

IN THE MATTER OF THE PETITION TO CHANGE NAME OF ONG HUAN TIN TO TERESITA TAN, ONG HUAN TIN, PETITIONER-APPELLANT, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLEE.*G.R. No. L-20997. April 27, 1967*

Ponente: SANCHEZ, J.

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Petition to change the name of Ong Huan Tin to Teresita Tan (Special Proceeding 03521, Juvenile and Domestic Relations Court). Due publication was had. The petition was set for hearing. But, before the petition could be heard on the merits, the court, *motu proprio*, in its order of November 6, 1962 expressed the opinion "that an alien cannot avail himself of the provisions of our Rules of Court relating to change of name" and thereupon denied the petition. A move to reconsider was rejected in the court's order of November 24, 1962. Off-shoot is the present appeal.

1. At issue is whether an alien may petition for a change of name. Primarily, this question hinges on the proper interpretation of the word person as it is employed in Rule 103 of the Rules of Court. This problem, by all means, is not new.

In a recent judicial test (In the Petition for the Change of Name of JOSELITO YU, G.R. L-20874, May 25, 1966) we held that Philippine citizenship of the applicant is not a prerequisite for a petition to change name; and that, accordingly, an alien may petition for a change of name. There, this Court, speaking through Mr. Justice Makalintal, declared:

"Rule 103 does not say that only citizens of the Philippines may petition for a change of name. [Neither does Public Act No. 1386 of the Philippine Commission (enacted September 1, 1905) from which the Rule has been adopted.] Section 1 provides that 'a person desiring to change his name shall present the petition to the Court of First Instance of the province in which he resides, or, in the City of Manila, to the Juvenile and Domestic Relations Court.' Here the word 'person' is a generic term which is not limited to Filipino citizens, but embraces all natural persons. The rule does not even require that the citizenship of the petitioner be stated in his petition. It is enough that the petition be verified, signed by the petitioner or some other person in his behalf, and set forth (a) that the petitioner has been a bona fide resident of the province where the petition is filed for at least three (3) years prior to the date of filing; (b) the cause for which the change of name is sought; and (c) the name asked for (Section 2). The rule is clear and affords no room for interpretation. It sets forth all the requirements, and Filipino citizenship is not one of them.

The court *quo* ruled that since the use of surnames is based on family rights, and since under Article 15 of the Civil Code laws relating to family rights and duties, or to the status, condition and legal capacity of persons are binding upon citizens of the Philippines even though living abroad, the converse of the principle must be recognized, that is to say, the same matters in respect of an alien must be governed by the laws of his own country. The major premise of the proposition may be true in a general sense: One's surname is usually that by which not only one as an individual but one's family as well is known. Thus Title XIII of the Civil Code (Articles 364 to 373) contains provisions for the use of surnames by legitimate, legitimated, illegitimate, and

adopted children, as well as by women who are married, widowed or legally separated from their husbands. But a change of name as authorized under Rule 103 does not by itself define, or effect a change in, one's existing family relations, or in the rights and duties flowing therefrom; nor does it create new family rights and duties where none before were existing. It does not alter one's legal capacity, civil status or citizenship. What is altered is only the name, which is that word or combination of words by which a person is distinguished from others and which he bears as the label or appellation for the conveniences of the world at large in addressing him, or in speaking of or dealing with him (38 Am. Jur. 595). The situation is no different whether the person whose name is changed be a citizen or an alien.

To be sure, there could be instances where the change applied for may be open to objection by parties who already bear the surname desired by the applicant, not because he would thereby acquire certain family ties with them but because the existence of such ties might be erroneously impressed on the public mind. But this is precisely the purpose of the judicial application - to determine whether there is proper and reasonable cause for the change of name. As held by this Court in several cases, in which pertinently enough the petitioners were aliens, the change is not a matter of right but of judicial discretion, to be exercised in the light of the reasons adduced and the consequences that will likely follow (*Ong Peng Oan v. Republic*, L-8035, Nov. 29, 1957; *Tan vs. Republic*, L-16384, April 26, 1962; *Ong Te v. Republic*, L-15549, June 30, 1962; *Moore v. Republic*, L-16607, June 26, 1963). In not one of those cases, however, has it been ruled that an alien is not entitled to file a petition at all."

2. Nonetheless, we pause to consider whether every alien in this country may petition for a change of name.

Change of name - under our own law - is a special proceeding to establish the status of a person involving his relations with others, that is, his legal position in, or with regard to, the rest of the community. The petition therefor is directed against all. It is in rem. So it is, that under Section 3 of Rule 103, publication of the petition is required.[1]

The broad general doctrine is that the status of an alien individual is governed and controlled by the *lex domicilii*. [2] Implicit in this precept is that an alien may be allowed to change his name here only if he be domiciled in the Philippines. And "domicile" means "permanent home, the place to which, whenever absent for business or pleasure, one intends to return, and depends on facts and circumstances, in the sense that they disclose intent." [3]

An alien who temporarily stays in the Philippines may not there avail of the right to change his name. For, what good will that be if, after all, his stay will be for a short period of time? It would not be of much benefit to him; court proceedings for the purpose could yet be a useless ceremony; the salutary effects flowing from a change of his social relation and condition may not thus be achieved. And then, stock should be taken of the fact that in a change of name, third persons and the State are concerned. Correct, then, it is to say that change of name is not temporary in nature; the new name may not be shunted aside at will.

We, accordingly, lay down the rule that only aliens domiciled in the Philippines may apply for change of name in the courts thereof.

Considering that the petition herein complies with the requisites set forth in the Rules of Court, we vote to set aside the orders of the Juvenile and Domestic Relations Court of November 6, 1962 and November 24, 1962; and to direct said Court to proceed with the hearing and determination of Special Proceeding 03521, entitled "In the Matter of the Petition to Change Name of Ong Huan Tin to Teresita Tan."

No costs.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Regala, Makalintal, Bengzon, J.P., Zaldivar, and Castro, JJ., concur.

[1] Padilla, Civil Code, Vol. I, 1961 ed., p. 905, citing *Jacobo vs. Republic*, 54 O.G. No. 9, pp. 2928, 2931. See also: 15 C.J.S. [Conflict of Laws], p. 905.

[2] C.J.S., id., p. 906; See also: 11 Am. Jur. 315.

[3] *Corre vs. Corre*, 100 Phil. 321, 323, citing 67 C.J., 123-124.

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