

Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

**PHILIPPINE STATISTICS
 AUTHORITY (formerly National
 Statistics Office) and PHILIPPINE
 STATISTICS AUTHORITY-
 LEGAZPI CITY,**

Petitioners,

G.R. No. 238021

Present:

GESMUNDO, C.J.,
Chairperson,
CAGUIOA,
CARANDANG,
ZALAMEDA, and
GAERLAN, JJ.

- versus -

CLARILYN FEROLINO,
 Respondent.

Promulgated:

JUN 14 2021

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DECISION

CARANDANG, J.:

Before this Court is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court (Rules), assailing the Decision² dated March 31, 2017 and the Resolution³ dated March 15, 2018 of the Court of Appeals (CA) in CA-G.R. SP No. 145609 filed by the Philippine Statistics Authority (PSA) (Formerly National Statistics Office) and PSA-Legazpi City (petitioners) filed.

¹ *Rollo*, pp. 10-25.

² Penned by Associate Justice Renato C. Francisco, with the concurrence of Associate Justices Ramon M. Bato, Jr. and Manuel M. Barrios; id at 31-41.

³ Penned by Associate Justice Renato C. Francisco, with the concurrence of Associate Justices Ramon M. Bato, Jr. and Manuel M. Barrios; id. at 42-43.

Antecedents

On August 12, 2015, respondent Clarilyn Ferolino (Ferolino), then a 5th year graduating Dentistry student in Ago Medical and Educational Center (AMEC) in Legazpi City, applied for the issuance of a copy of her Certificate of Live Birth (COLB) at the Philippine Statistics Authority through Marlen Aurellano.⁴

On August 24, 2015, Ferolino received a Feedback Form⁵ from PSA stating the following:

Sir/Madam:

Your application for **COPY ISSUANCE** of a **Birth** document filed on August 12, 2015 could not be made available on August 27, 2015, as scheduled, for the following reason (s):

Mother with first marriage on March 03, 1978 at San Fernando, Masbate. (10d)

ACTION NEEDED: Please verify the status of the first marriage of the mother if still existing or has been dissolved by the court or death of the first husband before the date of the birth of the child. If the marriage has been dissolved by the court or the death of first husband, submit certified copies of requirements of court decree or Certificate of Death of first husband. If the first marriage is still existing the process of legitimation cannot be effected. RA 9255/acknowledgment applies. Please file a petition for cancellation to cancel the registered affidavit of legitimation, through court, before we process the R.A. 9255/ Acknowledgment.

Kindly return this form and its attachments together with the required documents mentioned above, if any, to the care Officer's Windows (W19, W20 or W21) or at Releasing 2 (R2) of the NSO Central Outlet located at East Avenue, Quezon City or at the Census Serbilis Center where the request was applied.

Rescheduled date and time of release will be reflected on your Official Receipt (OR)

Should you want to inquire about the status of your request, please feel free to contact (02 926-7204 during officer[sic] hours or from Census Serbilis Center personnel where you submitted the documents or send email to CRD.Assistance@census.gov.ph citing the TXN No. given above. For automated status inquiry (currently a trial service). Send text message **DCSTATUS 05-702-004-**

⁴ Id. at 32.

⁵ Records, p. 11.

00194-017 to 0920-9519297 (Smart) or 0917-8607061 (Globe).

Problem Archive: 20AN
Outlet/ Station: SRU – VIBAL

REQUEST PARTICULARS:

Requester: MARLENE AURELLANO
Address/ Tel No: NSO
Job Request Number: 05337-002147-R
Name of Child: CLARILYN A. FEROLINO
LGLINS
Place of Birth: LEGAZPI CITY, ALBAY
Date of Birth: June 12, 1993
Late Registered? No
Name of Father: CLARITO FEROLINO
Name of Mother: MARILYN ALMOGUERA⁶
(Emphasis, italics, and underscoring in the original)

As a result of the issuance of the Feedback Form, Ferolino filed a special civil action for *mandamus* under Rule 65 of the Rules in the Regional Trial Court (RTC), Branch 6, Legazpi City docketed as Special Civil Action No. 16-042.⁷ Ferolino sought the issuance of a writ of *mandamus* to compel PSA to issue the COLB.⁸

Ruling of the Regional Trial Court

On February 2, 2016, the RTC issued its Order⁹, the dispositive portion of which reads:

WHEREFORE, premises considered, this instant petition is DENIED DUE COURSE for being insufficient both in FORM and in SUBSTANCE and is hereby ordered DISMISSED.

SO ORDERED.¹⁰

The RTC found the petition Ferolino filed insufficient in form because it failed to comply with all the requirements under Section 2 and 3, Rule 46 of the Rules. The RTC observed that only one copy of the petition was filed without any proof of service to PSA and PSA – Legazpi City Field Office.¹¹

The RTC ruled that the Feedback Form PSA gave Ferolino does not amount to an unlawful neglect of the performance of a duty of the PSA as the latter merely wanted to ascertain whether Ferolino had been validly legitimated or should only be considered as an acknowledged child¹² under

⁶ Id.

⁷ *Rollo*, pp. 43-48.

⁸ Id. at 48.

⁹ Penned by Judge Elmer M. Lanuzo; id. at 54-59.

¹⁰ Id. at 59.

¹¹ Id. at 56.

¹² Id. at 57.

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Republic Act No. (R.A.) 9255.¹³

The RTC also highlighted that Ferolino failed to exhaust administrative remedies available to her within the PSA such as the filing of a motion for reconsideration and, if denied, an appeal to the Office of the President which has ultimate control and supervision of PSA.¹⁴ The RTC explained that Ferolino failed to allege in her petition sufficient facts to establish that she had no other plain, adequate or speedy remedy available to her under the law that can justify the issuance of the extraordinary writ of *mandamus*. For the RTC, Ferolino's application for the issuance of her COLB at the eleventh hour is her own doing and PSA should not be blamed as it merely acted upon her application in accordance with its established procedures when it required Ferolino to verify and accomplish the things mentioned in the Feedback Form before a definitive COLB is issued to her.¹⁵

Ferolino filed a Motion for Reconsideration.¹⁶ With respect to the number of copies submitted, Ferolino pointed out that her counsel was guided by the mandate of paragraph (d), Section 5 of A.M No. 11-9-4-SC dated November 13, 2012, otherwise known as the Efficient Use of Paper Rule, which permitted the submission of only one original copy of the petition.¹⁷ Ferolino added that a petition for *mandamus* filed under Section 3, Rule 65 of the Rules before the RTC does not require proof of service as Section 1, Rule 46 of the Rules makes this requirement applicable only to "x x x all cases originally filed in the Court of Appeals x x x."¹⁸ Ferolino also pointed out that Rule 65 does not require prior service or notice.¹⁹ Ferolino maintained that PSA effectively denied her request for the issuance of her existing COLB as it conditioned the issuance of her COLB on the accomplishment of the requirements listed on the Feedback Form.²⁰ Ferolino opined that the duty to release the COLB upon request by the proper requesting party is a ministerial duty of PSA and it cannot withhold the release of records in its custody on the ground that it contains entries that must be corrected.²¹ In justifying her resort to the RTC, Ferolino explained that filing a motion for reconsideration and appealing to the Office of the President (OP) will take a long time. For Ferolino, these cannot be considered as plain, speedy, and adequate remedy available to her in the ordinary course of law.²²

During the hearing of the motion, Ferolino's counsel Atty. Hanil B. Almoguera (Atty. Almoguera) proposed that the court issue a writ of *mandamus* to compel PSA to issue a COLB indicating that Ferolino is a

¹³ 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."

¹⁴ *Rollo*, p. 57.

¹⁵ *Id.* at 58.

¹⁶ *Id.* at 60-77.

¹⁷ *Id.* at 61.

¹⁸ *Id.*

¹⁹ *Id.* at 65-66.

²⁰ *Id.* at 67-68.

²¹ *Id.* at 68, 70.

²² *Id.* at 73.

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legitimated child in view of a registered Affidavit of Legitimation. However, Atty. Almoguera also admitted in open court that at the time of Ferolino's birth, the previous marriage of her mother was still subsisting, making her an illegitimate child.²³

On March 23, 2016, the RTC issued an Order²⁴ denying the Motion for Reconsideration of Ferolino. The RTC pointed out that if a COLB will be issued as reflected on the record of PSA, Ferolino's status as a child will be that of a legitimated child even if she is, in fact, an illegitimate child. The RTC did not allow the proposal of Atty. Almoguera that the COLB of Ferolino with the annotation that she is legitimated under R.A. 9255 be issued despite the erroneous registration of the Affidavit of Legitimation. The RTC explained that the subsistence of the first marriage of Ferolino's mother at the time of her birth precludes Ferolino from being legitimated. The RTC reiterated that the PSA, in requiring Ferolino to submit the documents stated in the Feedback Form, did not effectively deny the request for the issuance of Ferolino's COLB. Instead, it was a prudent course of action to ensure that the real status of Ferolino is correctly reflected in the COLB to be issued after compliance with the requirements in the Feedback Form.²⁵

Thereafter, Ferolino filed an Appeal under Rule 41 of the Rules in the CA.

Ruling of the Court of Appeals

The CA issued its Decision,²⁶ the dispositive portion of which reads:

WHEREFORE, the petition is hereby **GRANTED**.
The assailed **Order** dated February 2, 2016 dismissing the petitioner-appellant's Petition for Mandamus and **Order** dated March 23, 2016 denying the petitioner-appellant's Motion for Reconsideration are hereby **REVERSED AND SET ASIDE**.

We hereby order the respondent PSA to issue the birth certificate of the petitioner Clarilyn Ferolino.

SO ORDERED.²⁷ (Emphasis in the original)

In reversing the Decision of the RTC, the CA held that it was erroneous for the RTC to extend the application of Rule 46 of the Rules to its proceedings as it is only applicable to original actions for *mandamus* filed in the CA. Thus, Ferolino cannot be faulted for submitting only one (1) copy of the petition for *mandamus* pursuant to Section 3 of Rule 65 in relation to the Efficient Use of Paper Rule (A.M. No. 11-9-4-SC) instead of seven copies as required under

²³ Id. at 14, 81-83.

²⁴ Penned by Judge Elmer M. Lanuzo; id. at 80-84.

²⁵ Id. at 83.

²⁶ Supra note 2.

²⁷ *Rollo*, p. 41.

Section 3 of Rule 46 of the Rules.²⁸

The CA ruled that the issuance of Ferolino's COLB is compellable by *mandamus*.²⁹ The CA found that the elements for *mandamus* were present. According to the CA, PSA has a duty to issue certified transcripts or copies of any certificate or document registered upon payment of proper fees as mandated by Section 12 of Act No. 3753 or the Law on Registry of Civil Status.³⁰ PSA unlawfully neglected the performance of its duty when it required Ferolino to first accomplish the remarks of the PSA in the Feedback Form before it can issue the requested COLB. For the CA, requiring Ferolino to verify her status and to submit relevant documents, in effect, adds requirements not mandated by law. The CA also stated that Ferolino was able to show a clear legal right to the act demanded. Lastly, the CA held that Ferolino had no other plain, speedy, and adequate remedy in the ordinary course of law. There was no clear procedure as to the recourse in an application for the issuance of a COLB that was rejected. The tenor of the Feedback Form is that if she does not comply with the enumerated requirements, she will not be issued the COLB requested.³¹

In a Resolution³² dated March 15, 2018, the CA denied the Motion for Reconsideration petitioners filed for lack of merit.³³

In the present petition,³⁴ petitioners maintain that Ferolino failed to prove that she has a clear, established, and unmistakable right to the issuance of a COLB indicating her alleged legitimated status. Petitioners emphasize that the dispute does not simply involve a request for the issuance of her COLB. Instead, it involves the registration of her alleged legitimated status despite her admission that she was born while her mother had a subsisting marriage to a person other than her biological father.³⁵ Petitioners argue that what was lawfully denied by the PSA is Ferolino's attempt to change her status from illegitimate to legitimated by applying for the issuance of her COLB and not merely the issuance of her COLB.³⁶ Petitioners posit that the ministerial duty of PSA to issue Ferolino's COLB does not include processing her alleged legitimated status found to be contrary to Article 177 of the Family Code. Petitioners point out that Article 177 of the Family Code requires that

²⁸ Id. at 35-36.

²⁹ Id. at 40.

³⁰ Section 12 of Act No. 3753 states:

Section 12. *Duties of local civil registrar.* – Local civil registrars shall (a) file registrable certificates and documents presented to them for entry; (b) compile the same monthly and prepare and send any information required of them by the Civil Registrar-General; (c) **issue certified transcripts or copies of any certificate or document registered upon payment of proper fees**; (d) order the binding, properly classified, of all certificates or documents registered during the year; (e) send to the Civil Registrar-General, during the first ten days of each month, a copy of the entries made during the preceding month for filing; (f) index the same to facilitate search and identification in case any information is required, and (g) administer oaths, free of charge, for civil register purposes (Emphasis supplied).

³¹ *Rollo*, pp. 38-40.

³² *Supra* note 3.

³³ *Rollo*, pp. 43.

³⁴ *Supra* note 1.

³⁵ *Rollo*, pp. 16-19.

³⁶ Id. at 19.

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“only children conceived and born outside of wedlock of parents who at the time of the conception of the former, were not disqualified by any impediment to marry each other, may be legitimated.”³⁷ Moreover, petitioners insist that substantial correction affecting the civil status of a person can only be made through an appropriate adversarial proceeding and not through a request for PSA to issue a COLB changing one’s status.³⁸ Petitioners also contend that Ferolino failed to exhaust administrative remedies available to her, thus making her petition for *mandamus* unnecessary and premature.³⁹

In the Comment⁴⁰ Ferolino filed, she claims that the present petition is misleading as it insinuates that she filed the petition for *mandamus* to compel PSA to change her status from illegitimate to legitimated. Ferolino clarifies that she filed the petition for *mandamus* to compel PSA to issue the machine-generated copy of her COLB as found, stored, and archived in the Civil Registry.⁴¹ Ferolino maintains that the purpose for her request to be issued a machine-generated copy of her COLB is to comply with one of the requirements for her application to take the licensure examination for dentistry.⁴² Ferolino alleges that it has now been six years since she graduated but she still cannot take the licensure examination due to her failure to secure a copy of her COLB.⁴³ Ferolino also reiterates that the duty of PSA to issue her COLB by simply generating it from the Civil Registry System Database is a ministerial function, thus making the petition for *mandamus* is proper.⁴⁴

Issue

The issue to be resolved in this case is whether the remedy of *mandamus* is proper to compel PSA to issue the COLB of Ferolino bearing an annotation of her legitimated status that was erroneously registered.

Ruling of the Court

A petition for *mandamus* will issue only when it is proven that petitioner has a clear legal right to the performance of the act sought to be compelled and the respondent has an imperative duty to perform the same. It is the petitioner who bears the burden to show that there is such a clear legal right to the performance of the act, and a corresponding compelling duty on the part of the respondent to perform the act. It is an extraordinary remedy to compel the performance of duties that are purely ministerial in nature, not those that are discretionary.⁴⁵ Section 3 of Rule 65 of the Rules provides:

³⁷ Id. at 20; Family Code of the Philippines, Article 177.

³⁸ *Rollo*, pp. 21-22.

³⁹ Id. at 22-23.

⁴⁰ Id. at 136-147.

⁴¹ Id. at 139.

⁴² Id. at 139-140.

⁴³ Id. at 140.

⁴⁴ Id. at 144.

⁴⁵ *Special People, Inc. Foundation v. Canda*, 701 Phil. 365, 387 (2013).



Section 3. *Petition for mandamus.* – When any tribunal, corporation, board, officer or person unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station, or unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled, and there is no other plain, speedy and adequate remedy in the ordinary course of law, the person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered commanding the respondent, immediately or at some other time to be specified by the court, to do the act required to be done to protect the rights of the petitioner, and to pay the damages sustained by the petitioner by reason of the wrongful acts of the respondent.

The petition shall also contain a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46.

Accordingly, before a writ of *mandamus* may be issued, the following requisites must concur: (1) petitioner must show a clear legal right to the act demanded; (2) respondent must have the duty to perform the act because the same is mandated by law; (3) respondent unlawfully neglects the performance of the duty enjoined by law; (4) the act to be performed is ministerial, not discretionary; and (5) there is no other plain, speedy, and adequate remedy in the ordinary course of law.

Mandamus is proper in the present case.

Petitioners PSA and PSA-Legazpi City Field Office unlawfully neglected the duty to issue the COLB of Ferolino. Ferolino has a clear and demandable right to be issued an updated, but inaccurate, COLB.

After a careful study of the records, the Court finds that the CA was correct in ruling that the issuance of Ferolino's COLB is compellable by *mandamus*. It is settled that PSA has the ministerial duty of issuing certified transcripts or copies of any certificate or document registered upon payment of proper fees as mandated by Section 12 of Act No. 3753 or the Law on Registry of Civil Status.⁴⁶

⁴⁶ Section 12 of Act No. 3753 states:

Section 12. *Duties of local civil registrar.* – Local civil registrars shall (a) file registrable certificates and documents presented to them for entry; (b) compile the same monthly and prepare and send any information required of them by the Civil Registrar-General; (c) **issue certified transcripts or copies of any certificate or document registered upon payment of proper fees**; (d) order the binding, properly classified, of all certificates or documents registered during the year; (e) send to the Civil Registrar-General, during the first ten days of each month, a copy of the entries made during the preceding month for filing; (f) index

PSA unlawfully neglected the performance of its ministerial duty when it conditioned the issuance of the requested COLB upon the verification of the remarks stated by the PSA in the Feedback Form. In requiring Ferolino to verify her status and to submit relevant documents, the PSA added requirements not mandated nor intended by law. Therefore, Ferolino was able to establish her clear legal right to the act demanded.

Ferolino had no other plain, speedy, and adequate remedy in the ordinary course of law.

The Court finds that Ferolino had no other plain, speedy, and adequate remedy in the ordinary course of law. In this case, there appears to be no clear appeal procedure that an applicant may undertake in the event that an application for the issuance of a COLB that was rejected. Ferolino is left with no choice but to seek relief from the court which will expectedly require time, as revealed in the following statements:

Please file a petition for cancellation to cancel the registered affidavit of legitimation, through court, before we process the R.A. 9255/ Acknowledgment.

Kindly return this form and its attachments together with the required documents mentioned above, if any, to the care Officer's Windows (W19, W20 or W21) or at Releasing 2 (R2) of the NSO Central Outlet located at East Avenue, Quezon City or at the Census Serbilis Center where the request was applied.⁴⁷ (Italics in the original)

A careful examination of the tenor of the Feedback Form shows that if she does not comply with the enumerated requirements, she will not be issued the requested document.⁴⁸ Here, there is no other plain, speedy, and adequate remedy in the ordinary course of law. To require the applicant to go to court before being issued a COLB as stored and reflected in the records of the PSA will be unduly burdensome to the applicant's right to secure a copy as it will delay her transactions or activities that require presenting her COLB.

Ferolino's claim that she is pressed for time as she needs her COLB for her board examination. Upon a perusal of the records, it was confirmed in Ferolino's own documentary evidence that she applied for the issuance of her COLB for a different purpose. Official Receipt (O.R.) No. 15081200403JNG00200 of the application, attached as Annex "B"⁴⁹ of Ferolino's petition for mandamus, states that the purpose for her request is "PASSPORT/ TRAVEL."⁵⁰ Regardless of Ferolino's reason for requesting

the same to facilitate search and identification in case any information is required, and (g) administer oaths, free of charge, for civil register purposes (Emphasis supplied).

⁴⁷ Records, p. 11.

⁴⁸ *Rollo*, pp. 38-40.

⁴⁹ Records, p. 10.

⁵⁰ *Id.*

for a copy of her COLB, the necessity of individuals to secure a copy of his or her COLB as a requirement for various transactions or activities remains.

Nevertheless, the Court recognizes that the allegation that Ferolino's legitimated status was erroneously registered and now forms part of the civil registry is a serious accusation that should not simply be brushed aside. This may have far-reaching implications on other equally important issues such as citizenship and successional rights. Therefore, the Court deems it proper to direct the Office of the Solicitor General to investigate the alleged erroneous registration of Ferolino's Affidavit of Legitimation and the corresponding notation in her COLB and to initiate an action to expunge from the records of the PSA any false entries that may be discovered so that her correct status may be accurately reflected in the civil registry.

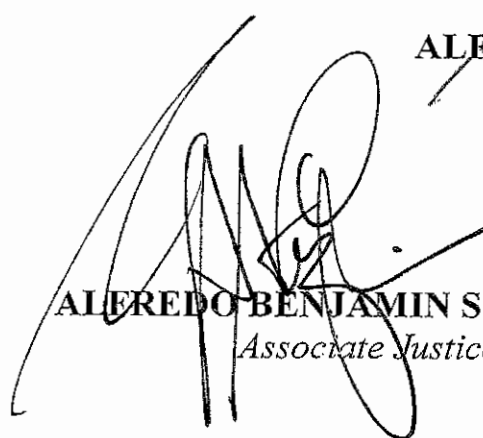
WHEREFORE, the Petition for Review on *Certiorari* is **DENIED**. The Decision dated March 31, 2017 and the Resolution dated March 15, 2018 of the Court of Appeals in CA-G.R. SP No. 145609 are **AFFIRMED**.

The Office of the Solicitor General is **DIRECTED** to investigate the allegation of the erroneous registration of Clarilyn Ferolino's Affidavit of Legitimation and the corresponding notation in her Certificate of Live Birth and to initiate an action to expunge or remove from the records of the Philippine Statistics Authority any false entries that may be discovered.


SO ORDERED.


ROS MARI D. CARANDANG
Associate Justice

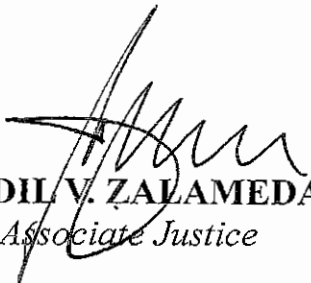
WE CONCUR:



ALAREDO BENJAMIN S. CAGUIOA
Associate Justice



ALEXANDER G. GESMUNDO
Chief Justice



RODIL V. ZALAMEDA
Associate Justice



SAMUEL H. GAERLAN
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.



ALEXANDER G. GESMUNDO
Chief Justice