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IN VIEW THEREOF and finding the respondent Judge GUILTY of undue delay in resolving pending incidents before him and grave abuse in issuing restraining orders, a fine equivalent to his three (3) months salary is hereby imposed.

SO ORDERED.

Fernando, C.J., Teehankee, Concepcion Jr., Abad Santos, Melencio-Herrera, Plana, Escolin, Relova, Gutierrez, Jr., and *de la Fuente, JJ.*, concur.

Makasiar and *Aquino, JJ.*, took no part.

FIRST DIVISION

[G.R. No. L-28520. January 17, 1985]

IN RE: PETITION FOR CORRECTION OF NAME IN THE CIVIL REGISTRY OF MANILA. SATURNINA VDA. DE CASTRO, *petitioner-appellee, vs.* REPUBLIC OF THE PHILIPPINES, *oppositor-appellant.*

SYLLABUS

1. **REMEDIAL LAW; SPECIAL PROCEEDINGS; CORRECTION OF ENTRIES IN CIVIL REGISTRY; ONLY INNOCUOUS OR CLERICAL CORRECTIONS ALLOWED.**— It has been the consistent ruling of this Court since the Ty Kong Tin *vs.* Republic, 94 Phil. 321, "that substantial alterations, such as those affecting the status and citizenship of a person in the Civil Registry Records, can not be ordered by the court unless first threshed out in an 'appropriate action wherein all parties who may be affected by the entries are notified or represented' (see Rule 108 of the Revised Rules of Court), and that the summary proceedings under Article 412 of the Civil Code only justify an order to correct innocuous or clerical errors, such as misspellings and the like, errors that are visible to the eyes or obvious to the understanding (Baybayan *vs.* Republic of the Philippines, 16 SCRA 403)."

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2. ID.; ID.; ID.; CHANGE AFFECTING IDENTITY, SUBSTANTIAL; CASE AT BAR.— Indeed, the mistake in the case at bar is not the mistake or error contemplated under Article 412 of the New Civil Code which justifies the correction of the birth certificate. Article 412 allows correction only of clerical mistakes, not those substantial changes which may affect the identity (a man is identified by his name), personality, civil status or nationality of the persons involved. Thus, errors in birth certificate which are not clerical in nature, as in this case before Us, cannot be corrected by means of a petition for correction.

APPEARANCES OF COUNSEL

Eudaldo S. Atilano for petitioner-appellee.
The Solicitor General for oppositor-appellant.

D E C I S I O N

RELOVA, *J.:*

Direct appeal on points of law from a decision of the then Court of First Instance of Manila in Civil Case No. 70128, the dispositive portion of which is as follows:

"Considering all the foregoing, the Court finds the petition to be meritorious and grants the same. The Court declares that Ramon V. Castro, Jr., Ramon George Castro, Jr. and George F. Castro are one and the same person. The Civil Registrar of the City of Manila is ordered to make the correction in the records of the Civil Registry changing the name George F. Castro as appearing therein to that of Ramon V. Castro in the original of the certificate of birth, certified photostatic copy of which is now marked as Exhibit B." (p. 21, Record on Appeal)

The foregoing judgment was entered upon petition of Saturnina V. Vda. de Castro, filed in the court aforesaid, praying that an order be issued "declaring that Ramon V. Castro, George F. Castro and Ramon George Castro, Jr., to be the names of one and the same person, namely that of Ramon V. Castro and directing the Civil Registrar of the City of Manila to make the necessary correction in the records of the Civil Registry changing the name of George F. Castro to Ramon V. Castro." (p. 3, Record on Appeal)

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Petitioner Saturnina V. Vda. de Castro in her petition alleged that her son Ramon V. Castro was born on August 31, 1946 at St. Luke's Hospital; that said Ramon V. Castro is also known as Ramon George Castro, Jr. in the baptismal certificate and George F. Castro in the birth certificate; that Ramon V. Castro is her child's true and lawful name since childhood affixing said name in all transactions both in private and official documents; and that confusion arose when in choosing the name to be given to Ramon V. Castro upon his birth three names were proposed, namely: Ramon V. Castro, Ramon George Castro, Jr. and George F. Castro, the third name being erroneously recorded in the Civil Registry of Manila.

The court caused copies of the petition to be served on the Solicitor General and the Civil Registrar of Manila. The Republic of the Philippines, through the Solicitor General, opposed the petition claiming that "correction of entries in the civil registry contemplated under Article 412 of the Civil Code refers to clerical mistakes (Ty Kong Tin *vs.* Republic, L-5609, February 5, 1954). A clerical mistake is one which is visible to the eyes or obvious to the understanding; and error made by a clerk or a clerk or a transcriber; a mistake in copying or writing (Black *vs.* Republic, L-10869, November 28, 1958; Beduya *vs.* Republic, No. L-17639, May 29, 1964). Errors in birth certificates which are not clerical in nature cannot be corrected by means of a petition for correction (Lui Lin *vs.* Republic, No. L-18213, December 24, 1963)." (p. 10, Record on Appeal)

The court *a quo* declared that upon proof of mistake it did have the power to order the change sought, and did so. Wherefore, the state appealed.

The decision must be reversed. It has been the consistent ruling of this Court since the Ty Kong Tin *vs.* Republic, 94 Phil. 321, "that substantial alterations, such as those affecting the status and citizenship of a person in the Civil Registry Records, can not be ordered by the court unless first threshed out in an 'appropriate action wherein all parties who may be affected by the entries are notified or represented' (see Rule 108 of the Revised Rules of Court), and that the summary proceedings under Article

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412 of the Civil Code only justify an order to correct innocuous or clerical errors, such as misspellings and the like, errors that are visible to the eyes or obvious to the understanding (Baybayan *vs.* Republic of the Philippines, 16 SCRA 403)."

In Lui Lin *vs.* Nuño, 9 SCRA 707, this Court said:

"Article 412 of the New Civil Code contemplates mere corrections of mistakes that are clerical in nature, like misspelled names or occupations of the parents, etc., but not those which may affect the civil status, or the nationality or citizenship of the persons involved, for in such cases it is necessary to file the proper action wherein not only the State but also all the parties concerned should be made parties defendants.

"In the case at bar, where it is admitted that the name placed in the certificates of birth is not the name of a different person but the *alias name* of the petitioner himself and the name of the child was her real name, so that it cannot be contended that a mistake has been committed in giving the information to the local civil registry, while the changes sought for may affect the status of the petitioner or the paternity and filiation of his children, it is *held* that the lower court erred in granting the petition under Article 412 of the New Civil Code."

Indeed, the mistake in the case at bar is not the mistake or error contemplated under Article 412 of the New Civil Code which justifies the correction of the birth certificate. Article 412 allows correction only of clerical mistakes, not those substantial changes which may affect the identity (a man is identified by his name), personality, civil status or nationality of the persons involved. Thus, errors in birth certificate which are not clerical in nature, as in this case before Us, cannot be corrected by means of a petition for correction.

ACCORDINGLY, the decision appealed from is REVERSED. Costs against petitioner-appellee.

SO ORDERED.

Melencio-Herrera, Plana, and *de la Fuente, JJ.,* concur.

Gutierrez, Jr., J., concurs in the results. Under the facts of this case, the proper procedure is for a change of name under Rule 103.

Teehankee, J., took no part.