



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

REPUBLIC OF THE PHILIPPINES,
Petitioner,

G.R. No. 213346

Present:

- versus -

BERSAMIN, C.J.,
DEL CASTILLO,
LEONEN,*
GESMUNDO, and
CARANDANG, JJ.

MILLER OMANDAM UNABIA,
Respondent.

Promulgated:
FEB 11 2019

X

DECISION

DEL CASTILLO, J.:

This Petition for Review on *Certiorari*¹ assails the June 27, 2014 Decision² of the Court of Appeals (CA) which denied the appeal in CA-G.R. CV No. 02755-MIN and affirmed the November 23, 2009 Decision³ of the Regional Trial Court (RTC) of Cagayan de Oro City, Branch 17, in Special Proceeding No. 2009-018.

Factual Antecedents

On February 11, 2009, respondent Miller Omandam Unabia filed before the RTC Special Proceeding No. 2009-018, which is a “Petition for Correction of Entries on the Birth Certificate of Mellie Umandam Unabia,”⁴ claiming that his Birth Certificate⁵ contained errors in that the name entered therein was “Mellie Umandam Unabia”, when it should properly have been written as “Miller Omandam Unabia”; that the gender was erroneously entered as “female” instead of “male”; and that his father’s middle initial was erroneously indicated as “U” when

* Per Raffle dated November 26, 2018.

¹ *Rollo*, pp. 9-25.

² *Id.* at 29-34; penned by Associate Justice Oscar V. Badelles and concurred in by Associate Justices Romulo V. Borja and Pablito A. Perez.

³ *Id.* at 26-27; penned by Presiding Judge Florencia D. Sealana-Abbu.

⁴ *Id.* at 119-123.

⁵ *Id.* at 124.

it should have been “O”. In support of the petition, respondent attached the following documentary evidence to the petition:

1. Medical Certificate;
2. Police Clearance;
3. Voter’s Identification;
4. Baptismal Certificate;
5. National Bureau of Investigation (NBI) Clearance;
6. Transcript of Records;
7. Mother’s Birth Certificate; and
8. Father’s Birth Certificate.

After satisfying the jurisdictional requirements, trial ensued. Respondent took the witness stand as the lone witness. To support the claim for change of entry as to gender, a Medical Certificate was presented which was supposedly issued by a physician of the Northern Mindanao Medical Center, Dr. Andresul A. Labis (Dr. Labis), which certificate stated that respondent was “phenotypically male”; however, the physician was not presented in court to testify on his findings and identify the document.

Ruling of the Regional Trial Court

On November 23, 2009, the RTC issued its Decision, decreeing as follows:

Petitioner Miller Omandam Unabia testified during the hearing of the case as follows:

[T]hat he was born on August 11, 1980 in Claveria, Misamis Oriental to Spouses Magno O. Unabia and Rica Omandam Unabia. The fact of his birth [was] duly registered in the Office of the Local Civil Registrar of Claveria, Misamis Oriental.

When petitioner secured a copy of his Birth Certificate, he was surprised that his name was registered as MELLIE Umandam Unabia instead of Miller Omandam Unabia, the sex as Female instead of Male, and the middle name of his father which was entered as “O” instead of “U” (*Exh. “A” - “A-3”*). That from the time the petitioner was born, he was known as Miller Omandam Unabia, a Male and not a Female. This can be shown from his dealings and transactions. To prove such fact, petitioner presented his Baptismal Certificate to show that he was christened as Miller Omandam Unabia (*Exh. “E” - “E-1”*). Petitioner also presented his Official Transcript of Records issued by the Misamis Oriental State College of Agriculture and Technology to show that he was known as Miller O. Unabia (*Exh. “G” - “G-1”*). His voter’s identification showed that his name was registered as Miller O. Unabia. There was no instance that petitioner used the name Mellie Umandam Unabia.



Likewise, to bolster his claim that he is a male and not a female, petitioner subjected himself to a medical examination with the Northern Mindanao Medical Center, Cagayan de Oro City. The Medical Certificate showed that petition [sic] is phenotypically male (*Exh. "B" - "B-1"*). Also[,] petitioner presented clearances from the National Bureau of Investigation and the Villanueva Police Station to show that he has no derogatory record on file in said Offices, (*Exhs. "C" - "C-1"; "F" - "F-1"*).

The Birth Certificate of petitioner's mother Rica Guia Omandam and that of his father Magno Olaybar Unabia were presented to show proof that the spelling of the middle name of petitioner is "O" and not "U". It was also shown that the middle name of his father is "O" from Olaybar and not "U", (*Exhs. "H" [-] "H-1"; "I" [-] "I-1"*).

The Court, after going over the pieces of evidence presented by petitioner finds merit [with] the petition. It has been clearly established by petitioner that there are erroneous entries in his birth [certificate]. That since petitioner was born, he was a ma[ll]e. He is also known to his friends and relatives as Miller Omandam Unabia. His middle name spelled as an 'O' and not a 'U'. As shown from the birth certificate of the father indeed the latter's middle name is an 'O'.

There is a need to correct the erroneous entries in the birth certificate of petitioner to avoid confusion to his person. The correction is also necessary to reveal his true identity as not to create doubt [as] to his person.

WHEREFORE, premises considered, the Registrar of the Office of the Local Civil Registry of Claveria, Misamis Oriental is hereby ordered to correct the following erroneous entries in the birth certificate of herein petitioner Miller Omandam Unabia, to wit:

- 1) To change his name from Mel[I]e [to] MILLER;
- 2) To correct the first letter of his middle name from 'U' to 'O', so that the same be read as OMANDAM;
- 3) To change his sex from Female to MALE;
- 4) To convert the middle initial of his father from letter 'U' to letter 'O'.

SO ORDERED.⁶

Ruling of the Court of Appeals

Petitioner appealed before the CA, arguing that respondent failed to state a valid ground for change of name; that the petition failed to state the aliases by which respondent was known; that respondent failed to exhaust administrative remedies; and that respondent failed to present the physician who allegedly issued the medical certificate stating that respondent was male.

On June 27, 2014, the CA issued the assailed Decision, which contains the following pronouncement:

⁶ Id. at 26-27.

Under Republic Act 10172, which amended R.A. 9048, the city or municipal registrar or the consul general, as the case may be, is now authorized 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. Section 1 thereof provides:

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.

Accordingly, its implementing rules provide for the form and content of the petition:

Rule 6. Form and content of the petition.

Insofar as applicable, Rule 8 of Administrative Order No. 1, Series of 2001 shall be observed. In addition, as supporting documents to the petition, the following shall be submitted:

6.1. Earliest school record or earliest school documents;

6.2. Medical records;

6.3. Baptismal certificate and other documents issued by religious authorities;

6.4. A clearance or a certification that the owner of the document has no pending administrative, civil or criminal case, or no criminal record, which shall be obtained from the following:

6.4.1. Employer, if employed;

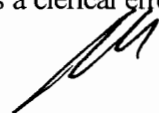
6.4.2. National Bureau of Investigation; and

6.4.3. Philippine National Police.

6.5. The petition for the correction of sex and day and/or month in the date of birth shall include the affidavit of publication from the publisher and a copy of the newspaper clipping; and

6.6. In case of correction of sex, the petition shall be supported with a medical certification issued by an accredited government physician that the petitioner has not undergone sex change or sex transplant.

In this case, the appellee was able to present all the necessary documents to support the allegations in his petition. To prove that there was a clerical error in his name, appellee formally offered as evidence the following:



- a. Transcript of Records from Misamis Oriental School of Agriculture and Technology;
- b. Birth Certificate;
- c. Baptismal Certificate;
- d. Police Clearance;
- e. NBI Clearance;
- f. Voter's ID;
- g. Mother's Birth Certificate;
- h. Father's Birth Certificate.

Meanwhile, to prove that there was a clerical error in his gender, appellee presented a medical certificate issued by Dr. Andresul A. Labis of the Northern Mindanao Medical Center.

A scrutiny of the foregoing evidence reveals that appellee was actually using the name Miller Omandam Unabia and not Millie [sic] Umandam Unabia, as that reflected in his birth certificate. The similarity between "Miller" and "Millie" [sic] and "Omandam" and "Umandam" undoubtedly caused confusion in its entry in the birth certificate of the appellee. Moreover, a reading of the medical certificate shows that appellee is phenotypically male. Evidently, it can readily be deduced that there were clerical errors in the aforesaid entries necessitating its rectification. Section 2(3) of R.A. 10172 defines 'clerical of [sic] typographical error' as:

(3) 'Clerical or typographical error' refers to 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: *Provided, however,* That no correction must involve the change of nationality, age, or status of the petitioner.'

All told, the Court finds that the court *a quo* committed no reversible error in ordering the correction of entries in the birth certificate of herein appellee.

WHEREFORE, premises considered, the instant appeal is DENIED. The Decision dated November 23, 2009 of the Regional Trial Court, Branch 17, Cagayan de Oro City, in Special Proceeding No. 2009-018 is AFFIRMED.

SO ORDERED.⁷

Thus, the instant Petition.

Issues

In a November 14, 2016 Resolution,⁸ this Court resolved to give due course

⁷ Id. at 32-34.

⁸ Id. at 89-90.

to the Petition, which contains the following sole assignment of error:

THE COURT OF APPEALS ERRED ON A QUESTION OF LAW WHEN IT AFFIRMED THE DECISION OF THE REGIONAL TRIAL COURT GRANTING UNABIA'S PETITION FOR CORRECTION OF ENTRIES.⁹

Petitioner's Arguments

In praying that the assailed RTC and CA dispositions be set aside and that, instead, the case be dismissed for lack of merit, petitioner pleads in its Petition and Reply:¹⁰ (1) that the CA erred in ruling for respondent and applying Republic Act No. 9048¹¹ (RA 9048), as amended by Republic Act No. 10172¹² (RA 10172), since said laws apply only to administrative corrections of entries, and not to judicial correction of entries in the civil registry, the latter being covered by Rule 108 of the Rules of Court;¹³ (2) that even assuming that RA 9048, as amended, applied in respondent's case, still respondent failed to comply with its provisions, in that the medical certificate submitted did not specifically certify that respondent "has not undergone sex change or sex transplant" as required by Section 5¹⁴ of the

⁹ Id. at 13.

¹⁰ Id. at 81-87.

¹¹ AN ACT AUTHORIZING THE CITY OR MUNICIPAL CIVIL REGISTRAR OR THE CONSUL GENERAL TO CORRECT A CLERICAL OR TYPOGRAPHICAL ERROR IN AN ENTRY AND/OR CHANGE OF FIRST NAME OR NICKNAME IN THE CIVIL REGISTER WITHOUT NEED OF A JUDICIAL ORDER, AMENDING FOR THIS PURPOSE ARTICLES 376 AND 412 OF THE CIVIL CODE OF THE PHILIPPINES. Approved March 22, 2001.

¹² 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. Approved August 15, 2012.

¹³ CANCELLATION OR CORRECTION OF ENTRIES IN THE CIVIL REGISTRY.

¹⁴ SEC. 5. Form and Contents of the Petition. – The petition for correction of a clerical or typographical error, or for change of first name or nickname, as the case may be, shall be in the form of an affidavit, subscribed and sworn to before any person authorized by law to administer oaths. The affidavit shall set forth facts necessary to establish the merits of the petition and shall show affirmatively that the petitioner is competent to testify to the matters stated. The petitioner shall state the particular erroneous entry or entries, which are sought to be corrected and/or the change sought to be made.

The petition shall be supported with the following documents:

(1) A certified true machine copy of the certificate or of the page of the registry book containing the entry or entries sought to be corrected or changed;

(2) At least two (2) public or private documents showing the correct entry or entries upon which the correction or change shall be based; and

(3) Other documents which the petitioner or the city or municipal civil registrar or the consul general may consider relevant and necessary for the approval of the petition.

No petition for correction of erroneous entry concerning the date of birth or the sex of a person shall be entertained except if the petition is accompanied by earliest school record or earliest school documents such as, but not limited to, medical records, baptismal certificate and other documents issued by religious authorities; **nor shall any entry involving change of gender corrected except if the petition is accompanied by a certification issued by an accredited government physician attesting to the fact that the petitioner has not undergone sex change or sex transplant.** The petition for change of first name or nickname, or for correction of erroneous entry concerning the day and month in the date of birth or the sex of a person, as the case may be, shall be published at least once a week for two (2) consecutive weeks in a newspaper of general circulation.

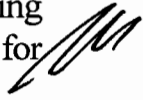
law and the physician who supposedly issued it was not presented in court in order that his qualifications may be established and so that he may identify the medical certificate itself; (3) that an individual's true gender is not determinable by simple visual observation and examination; (4) that the State's failure to object to the admissibility of the medical certificate does not automatically give the same evidentiary or probative weight, as admissibility is different from weight; (5) that respondent's medical certificate cannot stand on its own as it was not established and proved as a public document; (6) that without the required proof, it cannot simply be assumed that respondent is male; (7) that the correction of respondent's name from "Mellie" to "Miller" does not involve a simple clerical error contemplated by Rule 108 of the Rules of Court, as said rule refers only to changes or corrections of clerical, typographical, and other innocuous errors and obviously misspelled names; (8) that the change of name sought by respondent is a substantial one, as the name "Mellie" is not a misspelling of "Miller", and the two names are entirely different from each other; (9) that there is no compelling reason to change respondent's name, as was laid down in *Republic v. Mercadera*¹⁵ and *Republic v. Coseteng- Magpayo*;¹⁶ and, (10) that respondent likewise failed to comply with the requirement of stating the petitioner's real name and known aliases in the petition for correction of entries filed with the trial court.

Respondent's Arguments

Respondent, on the other hand, simply counters in the Comment¹⁷ that the CA was correct in its pronouncements; that the errors sought to be corrected were simple typographical and spelling errors; that the evidence on record supported the pronouncements of the RTC and the CA; that the trial court was in the best position to observe the true gender of respondent; that together with the medical certificate submitted, there was no doubt as to respondent's gender; and that petitioner was deemed to have waived its objections to the admissibility of the said medical certificate, as it failed to object to the same when it was offered in evidence below.

Our Ruling

The Court **DENIES** the petition.

When Special Proceeding No. 2009-018 was filed in 2009, the governing law then was the original, unamended RA 9048. There was no provision then for 

Furthermore, the petitioner shall submit a certification from the appropriate law [enforcements agencies] that he has no pending case or no criminal record.

The petition and its supporting papers shall be filed in three (3) copies to be distributed as follows: first copy to the concerned city or municipal civil registrar, or the consul general; second copy to the Office of the Civil Registrar General; and third copy to the petitioner. (Emphasis supplied)

¹⁵ 652 Phil. 195 (2010).

¹⁶ 656 Phil. 550 (2011).

¹⁷ *Rollo*, pp. 72-78.

the administrative correction or change of clerical or typographical errors or mistakes in the civil registry entries of the day and month in the date of birth or sex of individuals, but only clerical or typographical errors and change of first names or nicknames. Administrative corrections or changes relating to the date of birth or sex of individuals was authorized only with the passage in 2012 of RA 10172. Even then, the amendments under RA 10172 should still apply, the law being remedial in nature. Moreover, under Section 11 of RA 9048, retroactive application is allowed “insofar as it does not prejudice or impair vested or acquired rights in accordance with the Civil Code and other laws.”

Petitioner questions the Medical Certificate issued by Dr. Labis, Medical Officer III of the Northern Mindanao Medical Center under the Department of Health, claiming that it failed to include a certification that respondent “has not undergone sex change or sex transplant” as required by Section 5 of RA 9048, as amended, and that Dr. Labis was not presented in court in order that his qualifications may be established and so that he may identify and authenticate the medical certificate. However, the said Medical Certificate is a public document, the same having been issued by a public officer in the performance of official duty; as such, it constitutes *prima facie* evidence of the facts therein stated. Under Section 23, Rule 132 of the Rules of Court, “[d]ocuments consisting of entries in public records made in the performance of a duty by a public officer are *prima facie* evidence of the facts therein stated. All other public documents are evidence, even against a third person, of the fact which gave rise to their execution and of the date of the latter.”

There was therefore no need to further identify and authenticate Dr. Labis’ Medical Certificate. “A public document, by virtue of its official or sovereign character, or because it has been acknowledged before a notary public (except a notarial will) or a competent public official with the formalities required by law, or because it is a public record of a private writing authorized by law, is self-authenticating and requires no further authentication in order to be presented as evidence in court.”¹⁸

On the other hand, while the trial court did not seem to make any material observation in its pronouncement regarding respondent’s physical appearance or otherwise to support its finding that the latter was male, the record will support a finding that respondent was indeed male. In his photograph attached to the record, it will be observed particularly that respondent’s Adam’s apple - or, in medical terms, his laryngeal prominence - was quite evident and prominent. This can only indicate that respondent is male, because anatomically, only men possess an Adam’s apple.

¹⁸ *Patula v. People*, 685 Phil. 376, 397 (2012).

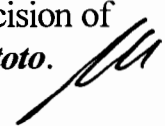
As for petitioner's argument that the medical certificate failed to specifically certify that respondent "has not undergone sex change or sex transplant" as required by law, suffice it to state that this is no longer required with the certification by Dr. Labis that respondent is "**phenotypically male**", meaning that respondent's entire *physical, physiological, and biochemical* makeup - *as determined both genetically and environmentally* - is male, which thus presupposes that he did not undergo sex reassignment. In other words, as determined genetically and environmentally, from conception to birth, respondent's **entire being**, from the physical, to the physiological, to the biochemical - meaning that all the chemical processes and substances occurring within respondent - was undoubtedly male. **He was conceived and born male, he looks male, and he functions biologically as a male.**

Thus, in respondent's case, the Court must do away with the requirement of no-sex change certification. The same is true with respondent's failure to include his known aliases in his petition, simply because there appear to be none at all; the bottom line issue is his gender as entered in the public record, not really his name.

Nonetheless, it must be laid down as a rule that when there is a medical finding that the petitioner in a case for correction of erroneous entry as to gender is phenotypically male or female, the no-sex change or transplant certification becomes mere surplusage.

Finally, suffice it to state that, as correctly declared by the CA, respondent was actually using the name Miller Omandam Unabia; that "Miller" and "Mellie" and "Omandam" and "Umandam" were confusingly similar; and that respondent's medical certificate shows that he is phenotypically male. The CA thus properly held that respondent's birth certificate contained clerical errors in its entries necessitating its rectification.¹⁹

Having disposed of the case in the foregoing manner, the other issues raised by the parties are deemed irrelevant and need not be passed upon. As far as the Court is concerned, it has been satisfactorily shown that indeed, there have been serious errors with respect to specific entries in respondent's birth record - errors that urgently need to be rectified with alacrity, if justice is to be served.

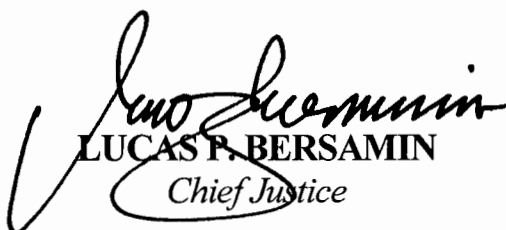
WHEREFORE, the Petition is **DENIED**. The June 27, 2014 Decision of the Court of Appeals in CA-G.R. CV No. 02755-MIN is **AFFIRMED in toto**. 

¹⁹ *Rollo*, pp. 33-34.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


LUCAS P. BERSAMIN
Chief Justice

*See separate concurring
opinion*


MARVIC M.V.F. LEONEN
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice


ROSMARID C. CARANDANG
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.


LUCAS P. BERSAMIN
Chief Justice