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Compensation Commission are already inclining towards more liberality in favor of labor, propelled perhaps by decisions of this Court, but I really wish they would go further. That is why, I hold, much to my regret and with due respect to the conceivers and framers of the money oriented rather than humane — new restricted concepts of compensability in the present Labor Code of the Philippines an unwelcome blot in the shining blazon of compassion and love for the poor and the unfortunate of the New Society.

SECOND DIVISION

[G.R. No. L-48720. October 30, 1979]

REPUBLIC OF THE PHILIPPINES, *petitioner-appellant, vs.* **HON. FELIX V. BARBERS, as Presiding Judge of the Court of First Instance of Manila, Branch XXXIII, and DOMINADOR AQUINO ESTRADA,** *respondent-appellees.*

SYLLABUS

REMEDIAL LAW; SPECIAL PROCEEDINGS; CANCELLATION OR CORRECTION OF ENTRIES IN CIVIL REGISTRY; ERRORS WHICH CAN BE CORRECTED OR CANCELLED REFER TO CLERICAL ERRORS OR HARMLESS AND INNOCUOUS CHANGES BUT NOT TO SUBSTANTIAL AND CONTROVERSIAL MATTERS; CASE AT BAR.— The appeal should be sustained. Long settled is the rule that the errors which can be corrected or cancelled under the summary procedure contemplated in article 412 of the Civil Code. as implemented in Rule 108. refer to clerical errors or harmless and innocuous changes but not to substantial and controversial matters. Since the entry sought to be cancelled concerns the status of a child as legitimate or illegitimate and the civil status of the parents

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as married or unmarried, the alleged error refers to a substantial and vital matter. Its cancellation is not covered by Rule 108 (*Republic vs. Court of First Instance of Davao Oriental*, L-31748, August 20, 1979 and cases cited therein).

APPEARANCES OF COUNSEL

Office of the Solicitor General for petitioner.
Crisanto J. Lasar for private respondent.

D E C I S I O N

AQUINO, *J.*:

This case is about the cancellation of an entry in a civil register. In the birth certificate, on file in the civil registry of Manila, of May-Velin Estrada, who was born on May 25, 1973, item 24 thereof, dealing with "Date and Place of Marriage of Parents (For legitimate birth)," contains the following entry: "June 18, 1972, San Juan, Rizal."

On the other hand, in the birth certificate of May-Velin's younger brother, Dominador Estrada, Jr. (he was born on June 21, 1974), the entry under that same item 24 was "Not married."

The parents of the two children claim that they are not married to each other. The wife or mother, Filipinas Vea Agbunag-Estrada, testified that she lied to the nurse, who assisted at the birth of May-Velin, that she was married to Dominador Aquino Estrada. She said that she concocted that lie because she was ashamed to admit that she was not married to the father of the child.

On July 8, 1977, the father, Dominador, filed in the Court of First Instance of Manila an amended verified petition, praying for the cancellation of that alleged erroneous entry in item 24 of May-Velin's record of birth. The local civil registrar of Manila alleged in his answer to the petition that the correction sought was substantial and controversial because it involved a change of status.

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The Solicitor General opposed the petition on the ground that the cancellation was not authorized under Rule 108 of the Rules of Court because, if it were allowed, the status of the child would be changed from legitimate to illegitimate.

After due publication and hearing, the lower court found the petition to be meritorious. It ordered the local civil registrar of Manila to cancel the said entry. The State appealed.

The appeal should be sustained. Long settled is the rule that the errors which can be corrected or cancelled under the summary procedure contemplated in Article 412 of the Civil Code, as implemented in Rule 108, refer to clerical errors or harmless and innocuous changes but not to substantial and controversial matters.

Since the entry sought to be cancelled concerns the status of a child as legitimate or illegitimate and the civil status of the parents as married or unmarried, the alleged error refers to a substantial and vital matter. Its cancellation is not covered by Rule 108 (*Republic vs. Court of First Instance of Davao Oriental*, L-31748, August 20, 1979 and cases cited therein).

In *David vs. Republic*, L-21316, November 29, 1965, 15 SCRA 438, one of the corrections in the birth record requested by the petitioner was "to delete the place and date of marriage placed therein because there exists no such marriage." That relief was denied. It was held that petitioner's remedy was in an adversary proceeding.

WHEREFORE, the lower court's order dated May 2, 1978, cancelling the entry as to the date and place of marriage of the petitioner and his alleged common-law wife, is reversed and set aside. No costs.

SO ORDERED.

Barredo (Chairman), Concepcion Jr., Santos, and *Abad Santos, JJ.*, concur.

Antonio, J., is on leave.