



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

REPUBLIC OF THE PHILIPPINES, G.R. No. 250199

Petitioner,

Present:  
CAGUIOA, J., Chairperson,  
INTING,  
GAERLAN,  
DIMAAMPAO, and  
SINGH, JJ.

- versus -

OLIVER M. BOQUIREN AND  
ROSELYN M. BOQUIREN,  
duly represented by her mother  
ROSALINDA B. MACARAEG,  
Respondents.

Promulgated:  
February 13, 2023

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DECISION

INTING, J.:

Before the Court is a Petition for Review on *Certiorari*<sup>1</sup> filed pursuant to Rule 45 of the Rules of Court assailing the Decision<sup>2</sup> dated March 29, 2019 and the Resolution<sup>3</sup> dated October 8, 2019 of the Court of Appeals (CA) in CA-G.R. CV No. 111274. The CA affirmed the Decision<sup>4</sup> dated November 4, 2016 of Branch 57, Regional Trial Court

<sup>1</sup> Rollo, pp. 32-50.  
<sup>2</sup> Id. at 51-62. Penned by Associate Justice Ramon R. Garcia and concurred in by Associate Justices Eduardo B. Peralta, Jr. and Gabriel T. Robeniol.  
<sup>3</sup> Id. at 63-64.  
<sup>4</sup> Id. at 77-80. Penned by Pairing Judge Hermogenes C. Fernandez.

(RTC), San Carlos City, Pangasinan, in SP Proc. Case No. SCC-2061 that granted the petition for correction of entries in the certificates of live birth (COLB) of respondent siblings: Oliver M. Boquiren (Oliver) and Roselyn M. Boquiren (Roselyn) (collectively, respondents).

### *The Antecedents*

Respondents Oliver and Roselyn were born out of wedlock on October 8, 1997 and November 20, 1999, respectively, to Oscar D. Boquiren (Oscar) and Rosalinda B. Macaraeg (Rosalinda). Their births were belatedly registered with the Local Civil Registry (LCR) of Malasiqui, Pangasinan, on April 16, 2002.<sup>5</sup>

On April 18, 2002, Oscar and Rosalinda were married.<sup>6</sup> On May 20, 2002, on the basis of the Affidavits of Legitimation<sup>7</sup> executed by the spouses, the LCR recorded the following annotations on respondents' COLBs:<sup>8</sup> "LATE REGISTRATION, LEGITIMATED BY SUBSEQUENT MARRIAGE OF PARENTS on 4-18-2002 at Mal. Pang." Respondents henceforth started using the surname "Boquiren" in their school records.<sup>9</sup>

Sometime in 2015, while securing copies of respondents' COLBs, Rosalinda was advised by the Philippine Statistics Authority (PSA)<sup>10</sup> that in view of Oscar's previous marriage to one Gloria Erese Pangilinan on January 29, 1987,<sup>11</sup> respondents' legitimation could not be effected.<sup>12</sup>

Hence, on May 4, 2016, respondents filed with the RTC a petition for correction of entries.<sup>13</sup> Averting that the marriage of their parents was void for being bigamous and that they are illegitimate children, respondents sought the cancellation of the annotation in their respective COLBs of their parents' Affidavits of Legitimation dated May 20, 2002.<sup>14</sup> They prayed that the LCR be directed to annotate instead the Affidavits of

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<sup>5</sup> Id. at 52. See also Certificates of Live Birth with Affidavits of Acknowledgment/Admission of Paternity and Affidavit for Delayed Registration of Birth, id. at 94-97.

<sup>6</sup> See Certificate of Marriage, id. at 100-101.

<sup>7</sup> Id. at 102-103.

<sup>8</sup> Id. at 94 and 96.

<sup>9</sup> Id. at 53.

<sup>10</sup> Formerly known as the National Statistics Office (NSO).

<sup>11</sup> See Certification dated September 21, 2015 issued by the Office of the Civil Registrar General, *rollo*, p. 104.

<sup>12</sup> Id. at 53. See also PSA OnDDot Query Service Query Results, id. at 105-106.

<sup>13</sup> Id. at 90-93.

<sup>14</sup> Id. at 91-92.

Acknowledgment<sup>15</sup> dated March 28, 2016, executed by Oscar so that they could continue using the surname “Boquiren.”<sup>16</sup>

*The Ruling of the RTC*

On November 4, 2016, the RTC rendered a Decision<sup>17</sup> in favor of respondents, disposing as follows:

WHEREFORE, as prayed for, the Local Civil Registrar of Malasiqui, Pangasinan is directed to cancel the annotation relative to the Affidavit of Legitimation made on the birth certificates of Oliver Macaraeg and Roselyn Macaraeg and to eventually register and annotate on the subject birth records the Affidavit of Acknowledgment of the Father and Affidavit to use the Surname of the Father both executed by Oscar Boquiren in favor of the herein [respondents].<sup>18</sup>

The RTC ratiocinated that respondents could not be legitimated because, at the time they were born, Oscar had a subsisting marriage with another woman. Hence, it ruled that the cancellation of the affidavits of legitimation was warranted to allow the application of Republic Act No. 9255<sup>19</sup> in respondents’ favor.<sup>20</sup>

Petitioner Republic of the Philippines, through the Office of the Solicitor General (OSG), sought reconsideration<sup>21</sup> of the Decision. The motion was denied in the RTC’s Order<sup>22</sup> dated January 25, 2017.

Undeterred, petitioner elevated the matter to the CA.<sup>23</sup>

*The Ruling of the CA*

On March 29, 2019, the CA rendered the assailed Decision<sup>24</sup> denying the appeal and affirming the RTC’s Decision. Petitioner’s Motion

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<sup>15</sup> Id. at 107. See also Affidavit to Use the Surname of the Father, id. at 108.

<sup>16</sup> Id. at 53.

<sup>17</sup> Id. at 77-80.

<sup>18</sup> Id. at 80.

<sup>19</sup> Entitled “An Act Allowing Illegitimate Children to Use the Surname of Their Father, Amending for the Purpose Article 176 of Executive Order No. 209, Otherwise Known as the “Family Code of the Philippines,” approved on February 24, 2004.

<sup>20</sup> *Rollo*, p. 79.

<sup>21</sup> Id. at 109-116.

<sup>22</sup> Id. at 81-82. Penned by Acting Presiding Judge Jaime L. Dojillo, Jr.

<sup>23</sup> See Notice of Appeal, id. at 124-125.

<sup>24</sup> Id. at 51-62.

for Reconsideration<sup>25</sup> of the decision was likewise denied by the CA in its Resolution<sup>26</sup> dated October 8, 2019.

Citing *Republic of the Philippines v. Valencia*,<sup>27</sup> the CA held that even substantial errors in a civil registry may be corrected and the true facts established under Rule 108<sup>28</sup> of the Revised Rules of Court provided the parties aggrieved by the error avail themselves of the appropriate adversary proceeding.<sup>29</sup> The CA noted that the corrections sought by respondents appurtenant to the legitimacy of their filiation and the use of their father's surname indubitably involve not just clerical errors but entail substantial amendments.<sup>30</sup> The CA thus ruled that the RTC correctly granted respondents' petition for the correction of entries in their COLBs after observing the appropriate adversarial proceeding, *viz.*:

The records show that, in accordance with Section 3 of Rule 108, the petition impleaded the Local Civil Registrar of Malasiqui, Pangasinan and [respondents'] father Oscar Boquiren. Also, pursuant to Section 4 of the Rule, the court *a quo* issued an Order dated June 15, 2016 setting the petition for initial hearing and directing all persons having any opposition thereto to appear and show cause why the petition should not be granted. Copies of the Order were sent to the

<sup>25</sup> Id. at 83-89.

<sup>26</sup> Id. at 63-64.

<sup>27</sup> 225 Phil. 408 (1986).

<sup>28</sup> 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.

SECTION 2. *Entries subject to cancellation or correction.* — Upon good and valid grounds, the following entries in the civil register may be cancelled or corrected: (a) births; (b) marriage; (c) deaths; (d) legal separations; (e) judgments of annulments of marriage; (f) judgments declaring marriages void from the beginning; (g) legitimations; (h) adoptions; (i) acknowledgments of natural children; (j) naturalization; (k) election, loss or recovery of citizenship; (l) civil interdiction; (m) judicial determination of filiation; (n) voluntary emancipation of a minor; and (o) changes of name.

SECTION 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.

SECTION 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.

SECTION 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.

SECTION 6. *Expediting proceedings.* — The court in which the proceeding is brought may make orders expediting the proceedings, and may also grant preliminary injunction for the preservation of the rights of the parties pending such proceedings.

SECTION 7. *Order.* — After hearing, the court may either dismiss the petition or issue an order granting the cancellation or correction prayed for. In either case, a certified copy of the judgment shall be served upon the civil registrar concerned who shall annotate the same in his record.

<sup>29</sup> *Rollo*, p. 58.

<sup>30</sup> Id.

government agencies concerned such as the Office of the Solicitor General, Office of the Provincial Prosecutor and the Office of the Local Civil Registrar of Malasiqui, Pangasinan. The Order was likewise published in the June 19-25, 2016, June 26 to July 2, 2016, and July 3-9, 2016 issues of the Pangasinan Sunday Report, a newspaper of general circulation in Pangasinan. Trial was conducted on September 27, 2016 during which the public prosecutor, acting in behalf of the Office of the Solicitor General, actively participated by cross-examining the witness presented by [respondents]. Verily, the requirements laid down in Rule 108 that qualify the proceedings as adversarial were duly complied with.<sup>31</sup>

The CA also found that the petitioners were able to adduce sufficient evidence to support the relief prayed for in their petition. Thus:

The *Certification* dated September 21, 2015 issued by the Philippine Statistics Authority (PSA) categorically states that prior to the marriage of [respondents'] parents on April 18, 2002, their father Oscar Boquiren married Gloria Erese Pangilinan on January 29, 1987. Given this fact and in the absence of any showing or allegation that the first marriage had already been dissolved, the inevitable conclusion is that Oscar Boquiren suffered from a legal impediment when he contracted a second marriage with [respondents'] mother, Rosalinda Macaraeg. As such, the second marriage contracted by Oscar while the first marriage was still persisting is void for being a bigamous marriage. Consequently, the marriage of [respondents'] parents celebrated after [respondents'] births could not have the effect of elevating their status from illegitimate to legitimated. A legitimate child is a product of, and, therefore, implies a valid and lawful marriage. Remove the element of lawful union and there is strictly no legitimate filiation between parents and child. The court *a quo* thus correctly ordered the cancellation of the annotation of the *Affidavit of Legitimation* executed by [respondents'] parents.<sup>32</sup>

Furthermore, the CA found no merit in petitioner's contention that the RTC could not grant petitioners relief in the instant petition for correction of entries for lack of jurisdiction to rule upon the validity of the marriage of Oscar and Rosalinda outside of a direct action for that purpose. Citing the cases of *De Castro v. Assidao-De Castro*<sup>33</sup> (*De Castro*) and *Nicdao Cariño v. Yee Cariño*<sup>34</sup> (*Cariño*), the CA ratiocinated that, contrary to petitioner's insistence, the RTC can rule on the validity of the marriage of respondents' parents in a petition for correction of entries, as in this case, to determine the propriety of the cancellation of the affidavit of

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<sup>31</sup> Id. at 59.

<sup>32</sup> Id. at 59-60.

<sup>33</sup> 568 Phil. 724 (2008).

<sup>34</sup> 403 Phil. 861 (2001).

legitimation.<sup>35</sup> It pointed out that the role of the RTC in hearing a petition to correct certain entries in the civil registry pursuant to Rule 108 is to ascertain the truth about the facts recorded therein. Hence, except only for purposes of remarriage, the RTC may pass upon the validity of marriage even in a suit not directly instituted to question the same so long as it is essential to the determination of the case.<sup>36</sup>

Lastly, the CA pronounced that under Article 182<sup>37</sup> of the Family Code, respondents are the proper parties to question the correctness and veracity of the information recorded in the civil registry anent their filiation—that they are the illegitimate, not legitimated, children of their parents whose void marriage could not have elevated their status to “legitimated.”<sup>38</sup> Citing the case of *Geronimo v. Santos*<sup>39</sup> (*Geronimo*), the CA declared as misplaced petitioner’s contention that respondents’ legitimacy could not be collaterally questioned in this case. It discussed that the rule that legitimacy cannot be the subject of collateral attack contemplates only a situation where a doubt exists that a child is indeed a man’s child, *i.e.*, where the husband denies the child’s filiation. In this case, Oscar does not dispute that he is the father of respondents.<sup>40</sup>

Hence, the petition.<sup>41</sup>

### *The Issue*

The pivotal issue for resolution in the present recourse is whether or not the CA committed reversible error in affirming the RTC’s grant of the petition for correction of entries in the COLBs of respondents Oliver and Roselyn.

### *Petitioner’s Argument*

Petitioner argues that the RTC has no jurisdiction in a Rule 108 proceeding to nullify marriages and to rule on legitimacy and filiation. Petitioner argues that, in ruling that the legitimation of respondents was

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<sup>35</sup> *Rollo*, p. 60.

<sup>36</sup> *Id.*

<sup>37</sup> Article 182 of the Family Code provides:

Art. 182. Legitimation may be impugned only by those who are prejudiced in their rights, within five years from the time their cause of action accrues.

<sup>38</sup> *Rollo*, p. 61.

<sup>39</sup> 770 Phil. 364 (2015).

<sup>40</sup> *Rollo*, p. 61.

<sup>41</sup> *Id.* at 32-50.

ineffective and in directing the cancellation of the pertinent annotations in their respective COLBs, the RTC essentially declared that the marriage between respondents' parents is void *ab initio*, which is outside the direct proceeding in place for declaration of nullity of marriages provided by A.M. No. 02-11-10-SC.<sup>42</sup> Moreover, the RTC allowed respondents to impugn their own "legitimated" status and relegated them to being "illegitimate" children without any interested or prejudiced party initiating a direct action as required under Article 182 of the Family Code. Petitioner maintains that by granting the petition, the RTC allowed respondents to dissolve their parents' marriage, or impugn their own legitimated status, by the mere expedient of changing entries with the LCR.<sup>43</sup>

### *Respondents' Argument*

In their Comment/Opposition,<sup>44</sup> they aver that the erroneous entry of the marriage of their parents which is a nullity should be corrected or canceled so that their actual status as the illegitimate children of their father can be correctly reflected in their birth records. Anent petitioner's contention that the RTC has no jurisdiction in a Rule 108 proceeding to nullify marriages and to rule on legitimacy and filiation, respondents argue that in granting the petition, the RTC did not actually declare the marriage between their parents as void but merely corrected the erroneous entries in respondents' COLBs; hence, petitioner's contention that the grant of the petition for correction of entries will effectively declare the marriage between respondents' parents as void is incorrect and misleading. Respondents asseverate that the government has no concern in protecting the marriage of respondents' parents because there is actually no marriage in the first place, the same being bigamous in view of Oscar's previous marriage.<sup>45</sup>

### *Our Ruling*

The Court grants the petition.

In resolving the petition, the Court defers to case law on the parameters for seeking relief under Rule 108 of the Rules of Court.

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<sup>42</sup> Re: Proposed Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages, which took effect on March 15, 2003.

<sup>43</sup> *Rollo*, pp. 38-39.

<sup>44</sup> *Id.* at 145-147.

<sup>45</sup> *Id.* at 145-146.

*The RTC has no jurisdiction in a Rule 108 petition to determine the legitimacy and filiation of children.*

Rule 108 of the Rules of Court governs the proceedings for the cancellation or correction of entries in the civil registry.

As aptly pointed out by petitioner,<sup>46</sup> the ruling of the Court in *Braza v. The City Civil Registrar of Himamaylan City*<sup>47</sup> (*Braza*) squarely applies to respondents' petition before the RTC. In *Braza*, therein petitioner Ma. Cristina Torres (Ma. Cristina), who was married to Pablo Sicad Braza, Jr. (Pablo), found out after her husband's death that he had subsequently married respondent Lucille Celestial Titular with whom he fathered a son—therein respondent Patrick Alvin Titular Braza (Patrick). Ma. Cristina, joined by her children with Pablo, then filed a petition under Rule 108 with the RTC to correct the entries in Patrick's birth record in the LCR. Therein petitioners contended that Patrick could not have been legitimated by the supposed marriage between Lucille and Pablo, said marriage being bigamous on account of the previous valid and subsisting marriage between Ma. Cristina and Pablo.<sup>48</sup>

In upholding the trial court's dismissal of the case for lack of jurisdiction, the Court held in *Braza* that in a special proceeding for correction of entries under Rule 108 (Cancellation or Correction of Entries in the Original Registry), "the trial court has no jurisdiction to nullify marriages and rule on legitimacy and filiation."<sup>49</sup> The Court held that petitioners' cause of action therein actually sought the declaration of Pablo and Lucille's marriage as void for being bigamous, and the impugnation of Patrick's legitimacy, which causes of action are not governed by Rule 108. We then emphasized the doctrinal rule that the "validity of marriages as well as legitimacy and filiation can be questioned only in a direct action seasonably filed by the proper party, and not through collateral attack."<sup>50</sup>

Therefore, the Court does not agree with the conclusion of the courts *a quo* that the RTC possessed jurisdiction to rule on the validity of Oscar and Rosalinda's marriage to effect the correction of entries

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<sup>46</sup> Id. at 39-40.

<sup>47</sup> 622 Phil. 654 (2009).

<sup>48</sup> Id. at 655-657.

<sup>49</sup> Id. at 658.

<sup>50</sup> Id. at 658-659.



pertaining to respondents' status in their respective COLBs. The Court finds misplaced the CA's reliance on the cases of *De Castro*<sup>51</sup> and *Cariño*<sup>52</sup> in its asseveration that the validity of a void marriage may be collaterally attacked. Likewise, the Court finds misplaced the CA's pronouncement that the court may pass upon the validity of a marriage even in a suit not directly instituted to question the validity of said marriage, such as in the instant petition for correction of entries, so long as it is essential to the determination of the case—that is, to determine the propriety of the cancellation of the affidavit of legitimation.<sup>53</sup> Notably, neither *De Castro* nor *Cariño* involved the correction of entries in the civil registry under Rule 108 where the trial court's jurisdiction was called upon to resolve the issues on the validity of marriage and the legitimacy or filiation of children.<sup>54</sup>

On the contrary, the ruling of the Court in *Braza* was reiterated in the case of *Miller v. Miller*<sup>55</sup> (*Miller*), which also involved a petition for correction of entries in the COLB under Rule 108. In *Miller*, the CA affirmed the ruling of the RTC that allowed an illegitimate child, therein private respondent Joan Espenida Miller (Joan), to continue using the surname of her putative father who had recognized her during his lifetime. The RTC denied the prayer of therein petitioner—the legitimate son of Joan's father—for the correction of Joan's COLB to reflect her maternal surname "Espenida" instead of "Miller."<sup>56</sup> Echoing the ruling in *Braza*, the Court reiterated that "legitimacy and filiation can be questioned only in a direct action seasonably filed by the proper party, and not through collateral attack." Hence, while the Court affirmed the judgments of the RTC and the CA insofar as the disallowance of the petition for correction of entries in the COLB of Joan was concerned, the Court nullified and set aside the pronouncements of the RTC and the CA on the legitimacy and filiation of Joan. The Court then declared the rendition of the judgment to be without prejudice to the refiling of the appropriate action with the proper court for purposes of impugning the filiation of Joan as an illegitimate child before the pertinent correction with the LCR may be effected.<sup>57</sup>

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<sup>51</sup> Supra note 33.

<sup>52</sup> Supra note 34.

<sup>53</sup> *Rollo*, pp. 60-61.

<sup>54</sup> *De Castro* and *Cariño* involved a complaint for support and a case for collection of sum of money, respectively. Supra note 33, at 727; supra note 34 at 866.

<sup>55</sup> G.R. No. 200344, August 28, 2019.

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

The Court again echoed the ruling in *Braza* and *Miller* in the case of *Ordoña v. The Local Civil Registrar of Pasig City*<sup>58</sup> (*Ordoña*). In the *Ordoña* case, petitioner Richelle Busque Ordoña (Richelle) was married to Ariel O. Libut. After their separation *de facto*, Richelle gave birth to a son allegedly fathered by Richelle’s colleague at work, Allan D. Fulgueras (Allan). In the COLB, the child was given the name “Alrich Paul Ordoña Fulgueras” (Alrich Paul) and the name “Allan Demen Fulgueras” was reflected as the putative father. Thereafter, Richelle filed before the RTC a verified petition involving the correction of entries under Rule 108 seeking the change of Alrich Paul’s surname from “Fulgueras” to “Ordoña”—her maternal surname—and the deletion of entries respecting paternal information. Richelle alleged that it was not Allan who signed the Affidavit/Admission of Paternity attached to the COLB because Allan was not in the Philippines when she gave birth to Alrich Paul.<sup>59</sup> The Court rendered judgment dismissing the petition for the correction of entries in this case underscoring its previous and categorical enunciation in the cases of *Braza* and *Miller* that the legitimacy and filiation of children cannot be collaterally attacked in a petition for correction of entries in the COLB and can be questioned only in a direct action seasonably filed by the proper party.<sup>60</sup>

At this juncture, and to dispel confusion, it bears to note that the jurisprudential dictum in *Braza* and its sequel cases should be distinguished from *Republic of the Philippines v. Kho*<sup>61</sup> (*Kho*) which also involved a petition for correction of entries under Rule 108. The respondents therein sought to correct their own birth certificates by removing the word “married” beside the field “date of marriage of parents” because their parents did not actually marry each other. Their unmarried status was evidenced by an LCR certification stating that it had no record of the marriage. The Court allowed the deletion by ruling that it was a substantial error that could exceptionally be corrected under Rule 108 because the proceedings before the RTC were adversarial.

Similar to *Kho*, respondents herein filed a Rule 108 petition to change the annotation in their COLB pertaining to their parents’ marriage and their own status as children. The proceedings were also adversarial; as found by the CA, all the requirements of Rule 108 were complied with. However, unlike in *Kho*, herein respondents’ parents were in fact married. In other words, following *Kho*, a Rule 108 proceeding can be used to correct the annotation on a birth certificate pertaining to the parents’

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<sup>58</sup> G.R. No. 215370, November 9, 2021.

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> 553 Phil. 161 (2007).

marriage **only when it is certain that there really was no marriage in the first place.** Allowing a Rule 108 proceeding in such a case would not amount to a collateral attack on the validity of a marriage because there is no marriage to speak of. In contrast, where a marriage was in fact celebrated, as in the present case, the ruling in *Braza* should prevail.

In light of the Court's pronouncements in the aforesaid cases, respondents' collateral attack on their legitimacy cannot be allowed in a Rule 108 proceeding. On this ground alone, the RTC should have dismissed the instant Rule 108 petition outright.

Notably, relying on the *Geronimo* case, the CA illuminated that the rule that the legitimacy of a child cannot be collaterally attacked contemplates only a situation where doubt exists that a child is indeed a man's child, *i.e.*, where the husband denies the child's filiation. Hence, the CA discoursed that the collateral attack of respondents' legitimated status should be allowed in this case because Oscar does not dispute that he is the father of respondents.<sup>62</sup>

The Court does not concede with the CA's elucidation which is premised on a misapplication of the spirit of the doctrine enunciated in the case cited. It would not be amiss to state that in *Geronimo*, the Court allowed the collateral attack on respondent's filiation because she was not a child at all of the persons whose names appeared as her parents in her birth certificate.<sup>63</sup> Articles 170<sup>64</sup> and 171<sup>65</sup> in relation to Article 166<sup>66</sup> of

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<sup>62</sup> *Rollo*, p. 61.

<sup>63</sup> See *Geronimo v. Santos*, supra note 39 at 379.

<sup>64</sup> Art. 170. The action to impugn the legitimacy of the child shall be brought within one year from the knowledge of the birth or its recording in the civil register, if the husband or, in a proper case, any of his heirs, should reside in the city or municipality where the birth took place or was recorded.

If the husband or, in his default, all of his heirs do not reside at the place of birth as defined in the first paragraph or where it was recorded, the period shall be two years if they should reside in the Philippines; and three years if abroad. If the birth of the child has been concealed from or was unknown to the husband or his heirs, the period shall be counted from the discovery or knowledge of the birth of the child or of the fact of registration of said birth, whichever is earlier.

<sup>65</sup> Art. 171. The heirs of the husband may impugn the filiation of the child within the period prescribed in the preceding article only in the following cases:

- (1) If the husband should die before the expiration of the period fixed for bringing his action;
- (2) If he should die after the filing of the complaint, without having desisted therefrom; or
- (3) If the child was born after the death of the husband.

<sup>66</sup> Art. 166. Legitimacy of a child may be impugned only on the following grounds:

(1) That it was physically impossible for the husband to have sexual intercourse with his wife within the first 120 days of the 300 days which immediately preceded the birth of the child because of:

- (a) the physical incapacity of the husband to have sexual intercourse with his wife;
- (b) the fact that the husband and wife were living separately in such a way that sexual intercourse was not possible; or
- (c) serious illness of the husband, which absolutely prevented sexual intercourse;

the Family Code, which pertain to the impugnation of a child's legitimacy, do not contemplate a situation where a child is alleged not to be the natural or biological child at all of a certain couple. Suffice to state, the Court, in *Geronimo*, was very clear in emphasizing the civil law principle that the legal status of children in relation to their parents can never be contested as a defense or as a collateral issue in another action for a different purpose; such challenge must be made in a proper action before a competent court.<sup>67</sup>

In the present controversy, although the action below does not involve a father's impugnation of his child's legitimacy or filiation, the correction sought by respondents will have the effect of collaterally attacking their "legitimated" status which has already been recorded based on the subsequent marriage of their parents Oscar and Rosalinda. This cannot be done in a petition for correction of entries in the civil register under Rule 108. The Court now asks the question: May legitimation be attacked collaterally?

*The legitimation of children cannot be collaterally attacked; it can be impugned only in a direct proceeding for that purpose.*

As correctly argued by petitioner,<sup>68</sup> respondents' status cannot be collaterally attacked in the instant petition for correction of entries. Indeed, as the Court has consistently ruled, the legitimacy of a child cannot be collaterally attacked, and may be impugned only in a direct proceeding for that purpose: this doctrine applies with equal force to the impugnation of the status of "legitimated" children.

Under Article 178<sup>69</sup> of the Family Code, legitimation shall take place by the subsequent valid marriage between the illegitimate child's biological parents who were under no legal impediment to marry at the

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(2) That it is proved that for biological or other scientific reasons, the child could not have been that of the husband, except in the instance provided in the second paragraph of Article 164; or

(3) That in case of children conceived through artificial insemination, the written authorization or ratification of either parent was obtained through mistake, fraud, violence, intimidation, or undue influence.

<sup>67</sup> *Geronimo v. Santos*, supra note 39, at 378.

<sup>68</sup> *Rollo*, pp. 44-45.

<sup>69</sup> Article 178 of the Family Code provides:

Art. 178. Legitimation shall take place by a subsequent valid marriage between parents. x x x

time of the child's conception.<sup>70</sup> After legitimation, "legitimated" children shall enjoy the same rights as "legitimate" children<sup>71</sup> with its effects retroacting to the time of the child's birth.<sup>72</sup> Legitimation, therefore, equalizes children born out of wedlock with legitimate children and puts a legitimated child completely and fully on equal footing with children born in lawful wedlock.<sup>73</sup> As such, the presumption of legitimacy also applies to a legitimated child in the sense that he or she is considered a product of the lawful marriage of the parents.<sup>74</sup> It stands to reason that, similar to legitimate children, the status of legitimated children cannot be collaterally attacked.

*Respondents are not proper parties to impugn their own legitimation.*

Even assuming *arguendo* that the Rule 108 petition filed in the case is considered as the direct action to impugn respondents' legitimated status, the Rule 108 petition must still fail on the ground that they are not the proper parties to impugn their own legitimated status. The corrections herein sought by respondents are really meant to impugn their legitimated status—the prayer for correction being merely a necessary consequence of the impugnation if resolved in their favor.<sup>75</sup> This is not to mention the absurdity that will result in relegating respondents to the status of illegitimacy, when they are already enjoying the rights accorded to legitimated children.

Besides, the express provisions of law identify the proper parties who can impugn a child's legitimated status. Article 182 of the Family Code provides that, "Legitimation may be impugned *only by those who are prejudiced in their rights*, within five years from the time their cause of action accrues."<sup>76</sup> The Court agrees with petitioner's asseveration<sup>77</sup> that respondents cannot claim to be prejudiced parties of their own

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<sup>70</sup> Article 177 of the Family Code, as amended by Republic Act No. 9858, provides that, "Children conceived and born outside of wedlock of parents who, at the time of conception of the former, were not disqualified by any impediment to marry each other, or were so disqualified only because either or both of them were below eighteen (18) years of age, may be legitimated."

<sup>71</sup> Article 179 of the Family Code provides that, "Legitimated children shall enjoy the same rights as legitimate children."

<sup>72</sup> Article 180 of the Family Code provides that, "The effects of legitimation shall retroact to the time of the child's birth."

<sup>73</sup> Melencio S. Sta. Maria, Jr., *Persons and Family Relations Law* 806 (2022), citing *Jameson v. Jameson*, 111 Okla. 82.

<sup>74</sup> Elmer T. Rabuya, *The Law on Persons and Family Relations* 985 (2021).

<sup>75</sup> See petitioner's Reply, *rollo*, p. 163.

<sup>76</sup> Emphasis supplied.

<sup>77</sup> *Rollo*, p. 42.

legitimation consequent to the subsequent marriage of their parents, considering that the legal effect of legitimation is to improve their rights—from those accorded to illegitimate children to those accorded to the legitimate children of their parents.

On this score, the Court quotes with approbation the commentaries of Sta. Maria relating to who are proper parties to impugn legitimation:

Legitimation may be impugned only by those who are prejudiced in their rights, within five years from the date their cause of action accrues. During the deliberations of the Civil Code and Family Law committee on this particular point,

Justice Caguioa inquired if the word “rights” includes creditors’ rights, to which Justice Reyes replied in the negative. Justice Caguioa commented that “rights” may either be commercial or property rights, which is the reason why he is asking if it does not include creditors. Prof. Baviera stated that under the present law, creditors step in only when there is repudiation of inheritance. Dean Gupit opined that the provision refers to basically inheritance rights. Justice Caguioa pointed out that he wanted to exclude creditors. Justice Reyes said that it is up to the creditors to show that the legitimation affected their rights—if the creditors are really prejudiced. He, however, opined that the provision refers to successional rights (Minutes of the Joint Civil Code and Family Law Committees held on August 24, 1985, page 6).

Hence, following the sense of the drafters of the Family Code that the term “rights” generally refers to successional rights, the persons who can be prejudiced in their rights by the process of conferring to someone all rights of a legitimate child are the legal heirs of the parents. This is so because, had the child not been legitimated, he or she would have been an illegitimate child and thus, according to law, would only receive half of whatever a legitimate child would get. In being legitimated, the child acquires all rights of a legitimate child and thus, all his successional rights would be the same as a legitimate child. Hence, if the legitimation is irregular, the rights of the compulsory heirs will necessarily be prejudiced. However, the cause of action to impugn the legitimation accrues only upon the death of the parents of the legitimated child because it is only at that time when the successional rights to the legitime will vest.<sup>78</sup> x x x

From the foregoing disquisitions, it is very clear that the persons whose rights may be prejudiced under Article 182 of the Family Code and

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<sup>78</sup> Sta. Maria, Jr., supra note 73, at 807-808.

who are given the right to impugn an erroneous legitimation are those who stand to suffer economic or material injury by reason of the improper legitimation, such as the heirs of the parents of legitimated children. It is plain that respondents are not the proper parties contemplated under Article 182 who have legal standing to question their alleged improper legitimation. On the contrary, in distinguishing between the successional rights of legitimate and illegitimate children, Article 176 of the Family Code is very clear that the legitime of each illegitimate child shall consist of one-half of the legitime of a legitimate child. It cannot be conceded by any stretch of the imagination that respondents stand to suffer economic prejudice if they were to sustain the status of “legitimated” children and enjoy the rights accorded to “legitimate” children.

*The RTC has no jurisdiction in a Rule 108 petition to determine the validity of the marriage of Oscar and Rosalinda.*

Even the CA’s holding<sup>79</sup> that the RTC is possessed of jurisdiction to determine the validity of the marriage of Oscar and Rosalinda in the present petition has no leg to stand on. In affirming the RTC’s grant of respondents’ petition for correction of entries under Rule 108, the CA asseverated that the RTC can likewise rule on the validity of the marriage of respondents’ parents in a petition for correction of entries, as in this case, to determine the propriety of the cancellation of the affidavits of legitimation executed by Oscar and Rosalinda and annotated in respondents’ COLBs. The CA stressed that except only for purposes of remarriage, the RTC may pass upon the validity of marriage even in a suit not directly instituted to question the same so long as it is essential to the determination of the case.<sup>80</sup>

In *Niñal v. Bayadog*,<sup>81</sup> the Court accepts that the validity of a marriage can be collaterally attacked in another suit not directly instituted to question the same so long as it is essential to the determination of the case. Hence, the court may pass upon the validity of marriage in an action filed for other purposes, such as but not limited to the determination of heirship, legitimacy or illegitimacy of a child, settlement of estate, dissolution of property regime, or a criminal case for that matter.<sup>82</sup> This ruling was reiterated in subsequent cases.

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<sup>79</sup> *Rollo*, p. 60.

<sup>80</sup> *Id.*

<sup>81</sup> 384 Phil. 661 (2000).

<sup>82</sup> *Id.* at 675.

Thus, in *Cariño*, the Court had sufficient authority to pass upon the validity of two marriages contracted by the decedent who was a policeman, as the same was essential to the determination of who was rightfully entitled to the “death benefits” of the deceased.<sup>83</sup> In *De Castro*, it was held that the trial court had jurisdiction to determine the validity of the marriage in an action for support, because the right to support hinges on the existence of a valid marriage.<sup>84</sup> Recently, in *Anaban v. Anaban-Alfiler*,<sup>85</sup> where the main action was for the partition of the decedent’s estate, the Court upheld the trial court’s jurisdiction to rule on the validity of the decedent’s second marriage to resolve the status of the children thereto and their heirship as such insofar as the decedent’s estate was concerned.

However, of these cases where the Court allowed a collateral attack on the validity of marriage, none involved a petition for correction of entries under Rule 108. By unduly upholding the trial court’s declaration on the validity of Oscar and Rosalinda’s marriage to justify the correction in the entries of respondents’ COLB from legitimated children to illegitimate children of their parents, the CA completely disregarded the clear import of the Court’s ruling in *Braza*, *Miller*, and *Ordoña*—that the validity of a marriage cannot be collaterally attacked and the legitimacy and filiation of children cannot be successfully impugned by the mere expedient of filing a petition for correction of entries in the civil register under Rule 108 of the Rules of Court.

The Court categorically elucidated on this enunciation in the case of *Fujiki v. Marinay*.<sup>86</sup> In that case, Maria Paz Marinay (Marinay) was married to Minoru Fujiki (Fujiki), a Japanese national. She subsequently married Shinichi Maekara (Maekara), also a Japanese national, without her first marriage being dissolved. After Fujiki and Marinay reestablished their relationship, they were able to obtain from a family court in Japan a declaration of the nullity of the marriage of Marinay and Maekara for being bigamous. Thereafter, Fujiki filed a petition with the RTC in the Philippines for the judicial recognition of the Japanese Family Court judgment and for the issuance of an order directing the annotation of the Japanese Family Court judgment on the Certificate of Marriage between Marinay and Maekara on file with the LCR. The RTC dismissed the petition outright for the purported failure of Fujiki to comply with the provisions of A.M. No. 02-11-10-SC. The RTC considered the petition as

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<sup>83</sup> *Nicdao Cariño v. Yee Cariño*, supra note 34, at 868.

<sup>84</sup> *De Castro v. Assidao-De Castro*, supra note 33, at 731-733.

<sup>85</sup> G.R. No. 249011, March 15, 2021.

<sup>86</sup> 712 Phil. 524 (2013).



a collateral attack on the validity of the marriage between Marinay and Maekara.<sup>87</sup> In reversing the RTC's outright dismissal of the petition, the Court accentuated that the provisions of A.M. No. 02-11-10-SC and the doctrine in *Braza* do not apply in a petition to recognize a foreign judgment relating to the status of a marriage where one of the parties is a citizen of a foreign country; hence, the annotations sought by Fujiki may be made under Rule 108 of the Rules of Court.<sup>88</sup> The Court held:

Since the recognition of a foreign judgment only requires proof of fact of the judgment, it may be made in a special proceeding for cancellation or correction of entries in the civil registry under Rule 108 of the Rules of Court. Rule 1, Section 3 of the Rules of Court provides that “[a] special proceeding is a remedy by which a party seeks to establish a status, a right, or a particular fact.” Rule 108 creates a remedy to rectify facts of a person's life which are recorded by the State pursuant to the Civil Register Law or Act No. 3753. These are facts of public consequence such as birth, death or marriage, which the State has an interest in recording. As noted by the Solicitor General, in *Corpuz v. Sto. Tomas* this Court declared that “[t]he recognition of the foreign divorce decree may be made in a Rule 108 proceeding itself, as the object of special proceedings (such as that in Rule 108 of the Rules of Court) is precisely to establish the status or right of a party or a particular fact.”

x x x x

In *Braza v. The City Civil Registrar of Himamaylan City, Negros Occidental*, this Court held that a “trial court has no jurisdiction to nullify marriages” in a special proceeding for cancellation or correction of entry under Rule 108 of the Rules of Court. Thus, the “validity of marriage[] x x x can be questioned only in a direct action” to nullify the marriage. The RTC relied on *Braza* in dismissing the petition for recognition of foreign judgment as a collateral attack on the marriage between Marinay and Maekara.

*Braza* is not applicable because *Braza* does not involve a recognition of a foreign judgment nullifying a bigamous marriage where one of the parties is a citizen of the foreign country.

To be sure, a petition for correction or cancellation of an entry in the civil registry cannot substitute for an action to invalidate a marriage. A direct action is necessary to prevent circumvention of the substantive and procedural safeguards of marriage under the Family Code, A.M. No. 02-11-10-SC and other related laws. Among these safeguards are the requirement of proving the limited grounds for the dissolution of marriage, support *pendente lite* of the spouses and children, the liquidation, partition and distribution of the properties of the spouses, and the investigation of the public prosecutor to determine

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<sup>87</sup> Id. at 533-535.

<sup>88</sup> Id. at 554-555.

collusion. A direct action for declaration of nullity or annulment of marriage is also necessary to prevent circumvention of the jurisdiction of the Family Courts under the Family Courts Act of 1997 (Republic Act No. 8369), as a petition for cancellation or correction of entries in the civil registry may be filed in the Regional Trial Court “where the corresponding civil registry is located.” In other words, *a Filipino citizen cannot dissolve his marriage by the mere expedient of changing his entry of marriage in the civil registry.*<sup>89</sup> (Citations omitted; emphasis supplied)

Recapitulating on the foregoing disquisitions, the reliefs sought by respondents in the present petition must necessarily fail. Respondents’ legitimated status can be impugned only by the proper parties under Article 182 of the Family Code in a direct proceeding filed for the purpose. In that forum, the trial court can then pass upon the validity of the marriage of respondents’ parents Oscar and Rosalinda with the end of determining respondents’ legal status as children of their parents. Any judgment rendered in the action can later serve as basis thereafter for the filing of a special proceeding for correction of entries in the civil registry under Rule 108 to record the fact of nullity of the marriage of respondents’ parents and/or to establish respondents’ status as illegitimate children.

In the meantime, the Court deems it proper that the PSA’s Certification dated September 21, 2015 stating the fact of Oscar’s previous marriage to one Gloria Erese Pangilinan on January 29, 1987 be reflected on respondents’ COLBs, given that not even the OSG contested the authenticity and correctness of the PSA certification.

**WHEREFORE**, the petition is **GRANTED**. The Decision dated March 29, 2019 and the Resolution dated October 8, 2019 of the Court of Appeals in CA-G.R. CV No. 111274 are **REVERSED** and **SET ASIDE**. A new judgment is hereby entered **DISMISSING** the verified petition for correction of entries in the Certificates of Live Birth of respondents Oliver M. Boquiren and Roselyn M. Boquiren.

The Local Civil Registry of Malasiqui, Pangasinan is directed to annotate on the Certificates of Live Birth of respondents Oliver M. Boquiren and Roselyn M. Boquiren the Certification dated September 21, 2015 of the Philippine Statistics Authority stating that prior to his marriage to Rosalinda B. Macaraeg on April 18, 2002, Oscar D. Boquiren married Gloria Erese Pangilinan on January 29, 1987.

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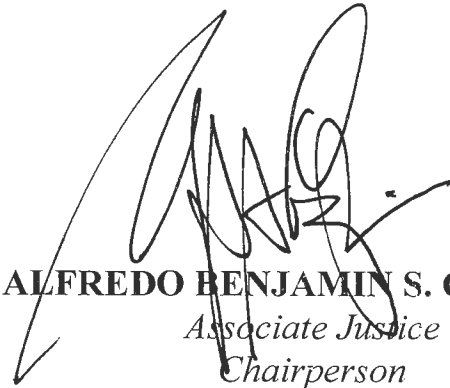
<sup>89</sup> Id. at 548–554.

**SO ORDERED.**

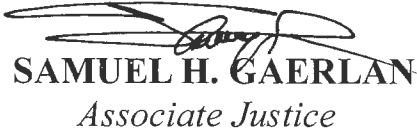


**HENRI JEAN PAUL B. INTING**  
*Associate Justice*

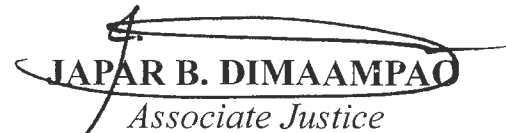
WE CONCUR:



**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*  
*Chairperson*



**SAMUEL H. GAERLAN**  
*Associate Justice*



**JAPAR B. DIMAAMPAO**  
*Associate Justice*

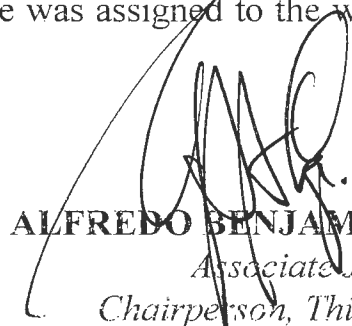
*See my Dissenting Opinion*



**MARIA FILOMENA D. SINGH**  
*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.



**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*  
*Chairperson, Third 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.

  
**ALEXANDER G. GESMUNDO**  
*Chief Justice*

