



Republic of the Philippines  
**Supreme Court**  
Manila

**FIRST DIVISION**

**REPUBLIC  
PHILIPPINES,**

**OF THE**

**G.R. No. 232053**

Petitioner,

Present:

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

*-versus-*

Promulgated:

**ANNABELLE ONTUCA y  
PELEÑO (MOTHER AND  
GUARDIAN OF HER MINOR  
CHILD, ZSANINE KIMBERLY  
JARIOL y ONTUCA),**

Respondent.

JUL 15 2020

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**D E C I S I O N**

**LOPEZ, J.:**

This is a petition for review on *certiorari* assailing the Decision<sup>1</sup> dated November 15, 2016 of the Regional Trial Court (RTC)<sup>2</sup> in Special Proceedings No. 15-66 which granted the correction of the mother's civil status, first name, and middle name in the birth certificate of her child under Rule 108 of the Rules of Court.

**ANTECEDENTS**

Annabelle Ontuca y Peleño gave birth to her daughter on August 14, 2000. Corazon Carabeo, a registered midwife, assisted Annabelle in giving birth to Zsanine. After Zsanine was born, Carabeo volunteered herself to

<sup>1</sup> *Rollo*, pp. 31-32; penned by Judge Aida Estrella Macapagal.

<sup>2</sup> Regional Trial Court, Branch 195, Parañaque City.

register Zsanine's birth with the Parañaque Civil Registrar. Annabelle thus provided Carabeo with the necessary details.

After several days, the midwife delivered the birth certificate to Annabelle. Annabelle was, however, dismayed to see the erroneous entries in the certificate, to wit: (a) Entry No. 6 – the name “*Mary*” was added in her first name while her middle name was misspelled as “*Paliño*;” (b) Entry No. 18 – in the date and place of marriage, “*May 25, 1999 at Occ. Mindoro*” was indicated despite the fact that Annabelle was not married with the father of her child; and, (c) Entry No. 20 – Annabelle appeared as the informant who signed and accomplished the form, instead of the midwife.

To correct these entries, Annabelle filed a Petition under Rule 108<sup>3</sup> of the Rules of Court before the RTC that was docketed as Special Proceedings No. 15-66. In her petition, Annabelle prayed that the name “*Mary Annabelle Peleño Ontuca*” be corrected by removing “*Mary*” and changing “*Paliño*” to “*Peleño*,” and that the date and place of marriage of parents be changed from “*May 25, 1999 at Occ. Mindoro*” to “*NOT MARRIED*.”

The RTC then set the case for hearing and ordered Annabelle to furnish a copy of the petition to the Office of the Solicitor General (OSG), the National Statistics Office, and the Local Civil Registrar. After trial, on November 15, 2016, the RTC granted the petition, thus:

After a careful evaluation of the evidence of petitioner's testimonial and documentary evidence, the petition is hereby ordered **GRANTED**.

**WHEREFORE**, the Local Civil Registrar of Paranaque City is hereby ordered the following entries in the birth certificate of Zsanine Kimberly Jariol y Ontuca be corrected as follows:

- 1.) The name of petitioner appearing as “*MARY ANNABELE [sic]*” in entry no. 6 be changed to “**ANNABELLE**” and the middle name of petitioner be spelled as **PELEÑO**, also in Entry No. 6; and
- 2.) From married to **NOT MARRIED**, in entry No. 18.

The Local Civil Registrar of Paranaque City is hereby ordered to furnish the Civil Registrar of the Philippines – National Statistics Office of the corrected birth certificate of **ZSANINE KIMBERLY JARIOL Y ONTUCA**.

**SO ORDERED.**<sup>4</sup>

The OSG moved for a reconsideration,<sup>5</sup> arguing that the RTC has no jurisdiction to correct Annabelle's first name and middle name under Rule 108 because the errors are clerical that can be corrected through

<sup>3</sup> Cancellation or Correction of Entries in the Civil Registry.

<sup>4</sup> *Rollo*, p. 32.

<sup>5</sup> *Id.* at 33-42.

administrative proceedings under Republic Act (RA) No. 9048, as amended. On the other hand, the change in the date and place of marriage of the child's parents is substantial, hence, Annabelle should have impleaded the OSG and all other persons who have a claim or any interest in the proceedings. The RTC denied the motion.<sup>6</sup> Hence, this petition.<sup>7</sup>

### RULING

The petition is partly meritorious.

The issues hinge on the RTC's jurisdiction to order the correction of Annabelle's first name from "*MARY ANNABELLE*" to "*ANNABELLE*" and her middle name from "*PALIÑO*" to "*PELEÑO*" and to change her civil status from married to "*NOT MARRIED*" under the provisions of Rule 108 of the Rules of Court. Thus, we find it necessary to determine the scope of the rule, and the nature of the errors that Annabelle seeks to correct in the birth certificate of her child.

Rule 108 applies when the person is seeking to correct clerical and innocuous mistakes in his or her documents with the civil register. It also governs the correction of substantial errors affecting the civil status, citizenship, and nationality of a person. The proceedings may either be summary, if the correction pertains to clerical mistakes, or adversary, if it involves substantial errors. The petition must be filed before the RTC, which sets a hearing and directs the publication of its order in a newspaper of general circulation. The RTC may grant or dismiss the petition and serve a copy of its judgment to the Civil Registrar.<sup>8</sup>

In 2001, RA No. 9048 was enacted, amending Rule 108. Under the law, the local civil registrars, or the Consul General, as the case may be, are now authorized to correct clerical or typographical errors in the civil registry, or make changes in the first name or nickname, without need of a judicial order. This law provided an administrative recourse for the correction of clerical or typographical errors, essentially leaving substantial corrections to Rule 108.<sup>9</sup>

In 2012, RA No. 10172, amended RA No. 9048, expanding the authority of local civil registrars and the Consul General to make changes in the day and month in the date of birth, as well as in the recorded sex of a person, when it is patently clear that there was a typographical error or mistake in the entry.<sup>10</sup>

<sup>6</sup> *Id.* at 29-30.

<sup>7</sup> *Id.* at 13-14.

<sup>8</sup> *Rep. of the Phils. v. Gallo*, 823 Phil. 1090, 1108 (2018).

<sup>9</sup> *Rep. of the Phils. v. Tipay*, 826 Phil. 88, 96-97 (2018).

<sup>10</sup> Section 1 of RA No. 9048, as amended by RA No. 10172, reads:

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



Applying these laws, we now determine whether the correction of Annabelle's first name and surname is substantial or clerical.

Ordinarily, the term "*substantial*" means consisting of or relating to substance, or something that is important or essential.<sup>11</sup> In relation to change or correction of an entry in the birth certificate, substantial refers to that which establishes, or affects the substantive right of the person on whose behalf the change or correction is being sought. Thus, changes which may affect the civil status from legitimate to illegitimate, as well as sex, civil status, or citizenship of a person, are substantial in character.

On the other hand, Section 2(3) of RA No. 9048, as amended, defines a clerical or typographical error as a mistake committed in the performance of clerical work in writing, copying, transcribing or typing an entry in the civil register that is harmless and innocuous, such as misspelled name or misspelled place of birth, mistake in the entry of day and month in the date of birth or the sex of the person or the like, which is visible to the eyes or obvious to the understanding, and can be corrected or changed only by reference to other existing record or records.

In *Republic v. Mercadera*,<sup>12</sup> we ruled that the correction of petitioner's misspelled first name from "*MARILYN*" to "*MERLYN*" involves a mere clerical error. It cited several cases as basis, *viz.*:

Indeed, there are decided cases involving mistakes similar to Mercadera's case which recognize the same a harmless error. In *Yu v. Republic* it was held that "to change 'Sincio' to 'Sencio' which merely involves the substitution of the first vowel 'i' in the first name into the vowel 'e' amounts merely to the righting of a clerical error." In *Labayo-Rowe v. Republic*, it was held that the change of petitioner's name from "Beatriz Labayo/Beatriz Labayu" to "Emperatriz Labayo" was a mere innocuous alteration wherein a summary proceeding was appropriate. In *Republic v. Court of Appeals, Jaime B. Caranto and Zenaida P. Caranto*, the correction involved the substitution of the letters "ch" for the letter "d," so that what appears as "Midael" as given name would read "Michael." In the latter case, this Court, with the agreement of the Solicitor General, ruled that the error was plainly clerical, such that, "changing the name of the child from 'Midael C. Mazon' to 'Michael C. Mazon' cannot possibly cause any confusion, because both names can be read and pronounced with the same rhyme (*tugma*) and tone (*tono, tunog, himig*)." <sup>13</sup> (Citation omitted.)

Guided by this principle, the correction of Annabelle's middle name from "*PALIÑO*" to "*PELEÑO*" involves clerical or typographical error. It merely rectified the erroneous spelling through the substitution of the letters "*A*" and "*P*" in "*PALIÑO*" with the letter "*E*," so it will read as "*PELEÑO*."

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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.)

<sup>11</sup> Merriam-Webster Dictionary.

<sup>12</sup> 652 Phil. 195 (2010).

<sup>13</sup> *Id.* at 212.

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To be sure, Annabelle's Unified Multi-Purpose ID<sup>14</sup> shows that her middle name is spelled as "PELEÑO."

Similarly, the error in Annabelle's first name is clerical that will neither affect nor prejudice her substantial rights. Annabelle's postal ID<sup>15</sup> and passport<sup>16</sup> satisfactorily show that her first name is "ANNABELLE" and not "MARY ANNABELLE." Verily, by referring to Annabelle's existing records, or documents, the innocuous errors in her first name and middle name may be corrected under RA No. 9048, as amended.

Furthermore, Annabelle may file the petition to correct her personal information in the birth certificate of her child. The application of RA No. 9048, as amended, is not limited to cases in which the erroneous entries in the birth certificate sought to be corrected pertain to the owner of the birth certificate. Rule 3 of the Implementing Rules and Regulations of RA No. 9048, as amended, provides:

Rule 3. Who may file the petition. - Any person of legal age, 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 the petition. **A person is considered to have direct and personal interest when he is the owner of the record, or the owner's spouse, children, parents, brothers, sisters, grandparents, guardian, or any other person duly authorized by law or by the owner of the document sought to be corrected:** Provided, however, That when a person is a minor or physically or mentally incapacitated, the petition may be filed on his behalf by his spouse, or any of his children, parents, brothers, sisters, grandparents, guardians, or persons duly authorized by law. (Emphasis ours.)

Meanwhile, the correction of the date and place of the parent's marriage from "May 25, 1999 at Occ. Mindoro" to "NOT MARRIED" is substantial since it will alter the child's status from legitimate to illegitimate. To be sure, the correction of entries in the civil register pertaining to citizenship, legitimacy of paternity or filiation, or legitimacy of marriage involves substantial alterations, which may be corrected, and the true facts established, provide the parties aggrieved by the error to avail themselves of the appropriate adversary proceedings.<sup>17</sup> Here, Annabelle correctly filed a petition for cancellation and/or correction of the entries before the RTC under Rule 108. Nevertheless, we find that Annabelle failed to observe the required procedures under Sections 3, 4 and 5 of Rule 108, to wit:

SEC. 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.

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<sup>14</sup> *Rollo*, p. 53.

<sup>15</sup> *Id.* at 52.

<sup>16</sup> *Id.* at 54.

<sup>17</sup> *Onde v. The Office of the Local Civil Registrar of Las Piñas City*, 742 Phil. 691, 696 (2014).

SEC. 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.

SEC. 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. (Emphases supplied.)

The rules require two sets of notices to potential oppositors – one given to persons named in the petition and another served to persons who are not named in the petition, but nonetheless may be considered interested or affected parties. Consequently, the petition for a substantial correction must implead the civil registrar and other persons who have, or claim to have any interest that would be affected.<sup>18</sup> In *Labayo-Rowe v. Republic of the Philippines*,<sup>19</sup> a case which involves the correction of petitioner's civil status in her daughter's birth certificate from "married" to "single," and the date and place of marriage to "no marriage," we emphasized the necessity of impleading indispensable parties, thus:

x x x Aside from the Office of the Solicitor General, **all other indispensable parties should have been made respondents. They include not only the declared father of the child but the child as well, together with the paternal grandparents, if any, as their hereditary rights would be adversely affected thereby. All other persons who may be affected by the change should be notified or represented.** The truth is best ascertained under an adversary system of justice.

**The right of the child Victoria to inherit from her parents would be substantially impaired if her status would be changed from "legitimate" to "illegitimate."** Moreover, she would be exposed to humiliation and embarrassment resulting from the stigma of an illegitimate filiation that she will bear thereafter. The fact that the notice of hearing of the petition was published in a newspaper of general circulation and notice thereof was served upon the State will not change the nature of the proceedings taken. Rule 108, like all the other provisions of the Rules of Court, was promulgated by the Supreme Court pursuant to its rule-making authority under Section 13, Article VIII of the 1973 Constitution, which directs that such rules "shall not diminish, increase or modify substantive rights." If Rule 108 were to be extended beyond innocuous or harmless changes or corrections of errors which are visible to the eye or obvious to the understanding, so as to comprehend substantial and controversial alterations concerning citizenship, legitimacy of paternity or filiation, or legitimacy of marriage, without observing the proper proceedings as earlier mentioned, said rule would thereby become an unconstitutional exercise which would tend to increase or modify substantive rights. x x x<sup>20</sup> (Emphases supplied.)

<sup>18</sup> *Almojuela v. Rep. of the Phils.*, 793 Phil. 780, 789-790 (2016).

<sup>19</sup> 250 Phil. 300 (1988).

<sup>20</sup> *Id.* at 308-309

Also, the phrase “*and all persons who have or claim any interest which would be affected thereby*” in the title of the petition and the publication of the petition are not sufficient notice to all interested parties. In *Ramon Corpus Tan v. Office of the Local Civil Registrar of the City of Manila*,<sup>21</sup> we ruled that impleading and notifying only the local civil registrar and the publication of the petition are not sufficient compliance with the procedural requirements.

Nonetheless, there are instances when the subsequent publication of a notice of hearing may cure the failure to implead and notify the affected or interested parties, such as when: (a) earnest efforts were made by petitioners in bringing to court all possible interested parties; (b) the parties themselves initiated the corrections proceedings; (c) there is no actual or presumptive awareness of the existence of the interested parties; or (d) when a party is inadvertently left out.<sup>22</sup>

None of these exceptions, however, are present in this case. There was no earnest effort on the part of Annabelle to bring to court the OSG, the child’s father, and siblings, if any, and other parties who may have an interest in the petition. Also, these indispensable parties are not the ones who initiated the proceedings, and Annabelle cannot possibly claim that she was not aware, actually or presumptively, as to the existence or whereabouts of these interested parties. Lastly, it does not appear that the indispensable parties were inadvertently and unintentionally left out when Annabelle filed the petition.<sup>23</sup> In sum, the failure to strictly comply with the requirements under Rule 108 renders the proceedings void for the correction of substantial errors.<sup>24</sup>

We, however, sustain the correction of Annabelle’s first name and middle name under Rule 108. Ideally, Annabelle should have filed the petition for correction with the local civil registrar under RA No. 9048, as amended, and only when the petition is denied can the RTC take cognizance of the case.<sup>25</sup> In any case, RA No. 9048, as amended, did not divest the trial courts of jurisdiction over petitions for correction of clerical or typographical errors in a birth certificate. To be sure, the local civil registrars’ administrative authority to change or correct similar errors is only primary but not exclusive.<sup>26</sup> The regular courts maintain the authority to make judicial corrections of entries in the civil registry.

Moreover, the doctrine of primary administrative jurisdiction is not

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<sup>21</sup> G.R. No. 211435, April 10, 2019 citing *Republic of the Philippines v. Lugsanay Uy*, 716 Phil. 254, 266 (2013).

<sup>22</sup> *Id.*

<sup>23</sup> See *Rep. of the Phils. v. Coseteng-Magpayo*, 656 Phil. 550 (2011).

<sup>24</sup> *Almojuela v. Rep. of the Phils.*, *supra* note 18, at 789.

<sup>25</sup> *Rep. of the Phils. v. Gallo*, 823 Phil. 1090, 1111 (2018), citing *Republic v. Sali*, 808 Phil. 343 (2017).

<sup>26</sup> It is worth noting that the deliberations on RA No. 9048 did not mention that petitions for correction of clerical errors can no longer be filed with the regular courts, though the grounds upon which the administrative process before the local civil registrar may be availed of are limited under the law. (*Re: Final Report on the Judicial Audit Conducted at the Regional Trial Court, Br. 67, Paniqui, Tarlac*, Adm. Matter No. 06-7-414-RTC, October 19, 2007.)

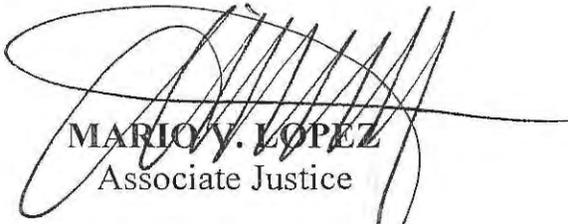


absolute and may be dispensed with for reasons of equity.<sup>27</sup> Thus, in *Rep. of the Phils. v. Gallo*,<sup>28</sup> we held that in cases where jurisdiction is lacking, failure to raise the issue of non-compliance with the doctrine of primary administrative jurisdiction at an opportune time may bar a subsequent filing of a motion to dismiss based on that ground by way of laches.

In this case, Annabelle had presented testimonial and documentary evidence, which the RTC had evaluated and found sufficient. To require her to file a new petition with the local civil registrar and start the process all over again would not be in keeping with the purpose of RA No. 9048, that is, to give people an option to have the erroneous entries in their civil records corrected through an administrative proceeding that is less expensive and more expeditious. Consequently, it will be more prudent and judicious for Annabelle, and other persons similarly situated, to allow the filing of a single petition under Rule 108, rather than two separate petitions before the RTC and the local civil registrar. This will avoid multiplicity of suits and further litigation between the parties, which is offensive to the orderly administration of justice.

**FOR THESE REASONS**, the petition is **PARTLY GRANTED**. The Regional Trial Court's Decision dated November 15, 2016 in Special Proceedings No. 15-66 is **AFFIRMED** with respect to the correction of Entry No. 6 pertaining to Annabelle Ontuca y Peleño's first name and middle name in the birth certificate of her child Zsanine Kimberly Jariol y Ontuca. On the other hand, the correction of Entry No. 18 referring to the date and place of marriage of the child's parents is **SET ASIDE**.

**SO ORDERED.**

  
MARIO V. LOPEZ  
Associate Justice

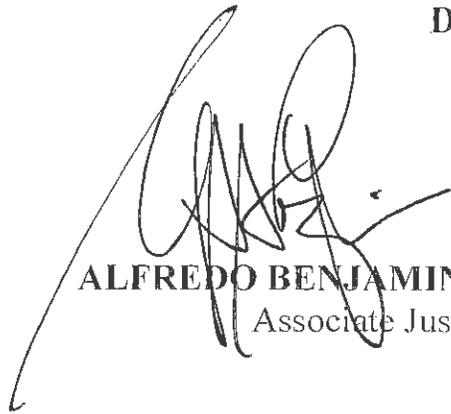
<sup>27</sup> 823 Phil. 1090 (2018), we held that for reasons of equity, in cases where jurisdiction is lacking, failure to raise the issue of non-compliance with the doctrine of primary administrative jurisdiction at an opportune time may bar a subsequent filing of a motion to dismiss based on that ground by way of laches. Thus, we allowed that the corrections of clerical errors sought by the petitioner, such as his first name from "Michael" to "Michelle;" her biological sex from "male" to "female;" the entry of her middle name as "Soriano;" middle name of her mother as "Angangan;" middle name of her father as "Balingao;" and, the date of her parents' marriage as "May 23, 1981," despite the filing of a petition under Rule 108, considering the failure of the Office of the Solicitor General to raise the doctrine of primary jurisdiction at the first instance.

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

**WE CONCUR:**



**DIOSDADO M. PERALTA**  
Chief Justice



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice



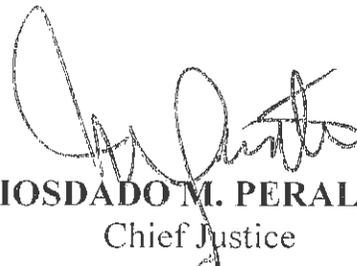
**JOSE C. REYES, JR.**  
Associate Justice



**AMY C. LAZARO-JAVIER**  
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