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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

SASHA M. CABRERA, Petitioner,	**G.R. No. 241369**
- versus -	Present:
THE PHILIPPINE STATISTICS AUTHORITY (formerly NATIONAL STATISTICS OFFICE), OFFICE OF THE CONSUL GENERAL, PHILIPPINE EMBASSY, KUALA LUMPUR, and the OFFICE OF THE SOLICITOR GENERAL, Respondents.	CARPIO, *J.*, Chairperson, PERLAS-BERNABE, CAGUIOA,* J. REYES, JR. and LAZARO-JAVIER, *JJ.*
	Promulgated: 03 JUN 2019

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D E C I S I O N

PERLAS-BERNABE, *J.*:

Assailed in this petition for review on *certiorari*[1] are the Orders dated September 15, 2017[2] and June 7, 2018[3] of the Regional Trial Court (RTC) of Davao City, Branch 14 (RTC-Br. 14) which dismissed the re-filed petition of petitioner Sasha M. Cabrera (petitioner) in Special Proceeding No. R-DVO-17-03018-SP to: (*a*) correct her year of birth from 1980 to 1989 in her *first* Report of Birth;[4] and (*b*) cancel her *second* Report of Birth.[5]

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* On official leave.
1 *Rollo*, pp. 16-25.
2 Id. at 8-13. Penned by Presiding Judge Jill Rose S. Jaugan-Lo.
3 Id. at 6-7.
4 Recorded as Registry Number 2009-4580024; id. at 31.
5 Recorded as Registry Number 2010-4580208; id. at 32.

The Facts

Petitioner alleged that she was born on **July 20, 1989** at Zuba Estate, Lahad Datu Sabah, Malaysia. However, due to the distance between their house and the Philippine Embassy in Kuala Lumpur, it was only on August 27, 2008 that her mother reported her birth. The National Statistics Office in Manila, now the Philippine Statistics Authority (PSA), received her *first* Report of Birth on January 29, 2009 and recorded it under Registry Number 2009-4580024.[6]

Subsequently, petitioner discovered that her date of birth was wrongfully entered as **July 20, 1980**. However, instead of correcting the said error with the Philippine Embassy, petitioner's mother registered her birth for the second time. Thus, petitioner had a *second* Report of Birth recorded in March 2010 under Registry Number 2010-4580208.[7]

Because she had two (2) Reports of Birth, petitioner encountered difficulties in securing official documents, prompting her to file a petition for cancellation of her ***first*** Report of Birth before the RTC of Davao City, Branch 17 (RTC-Br. 17) docketed as SP. Proc. No. 11,850-12. After due proceedings where the publication and jurisdictional requirements were shown to have been complied with, and with the appearance of the Office of the Solicitor General (OSG), as well as a representative from the PSA, the RTC-Br. 17 granted the petition in a Decision[8] dated November 19, 2012.[9] Accordingly, it ordered the cancellation of petitioner's *first* Report of Birth.[10]

The OSG filed a motion for reconsideration,[11] which the RTC denied in an Order[12] dated February 27, 2013. Thus, the OSG appealed[13] to the Court of Appeals (CA) which, in a Decision[14] dated February 11, 2016, granted the same upon a finding that since petitioner's birth was already validly registered, it can no longer be the subject of a second registration. As petitioner seeks the correction of her year of birth, which is a substantial change, the CA held that the proper recourse would have been to file a petition for correction of entry to correct her *first* Report of Birth under Rule 108 of the Rules of Court.[15]

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6 See id. at 19 and 47.
7 See id. at 19-20 and 47.
8 Not attached to the *rollo*. See id. at 20 and 48-49.
9 See id. at 48-49.
10 See id. at 20 and 47-49.
11 Dated December 7, 2012. Id. at 34-39.
12 Not attached to the *rollo*. See id. at 21, 43, and 65.
13 See Notice of Appeal dated March 22, 2013; id. at 43-44.
14 Id. at 46-53. Penned by Associate Justice Ronaldo B. Martin with Associate Justices Romulo V. Borja and Oscar V. Badelles, concurring.
15 See id. at 50-52.

Instead of filing a motion for reconsideration therefrom, petitioner re-filed the present petition to: (*a*) correct her year of birth from July 20, 1980 to July 20, 1989 in her *first* Report of Birth; and (*b*) cancel her *second* Report of Birth under Rule 108 of the Rules of Court, which was raffled to RTC-Br. 14.[16]

The RTC-Br. 14's Ruling

In an Order[17] dated September 15, 2017, the RTC-Br. 14 *motu proprio* dismissed the petition. Citing the provisions of Rule 108 of the Rules of Court, particularly Section 1[18] thereof, it held that since it was the Office of the Consul General of the Philippine Embassy in Kuala Lumpur that acted as the civil registry in petitioner's case, the petition should have been filed with the RTC where petitioner's *first* Record of Birth was registered, *i.e.*, the RTC of the place where the PSA is located, which is Quezon City, and not the RTC of petitioner's residence in Davao City.[19]

Petitioner's motion for reconsideration[20] was denied in an Order[21] dated June 7, 2018; hence, this petition.

The Issue Before the Court

The sole issue for the Court's resolution is whether or not the RTC-Br. 14 erred in dismissing the re-filed petition on the ground of improper venue.

Petitioner argues that venue is procedural and not substantive; it only becomes jurisdictional in criminal cases. She likewise maintains that improper venue is not equivalent to lack of jurisdiction, as the parties may waive venue. Further, she insists that until respondents in the present petition object to venue being improperly laid in a motion to dismiss, it was error for the RTC-Br. 14 to *motu proprio* dismiss the case on the ground of lack of jurisdiction, which can only be done in cases covered by the rules on summary procedure.[22]

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16 See id. at 8 and 21.

17 Id. at 8-13.

18 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. (Underscoring supplied)

19 See *rollo*, pp. 11-12.

20 Not attached to the *rollo*.

21 *Rollo*, pp. 6-7.

22 See id. at 22-23.

On the other hand, the OSG, in its Comment,[23] concurs that venue is merely procedural and may be fixed by the Rules of Court, while jurisdiction is conferred only by law. It submits that venue is fixed for the convenience of the parties and their witnesses. As such, for cases involving birth certificates recorded through the Office of the Consul General, as in this case, Section 1, Rule 108 of the Rules of Court does not limit the venue of the action to Quezon City only, where the PSA's head office is located. Finally, even assuming that venue had been improperly laid in this case, the OSG pointed out that courts may not *motu proprio* dismiss the same.[24]

The Court's Ruling

The petition is meritorious.

Venue is procedural, not jurisdictional, and hence, may be waived.[25] Venue is the place of trial or geographical location in which an action or proceeding should be brought. In civil cases, venue is a matter of procedural law. A party's objections to venue must be brought at the earliest opportunity either in a motion to dismiss or in the answer; otherwise, the objection shall be deemed waived. When the venue of a civil action is improperly laid, the court cannot *motu proprio* dismiss the case.[26]

Furthermore, the rules on venue are intended to provide convenience to the parties, rather than restrict their access to the courts. It simply arranges for the convenient and effective transaction of business in the courts and do not relate to their power, authority, or jurisdiction over the subject matter of the action.[27]

At the outset, the Court notes that when petitioner filed her first petition before the RTC-Br. 17 docketed as SP. Proc. No. 11,850-12, she had already pleaded exemption from complying with the rule on venue by filing her petition in her place of domicile, *i.e.*, Davao City, she being a mere student who had no means to engage a lawyer to file it on her behalf.[28] Likewise, records show that the OSG registered no objection to such venue; hence, the RTC-Br. 17 proceeded to hear the petition and rendered a decision on the merits,[29] which was subsequently reversed by the CA.[30]

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23 Dated January 21, 2019. Id. at 64-79.

24 See id. at 75-76.

25 See *Anama v. Citibank, N.A.*, G.R. No. 192048, December 13, 2017.

26 See *Radiowealth Finance Company, Inc. v. Pineda, Jr.*, G.R. No. 227147, July 30, 2018, citing *Pilipinas Shell Petroleum Corporation v. Royal Ferry Services, Inc.*, 805 Phil. 13, 30-31 (2017), further citing *City of Lapu-Lapu v. Philippine Economic Zone Authority*, 748 Phil 473, 523 (2014).

27 *Philippine Banking Corporation v. Tensuan*, G.R. No. 104649, February 28, 1994, 230 SCRA 413, 417.

28 See *rollo*, p. 47.

29 See id. at 20 and 48-49.

30 See id. at 52.

During the entire course of the proceedings thereat, from which the present petition stemmed, venue was never raised as an issue.

Clearly, therefore, it was erroneous for the RTC-Br. 14 to *motu proprio* dismiss the re-filed petition before it on the ground of improper venue. Since convenience is the *raison d'etre* of the rules on venue,[31] and as it was established that Davao City is the residence of petitioner, and as further pointed out by the OSG, PSA has a field office located at Ango Building, Cabaguio Avenue, Davao City, then Davao City is the most convenient venue for the parties.[32] Thus, the RTC-Br. 14 should have taken cognizance of and heard petitioner's re-filed petition in order to promote, not defeat, the ends of justice.

Moreover, it was error for the RTC-Br. 14 to dismiss the re-filed petition *motu proprio*. It is well-settled that courts may not *motu proprio* dismiss the case on the ground of improper venue. Without any objection at the earliest opportunity, as in a motion to dismiss or in the answer, it is deemed waived. In *Radiowealth Finance Company, Inc. v. Nolasco*,[33] the Court explained:

> Dismissing the complaint on the ground of improper venue is certainly not the appropriate course of action at this stage of the proceeding, particularly as venue, in inferior courts as well as in the Courts of First Instance (now RTC), may be waived expressly or impliedly. **Where defendant fails to challenge timely the venue in a motion to dismiss as provided by Section 4 of Rule 4 of the Rules of Court, and allows the trial to be held and a decision to be rendered, he cannot on appeal or in a special action be permitted to challenge belatedly the wrong venue, which is deemed waived**.
>
> **Thus, unless and until the defendant objects to the venue in a motion to dismiss, the venue cannot be truly said to have been improperly laid, as for all practical intents and purposes, the venue, though technically wrong, may be acceptable to the parties for whose convenience the rules on venue had been devised**. The trial court cannot pre-empt the defendant's prerogative to object to the improper laying of the venue by *motu proprio* dismissing the case.[34]

In sum, the RTC-Br. 14 erred in *motu proprio* dismissing petitioner's re-filed petition on the ground of improper venue. Accordingly, the same must be reinstated, and thereafter, remanded to the RTC-Br. 14 for further proceedings.

WHEREFORE, the petition is **GRANTED**. The Orders dated September 15, 2017 and June 7, 2018 of the Regional Trial Court of Davao

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31 *San Miguel Corporation v. Monasterio*, 499 Phil. 702, 709 (2005).
32 See *rollo*, pp. 75-76.
33 799 Phil. 598 (2016).
34 Id. at 605-606; emphases and underscoring supplied.

City, Branch 14 (RTC-Br. 14) in Special Proceeding No. R-DVO-17-03018-SP are **REVERSED** and **SET ASIDE**. Accordingly, the case is **REINSTATED** and **REMANDED** to the RTC-Br. 14 for further proceedings.

SO ORDERED.

ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Senior Associate Justice
Chairperson

On official leave
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

JOSE C. REYES, JR.
Associate Justice

AMY C. LAZARO-JAVIER
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.

ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

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