, Joan E. Miller to continue using the surname Miller;
- (c) Ordering the respondent Local Civil Registrar of Gubat, Sorsogon to maintain the status quo and never to amend nor change the certificate of live birth of Joan Miller y Espenida;
- (d) Likewise, ordering the dismissal of the respondents' counterclaim;
- (e) Ordering the petitioner to pay the costs of the proceedings.

SO ORDERED.²⁶ (Emphasis in the original)

²² Id. at 112–113.

²³ Id. at 110–114.

²⁴ *Rollo*, p. 113 citing *De Jesus v. Estate of Decedent Dizon*, 418 Phil. 768, 773 (2001) [Per J. Vitug, Third Division].

²⁵ Id. at 113.

²⁶ Id. at 114.

Glenn appealed the case before the Court of Appeals.²⁸

On June 30, 2011, the Court of Appeals promulgated a Decision,²⁹ denying Glenn's appeal.³⁰ Applying Article 173 in relation to Article 172 of the Family Code, it found that John's holographic will, where he gave Joan 1/8 of his estate, sufficiently established his paternity.³¹ Citing *Gono-Javier v. Court of Appeals*,³² the Court of Appeals added that "judicial imprimatur on the holographic will is no longer required before the paternal filiation based thereon may be established."³³ It held that it is sufficient that the child is recognized in the will. The law instantly recognizes the father's recognition of his child the moment he executed his will.³⁴

The Court of Appeals also held that Joan need not prove that the documents she presented were authentic. It found that Glenn had the burden of proving his allegations, which he failed to discharge.³⁵

Glenn moved for reconsideration,³⁶ but the Court of Appeals denied his Motion in its February 3, 2012 Resolution.³⁷

On March 26, 2012, Evelyn L. Miller, Jennifer Ann L. Miller, Leslie Ann L. Miller, Rachel Ann L. Miller, and Valerie Ann L. Miller, who substituted Glenn as his surviving legal heirs, filed before this Court a Petition for Review on Certiorari³⁸ against Joan and the Local Civil Registrar of Gubat, Sorsogon. They prayed for the reversal of the Court of Appeals Decision and Resolution.³⁹ Joan filed her Comment⁴⁰ on May 27, 2013, while petitioners filed their Reply⁴¹ on December 19, 2013.

On June 2, 2014, this Court issued a Resolution,⁴² giving due course to the Petition and requiring the parties to submit their respective memoranda. Petitioners filed their Memorandum⁴³ on August 29, 2014, while private respondent filed her Memorandum⁴⁴ on September 15, 2014.

²⁸ Id. at 43.

²⁹ Id. at 40-47.

³⁰ Id. at 46.

³¹ Id. at 43-45. The Court of Appeals mistakenly wrote Civil Code instead of Family Code in the Decision.

³² 309 Phil. 544 (1994) [Per J. Vitug, Third Division].

³³ *Rollo*, p. 45.

³⁴ Id.

³⁵ Id. at 45-46.

³⁶ Id. at 49-60.

³⁷ Id. at 62-63.

³⁸ Id. at 8-38.

³⁹ Id. at 35.

⁴⁰ Id. at 175-188.

⁴¹ Id. at 208-225.

⁴² Id. at 234.

⁴³ Id. at 245-261.

⁴⁴ Id. at 262-277.

Petitioners argue that since private respondent was born on June 25, 1982, the applicable provision is Article 368 of the Civil Code, which states that illegitimate children shall bear their mother's surname. Thus, private respondent should use her mother's surname in her birth certificate.⁴⁵

Petitioners submit that Article 176 of the Family Code cannot be applied retroactively, as it will prejudice and dilute the hereditary rights of John's compulsory heirs. Allowing private respondent to use the surname Miller could translate to an unintentional recognition of private respondent's illegitimate filiation, which could give her successional rights over John's estate.⁴⁶

Assuming that the Family Code governs, petitioners aver that private respondent still cannot use the surname Miller because the will that John allegedly wrote did not pass the private handwritten instrument test under *Dela Cruz v. Gracia*.⁴⁷ Moreover, they contend that Article 176's last sentence, which provides that "the father has the right to institute an action before the regular courts to prove non-filiation during his lifetime[.]"⁴⁸ is a *conditio sine qua non*. This means that the "illegitimate child's right to use the father's surname must co-exist with the father's right to refute illegitimate filiation."⁴⁹ Hence, John's death on May 14, 1990, according to petitioners, extinguished private respondent's right to use his surname.⁵⁰

Petitioners also point out that Lennie, private respondent's mother, was convicted of the crime of falsification of public document when she falsified one (1) of Joan's birth certificates. Although the falsified certificate was undetermined, they argue that the others may as well have been falsified. Being products of falsification, they cannot be used as official documents.⁵¹ Allowing private respondent to use the surname Miller in any of her birth certificates "will certainly undermine the integrity, reliability[,] and authenticity of a birth certificate."⁵²

Petitioners assert that the putative father's acknowledgment of the child must precede the child's use of the father's surname, not the other way around. Further, they argue that if Lennie insists on the filiation of private respondent, then she should have resorted to DNA evidence.⁵³

⁴⁵ Id. at 251–252.

⁴⁶ Id. at 252–253.

⁴⁷ Id. at 252 citing 612 Phil. 167 (2009) [Per J. Carpio Morales, Second Division].

⁴⁸ Id.

⁴⁹ Id. at 253.

⁵⁰ Id. at 252–253.

⁵¹ Id. at 254.

⁵² Id.

⁵³ Id. at 220.

Petitioners adopted their Memorandum as a formal administrative complaint against Regional Trial Court Judge Jacinta B. Tambago. They allege that she did not inhibit from their case despite his brother-in-law, Atty. Osias S. Tambago, acting as private respondent's counsel.⁵⁴

On the other hand, private respondent maintains that she was able to sufficiently establish her illegitimate filiation. She contends that since John recognized her as his daughter through his holographic will, his letters to Lennie, and his designation of Betty as her trustee, she can use his surname.⁵⁵

In addition, private respondent argues that Republic Act No. 9255, or the Act Allowing Illegitimate Children to Use the Surname of Their Father, can be applied to her case because the law provides that "the rules shall apply to all illegitimate children born before or after [its] effectivity[.]"⁵⁶

Private respondent likewise avers that petitioners failed to substantiate their allegations that her documentary evidence were forged.⁵⁷

The sole issue for this Court's resolution is whether or not the Court of Appeals erred in affirming the Regional Trial Court Judgment allowing private respondent Joan Miller y Espenida to continue using the surname Miller.

This Court stresses that Glenn's initiatory pleading before the Regional Trial Court of Masbate City is a Petition for Correction of Entries in the Certificate of Live Birth of Joan Miller y Espenida.⁵⁸ This type of petition is governed by Rule 108 of the Rules of Court:

RULE 108

Cancellation or Correction of Entries in the Civil Registry

SECTION 1. Who may file petition. — Any person interested in any act, event, order or decree concerning the civil status of persons which has been recorded in the civil register, may file a verified petition for the cancellation or correction of any entry relating thereto, with the Court of First Instance of the province where the corresponding civil registry is located.

⁵⁴ Id. at 255, Petitioners' Memorandum.

⁵⁵ Id. at 270, Private respondent's Memorandum.

⁵⁶ Id. at 271.

⁵⁷ Id. at 272.

⁵⁸ Id. at 88-94.

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) 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.

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.

In *In re: Barretto v. The Local Registrar of Manila*,⁵⁹ this Court explained that:

. . . the summary procedure for correction of entries in the civil registry under article 412 of the Civil Code and Rule 108 of the Rules of Court is confined to “innocuous or clerical errors, such as misspellings and the like, errors that are visible to the eyes or obvious to the understanding” or corrections that are not controversial and are supported by indubitable evidence.⁶⁰

⁵⁹ 165 Phil. 858 (1976) [Per J. Aquino, Second Division].

⁶⁰ Id. at 862 citing *Baybayan v. Republic of the Philippines*, 123 Phil. 230 (1966) [Per J. J.B.L. Reyes, En Banc]; *Tiong v. Republic of the Philippines*, 122 Phil. 651 (1965) [Per J. Bautista Angelo, En Banc]; and *Lim v. Republic*, 101 Phil. 1235 (1957) [Per C.J. Paras, En Banc].

Here, petitioners sought the correction of private respondent's surname in her birth certificate registered as Local Civil Registrar No. 825. They want her to use her mother's surname, Espenida, instead of Miller, claiming that she was not an acknowledged illegitimate child of John.

What petitioners seek is not a mere clerical change. It is not a simple matter of correcting a single letter in private respondent's surname due to a misspelling. Rather, private respondent's filiation will be gravely affected, as changing her surname from Miller to Espenida will also change her status. This will affect not only her identity, but her successional rights as well. Certainly, this change is substantial.

In *Braza v. The City Civil Registrar of Himamaylan City, Negros Occidental*,⁶¹ this Court emphasized that "legitimacy and filiation can be questioned only in a direct action seasonably filed by the proper party, and not through collateral attack[.]"⁶² Moreover, impugning the legitimacy of a child is governed by Article 171 of the Family Code, not Rule 108 of the Rules of Court.⁶³

WHEREFORE, the Petition for Review on Certiorari is **PARTIALLY GRANTED**. The Court of Appeals' June 30, 2011 Decision and February 3, 2012 Resolution in CA-G.R. CV No. 84826 are **AFFIRMED** insofar as they affirm the November 26, 2004 Judgment of the Regional Trial Court of Masbate City, Branch 48 in Spec. Proc. No. 4703, which dismissed the Petition for Correction of Entries in the Certificate of Live Birth of Joan Miller y Espenida.

However, the declarations of the Court of Appeals and the Regional Trial Court as to the legitimacy and filiation of private respondent Joan Miller y Espenida are **NULLIFIED** and **SET ASIDE**. The Regional Trial Court's other pronouncements in its November 26, 2004 Judgment are also **NULLIFIED** and **SET ASIDE**.

This Decision is **WITHOUT PREJUDICE** to the refileing of the appropriate action before the proper court.

Finally, this Court resolves to treat the Memorandum of petitioners Evelyn L. Miller, Jennifer Ann L. Miller, Leslie Ann L. Miller, Rachel Ann L. Miller, and Valerie Ann L. Miller, who substituted Glenn M. Miller as his surviving legal heirs, as a formal administrative complaint against Judge Jacinta B. Tambago of Branch 48, Regional Trial Court, Masbate City. The


⁶¹ 622 Phil. 654 (2009) [Per J. Carpio Morales, First Division].

⁶² Id. at 659.

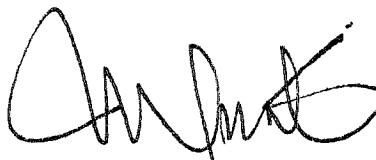
⁶³ Id.

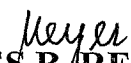
administrative complaint is referred to the Office of the Court Administrator for proper investigation, report, and recommendation.

SO ORDERED.



MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:


DIOSDADO M. PERALTA
Associate Justice
Chairperson

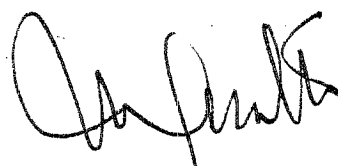

ANDRES B. REYES, JR.
Associate Justice

(On wellness leave)
RAMON PAUL L. HERNANDO
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice

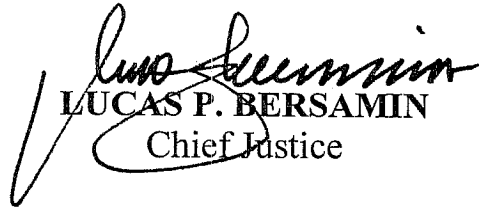
ATTESTATION

I attest 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
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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.


LUCAS P. BERSAMIN
Chief Justice

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MISAELO DOMINGO C. BATTUNG III
Deputy Division Clerk of Court
Third Division

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