Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

POLICE SENIOR SUPERINTENDENT DIMAPINTO MACAWADIB, Petitioner,	**G.R. No. 186610**
	Present:
	VELASCO, JR., *J.*, *Chairperson,*
	PERALTA,
- versus -	ABAD,
	MENDOZA, and
	LEONEN, *JJ.*
THE PHILIPPINE NATIONAL POLICE DIRECTORATE FOR PERSONNEL AND RECORDS MANAGEMENT, Respondent.	**Promulgated:** JUL 29 2013

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D E C I S I O N

PERALTA, *J.*:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court seeking to nullify and set aside the Decision[1] and Resolution[2] of the Court of Appeals (CA), dated December 17, 2008 and February 25, 2009, respectively, in CA-G.R. SP No. 02120-MIN. The assailed CA judgment nullified the December 4, 2001 Decision[3] of the Regional Trial Court (RTC) of Marawi City, Branch 8, in Spl. Proc. No. 782-01, while the questioned CA Resolution denied petitioner's Motion for Reconsideration.

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1 Penned by Associate Justice Elihu A. Ybañez, with Associate Justices Romulo V. Borja and Mario V. Lopez, concurring; Annex "A" to petition, *rollo*, pp. 61-74.

2 Annex "B" to petition, *id.* at 75-76.

3 Penned by Judge Santos B. Adiong, Annex "K" to petition, *id.* at 98-100.

The factual and procedural antecedents of the case are as follows:

Petitioner was a police officer with the rank of Police Senior Superintendent. On July 30, 2001, pursuant to the provisions of Section 39 of Republic Act 6975, otherwise known as the "Department of the Interior and Local Government Act of 1990," the Chief of Directorial Staff of the Philippine National Police (PNP) issued General Order No. 1168, enumerating the names of commissioned officers who were subject to compulsory retirement on various dates in the month of January 2002 by virtue of their attainment of the compulsory retirement age of 56. Among the names included in the said Order was that of petitioner, who was supposed to retire on January 11, 2002, as the files of the PNP Records Management Division indicate that he was born on January 11, 1946.

On September 3, 2001, petitioner filed an application for late registration of his birth with the Municipal Civil Registrar's Office of Mulondo, Lanao del Sur. In the said application, petitioner swore under oath that he was born on January 11, 1956. The application was, subsequently, approved.

On October 15, 2001, petitioner filed with the RTC of Marawi City, Branch 8, a *Petition for Correction of Entry in the Public Service Records Regarding the Birth Date*. Pertinent portions of his allegations are as follows:

> x x x x
>
> 1. That herein petitioner is 45 years old, married, Filipino citizen, PNP (Police Superintendent) by occupation and resident of Camp Bagong Amai, Pakpak, Marawi City. x x x;
>
> 2. That on January 11, 1956, herein petitioner was born in Mulondo, Lanao del Sur, x x x, copy of his live birth certificate is attached and marked as Annex "A", for ready reference;
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> 3. That when petitioner herein joined with (sic) the government service, particularly the local police force and later on the Integrated National Police, he honestly entered his birth date as January 11, 1946, while in his (sic) Government Service Insurance System (GSIS, in short) and National Police Commission, he erroneously entered his birth date as January 11, 1946, which entry are honestly based on estimation, as Muslim (sic) in the south do not register their marriages and births before;
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> 4. That herein petitioner has correctly entered his true and correct birth date, January 11, 1956, in his Service Record at the National Headquarters, Philippine National Police, Directorate for Personnel and Records Management, Camp Crame, Quezon City, copy of which is attached and marked as Annex "B", x x x;
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> 5. That herein petitioner is submitting Joint Affidavit of two (2) disinterested person (sic) x x x;
>
> 6. That this petition is not intended to defraud anybody but to establish the true and correct birth date of herein petitioner.

x x x x[4]

The petition was docketed as Spl. Proc. No. 782-01.

On December 4, 2001, the RTC rendered its Decision, disposing as follows:

> WHEREFORE, judgment is hereby rendered in favor of petitioner DIMAPINTO BABAI MACAWADIB, to wit:
>
> 1. Ordering the Chief, Records Management, PNP NHQ, Camp Crame, Quezon City, to make a correction upon the birth date of herein petitioner to January 11, 1956;
> 2. Ordering the Director, Personnel and Records Management Service, NAPOLCOM, Makati City, to make correction upon the birth date of herein petitioner from January 11, 1946 to January 11, 1956; and
> 3. Ordering the Chief[,] Records of the Civil Service Commission, Manila and all other offices concern (sic), to make the necessary correction in the Public Records of herein petitioner to January 11, 1956.
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> SO ORDERED.[5]

Subsequently, the RTC issued an Entry of Final Judgment[6] indicating therein that its December 4, 2001 Decision in Spl. Proc. No. 782-01 has become final and executory on March 13, 2002.

On January 8, 2008, herein respondent filed a Petition for Annulment of Judgment with Prayer for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction with the CA, seeking to nullify the above-mentioned Decision of the RTC on the ground that the trial court failed to acquire jurisdiction over the PNP, "an unimpleaded indispensable party."[7]

On December 17, 2008, the CA promulgated its assailed Decision with the following dispositive portion:

> WHEREFORE, finding the instant petition impressed with merit, the same is hereby GRANTED. The assailed Decision dated December 4, 2001 of the respondent court in Spl. Proc. No. 782-01 is NULLIFIED and SET ASIDE. Also, so as to prevent further damage upon the PNP, let a permanent injunction issue in the meantime, barring the private respondent

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4 Records, pp. 1-2.
5 *Id.* at 66.
6 *Id*. at 75.
7 CA *rollo*, pp. 2-15.

> Dimapinto Babai Macawadib from continuing and prolonging his tenure with the PNP beyond the mandatory retirement age of fifty-six (56) years.
>
> SO ORDERED.[8]

Petitioner filed a Motion for Reconsideration,[9] but the CA denied it in its Resolution[10] dated February 25, 2009.

Hence, the instant petition with the following Assignment of Errors:

> 1. THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT PNP-[DPRM] IS AN INDISPENSABLE PARTY IN SPECIAL PROCEEDING NO. 782-01 AND THAT THE RTC HAVE (sic) NOT ACQUIRED JURISDICTION OVER THE PERSON OF THE PNP-DPRM.
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> 2. THE HONORABLE COURT OF APPEALS ERRED IN NOT DISMISSING CA-G.R. SP NO. 02120-MIN DESPITE THE FACT THAT THE ASSAILED RTC DECISION DATED DECEMBER 4, 2001 IN SPECIAL PROCEEDING NO. 782-01 HAS LONG BECOME FINAL AND EXECUTORY AND WAS IN FACT FULLY AND COMPLETELY EXECUTED AFTER THE PNP-DPRM CORRECTED THE DATE OF BIRTH OF THE PETITIONER FROM JANUARY 11, 1946 TO JANUARY 11, 1956.
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> 3. THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT PNP-DPRM IS NOT ESTOPPED FROM ASSAILING THE VALIDITY OF THE RTC DECISION IN SPECIAL PROCEEDING NO. 782-01.
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> 4. THE HONORABLE COURT OF APPEALS ERRED IN NOT DISMISSING CA-G.R. SP NO. 02120-[MIN] FOR BEING INSUFFICIENT IN FORM AND SUBSTANCE.[11]

In his first assigned error, petitioner contends that respondent is not an indispensable party. The Court is not persuaded. On the contrary, the Court agrees with the ruling of the CA that it is the integrity and correctness of the public records in the custody of the PNP, National Police Commission (NAPOLCOM) and Civil Service Commission (CSC) which are involved and which would be affected by any decision rendered in the petition for correction filed by herein petitioner. The aforementioned government agencies are, thus, required to be made parties to the proceeding. They are indispensable parties, without whom no final determination of the case can be had. An indispensable party is defined as one who has such an interest in the controversy or subject matter that a final adjudication cannot be made, in

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8 *Id*. at 196.
9 *Id*. at 198-211.
10 *Id*. at 214-215.
11 *Rollo*, pp. 40-41.

his absence, without injuring or affecting that interest.[12] In the fairly recent case of *Go v. Distinction Properties Development and Construction, Inc.*,[13] the Court had the occasion to reiterate the principle that:

> Under Section 7, Rule 3 of the Rules of Court, "parties in interest without whom no final determination can be had of an action shall be joined as plaintiffs or defendants." If there is a failure to implead an indispensable party, any judgment rendered would have no effectiveness. **It is "precisely 'when an indispensable party is not before the court (that) an action should be dismissed.' The absence of an indispensable party renders all subsequent actions of the court null and void for want of authority to act, not only as to the absent parties but even to those present."** The purpose of the rules on joinder of indispensable parties is a complete determination of all issues not only between the parties themselves, but also as regards other persons who may be affected by the judgment. A decision valid on its face cannot attain real finality where there is want of indispensable parties.[14]

Citing previous authorities, the Court also held in the *Go* case that:

> The general rule with reference to the making of parties in a civil action requires the joinder of all indispensable parties under any and all conditions, their presence being a *sine qua non* of the exercise of judicial power. (*Borlasa v. Polistico, 47 Phil. 345, 348*) For this reason, our Supreme Court has held that when it appears of record that there are other persons interested in the subject matter of the litigation, who are not made parties to the action, it is the duty of the court to suspend the trial until such parties are made either plaintiffs or defendants. (*Pobre, et al. v. Blanco, 17 Phil. 156*). x x x Where the petition failed to join as party defendant the person interested in sustaining the proceeding in the court, the same should be dismissed. x x x **When an indispensable party is not before the court, the action should be dismissed**.[15]

The burden of procuring the presence of all indispensable parties is on the plaintiff.[16]

In the instant case, there is a necessity to implead the PNP, NAPOLCOM and CSC because they stand to be adversely affected by petitioner's petition which involves substantial and controversial alterations in petitioner's service records. Moreover, as correctly pointed out by the Office of the Solicitor General (OSG), if petitioner's service is extended by

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12 *Simny G. Guy v. Gilbert G. Guy*, G.R. No. 189486 and 189699, September 5, 2012.

13 G.R. No. 194024, April 25, 2012, 671 SCRA 461.

14 *Id.* at 476, citing *Nagkakaisang Lakas ng Manggagawa sa Keihin (NLMK-OLALIA-KMU) v. Keihin Philippines Corporation*, G.R. No. 171115, August 9, 2010, 627 SCRA 179, 186-187. (Emphasis in the original)

15 *Id*. at 476-477, citing *Plasabas v. Court of Appeals*, G.R. No. 166519, March 31, 2009, 582 SCRA 686, 690. (Emphasis in the original)

16 *Church of Christ v. Vallespin*, 247 Phil. 296, 303 (1988).

ten years, the government, through the PNP, shall be burdened by the additional salary and benefits that would have to be given to petitioner during such extension. Thus, aside from the OSG, all other agencies which may be affected by the change should be notified or represented as the truth is best ascertained under an adversary system of justice.

As the above-mentioned agencies were not impleaded in this case much less given notice of the proceedings, the decision of the trial court granting petitioner's prayer for the correction of entries in his service records, is void. As mentioned above, the absence of an indispensable party renders all subsequent actions of the court null and void for want of authority to act, not only as to the absent parties but even as to those present.[17]

On the question of whether or not respondent is estopped from assailing the decision of the RTC for failure of the OSG, as government representative, to participate in the proceedings before the trial court or to file an opposition to petitioner's petition for correction of entries in his service records, this Court rules that such an apparent oversight has no bearing on the validity of the appeal which the petitioner filed before the CA. Neither can the State, as represented by the government, be considered in estoppel due to the petitioner's seeming acquiescence to the judgment of the RTC when it initially made corrections to some of petitioner's records with the PNP. This Court has reiterated time and again that the absence of opposition from government agencies is of no controlling significance, because the State cannot be estopped by the omission, mistake or error of its officials or agents.[18] Nor is the Republic barred from assailing the decision granting the petition for correction of entries if, on the basis of the law and the evidence on record, such petition has no merit.[19]

As to the second and last assigned errors, suffice it to say that considering that the assailed decision of the RTC is null and void, the same could not have attained finality. Settled is the rule that a void judgment cannot attain finality and its execution has no basis in law.[20]

At this juncture, it may not be amiss to point out that, like the CA, this Court cannot help but entertain serious doubts on the veracity of petitioner's claim that he was indeed born in 1956. The late registration of petitioner's certificate of live birth on September 3, 2001 was made forty-five (45) years after his supposed birth and a mere 34 days after the PNP's issuance of its Order for his compulsory retirement. He had all the time to make such registration but why did he do it only when he was about to retire?

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17 *Pascual v. Robles*, G.R. No. 182645, December 15, 2010, 638 SCRA 712, 719, citing *Lotte Phil. Co., Inc. v. Dela Cruz*, G.R. No. 166302, July 28, 2005, 464 SCRA 591, 596.

18 *Republic v. Manimtim*, G.R. No. 169599, March 16, 2011, 645 SCRA 520, 537.

19 *Republic v. Tuastumban*, G.R. No. 173210, April 24, 2009, 586 SCRA 600, 619.

20 *Heirs of Francisca Medrano v. De Vera*, G.R. No. 165770, August 9, 2010, 627 SCRA 108, 123.

The Court, likewise, agrees with the observation of the OSG that, if petitioner was indeed born in 1956, he would have been merely 14 years old in 1970 when he was appointed as Chief of Police of Mulondo, Lanao del Sur. This would not have been legally tenable, considering that Section 9 of RA 4864, otherwise known as the Police Act of 1966, provides, among others, that a person shall not be appointed to a local police agency if he is less than twenty-three years of age. Moreover, realistically speaking, it would be difficult to believe that a 14-year old minor would serve as a police officer, much less a chief of police.

The Court also gives credence to the pronouncement made by the CA which took judicial notice that in the several hearings of the petition before the appellate court where the petitioner was present, the CA observed that "in the several hearings of this petition before Us where the private respondent was present, he does not really appear to be 52 years old but his old age of 62."[21]

It can be argued that petitioner's belatedly registered certificate of live birth, as a public document, enjoys the presumption of validity. However, petitioner merely relied on such presumption without presenting any other convincing or credible evidence to prove that he was really born in 1956. On the contrary, the specific facts attendant in the case at bar, as well as the totality of the evidence presented during the hearing of the case in the court *a quo*, sufficiently negate the presumption of regularity accorded to petitioner's belatedly registered birth certificate.

In this regard, it is also apropos to mention that, in cases of correction or change of information based on belatedly registered birth certificates, the CSC no longer requires a court order to warrant such correction or change of information in its records. However, in an apparent move to safeguard its records, the CSC imposes the submission of additional evidence that would prove the veracity of the entries in a belatedly registered birth certificate. Thus, the CSC, in its Memorandum Circular No. 31, dated November 20, 2001, demands that, aside from the said birth certificate, the person requesting the correction or change of information must submit other authenticated supporting documents, such as baptismal certificate, affidavits of two disinterested witnesses, and "[o]ther employment, [p]ersonal or [s]chool [r]ecords which would support the entry reflected in the delayed registered birth certificate and which entry is requested to be reflected in the records of the Commission as the true and correct entry." In the instant case, petitioner was only able to submit affidavits of two witnesses, who were not really proven to be disinterested and whose testimonies were not even tested in the crucible of cross-examination. On the contrary, the other pieces of documentary evidence on record, such as his marriage certificate, and his

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[21] See CA Decision, *rollo*, pp. 72-73.

school and service records, contradict his claims and show that he was, in fact, born in 1946.

WHEREFORE, the petition for review on *certiorari* is **DENIED**. The Decision dated December 17, 2008 and the Resolution dated February 25, 2009 of the Court of Appeals, in CA-G.R. SP No. 02120-MIN, are hereby **AFFIRMED**.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

ROBERTO A. ABAD
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

MARVIC MARIO VICTOR F. LEONEN
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.

PRESBITERO J. VELASCO, JR.
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.

MARIA LOURDES P. A. SERENO
Chief Justice