

IN RE: PETITION FOR CHANGE OF NAMES OF ANTONIO ANG GUI, ALBERTO BASAS ANG, ERNESTO BASAS ANG AND EVELYN BASAS ANG, MINORS, VIRGINIA BASAS, PETITIONER-APPELLANT, VS. REPUBLIC OF...*G.R. No. L-23595. February 20, 1968*

Ponente: CONCEPCION, C.J.

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Appeal from a decision of the Court of Juvenile and Domestic Relations dismissing the petition of Virginia Basas - hereinafter referred to as appellant - for a change of names of the minors Antonio Ang Gui, Alberto Basas Ang, Ernesto Basas Ang and Evelyn Basas Ang.

In her petition, appellant alleges that said minors are her children, born out of wedlock, on August 23, 1953, July 4, 1956, December 17, 1958 and May 22, 1960, respectively; that, although the children had been registered, in the Office of the Local Civil Registrar of Manila, under the names aforementioned, they were baptized as Antonio Chua, Jr., Alberto Chua, Jose Ernesto Chua y Basas, and Evelyn Chua, respectively; and that these discrepancies, between their names as registered in the aforementioned office and as entered in the records of the parish churches in which they were, respectively, baptized, are "very confusing and may mislead the people and the authorities of their true identities." Appellant prayed, therefore, that the names of said minors be changed to Antonio Basas, Alberto Basas, Ernesto Basas and Evelyn Basas.

After due publication of the corresponding notice and hearing, the aforementioned Court rendered the appealed decision, dismissing appellant's petition, for the following reasons:

"In this proceeding, petitioners have asked that they be authorized to change their surnames to Basas. They have alleged that they were born out of wedlock, since their father was married to a woman in China. Being illegitimate offsprings, they claim to be entitled to use their mother's surname under the provision of Article 368 of the Civil Code. Petitioners further claimed that although in their birth certificates they carry the surname Ang Gui for Antonio and Ang for the other petitioner, all of them have however been listed in their baptismal certificates with the surname Chua. Their mother stated that this has led to confusion as to the identities of the minors especially when enrolling them in school as sometimes the submission of the birth certificates are required and at other times it is their baptismal certificates that are required

"xx xx xx xx xx

"This Court has previously ruled that aliens cannot avail themselves of Rule 103 (Sp. Proc. No. 03252 Sim Chi Tat, Petitioner), and that it will not entertain a petition for a change of name when petitioner's citizenship is either controverted or doubtful (Sp. Proc. No. 02915, Chua Mah Tuan Petitioner). In a recent case (Lim v. de la Rosa L-17790, March 31, 1964), a statement made by the trial court in a change of name proceedings to the effect that petitioner was a Filipino was deemed by the Supreme Court to be an indication that petitioner was indeed a Filipino. The ruling confirms the advisability of this court's denying a change of name where a petitioner's claim of Filipino citizenship is open to doubt. Justice J.B.L. Reyes, in Board vs. Domingo, G.R.

No. L-21274, July 31, 1963, has said:

'It is highly desirable that courts should at all times be keenly aware that certain aliens are apt to resort to desperate means in order to obtain the benefits of Filipino citizenship, and that they should ever endeavor to bar the possibility that judicial proceedings should be utilized to circumvent the policy of our Constitution and statutes, even temporarily.'

"In the case at bar, the children involved would be Chinese citizens if they are natural children, or if their parents are legally married. The Court has grave doubts in respect of the allegation made in their behalf that they are illegitimate. Of late, there has been a trend or claims of illegitimacy being made by children of Chinese fathers and Filipino mothers with the obvious aim of obtaining judicial recognition, however, indirect, that they are entitled to be considered Filipino citizens. The Court has refused to give due course to petitions based on such claim. Thus, the following statements, among others, have been made:

'x x x The Chinese community, within the last few years, has realized that there is an advantage in alleging that Chinese nationals are not married to their Filipino wives, to enable their children to claim Philippine citizenship without going through naturalization proceedings. Often-times the non-marriage, or illegitimate status of the children, is sought to be established indirectly through petitions for change of surnames. Many instances have already come before this Court.

'Take the case of petitioner's mother. She testified that her reason for instituting this proceeding is so that "as long as I am still alive I want his papers to be complete." Although the statement can be limited to mean only papers relative to the surname being used, it "strikes the Court as an unguarded admission that what is here substantially sought is the establishment of the alleged Philippine citizenship of petitioner in addition to legalization of the use of the mother's surname., (Sp. Proc. No. 04022, Ernesto Ng, Petitioner).

'If it be a fact indeed that petitioners are illegitimate children of their parents, the petition filed herein should be granted pursuant to the ruling in *Ching Ing King vs. Rep.*, G. R. No. L-8301, April 28, 1955. However, unlike the situation in that case, the claimed filiation in this proceeding has not been proven to the satisfaction of the Court.

'The mere statement of the mother that they were not married to each other does not completely convince the Court that the allegation is true. Although negative in nature, the allegation of non-marriage is essential to the establishment of the illegitimate relationship and substantial corroborating evidence is required by the Court to dispute the presumption that a man and a wife deporting themselves as husband and wife are legally married (*Cu v. Rep.*, 89 Phil. 473). Petitioner minors were born in 1955, 1957 and 1960, which are periods after it has generally been realized that there is an advantage in alleging that Chinese nationals are not married to their Filipino wives, thus enabling their children to claim Philippine citizenship without naturalization proceedings. Many claims of that nature have already come before this court.

'If Tan Kun were single at the time the petitioners were conceived, they would have the status of recognized natural children of their parents and would have to bear their father's surname (Art. 266, Civil Code). To controvert that possibility, the mother, but not the father, has testified that the latter has a wife in China. That bare statement does not constitute satisfactory proof of the claim. The allegation that a Chinese national resident in our country has a wife in China is already a trite one. For instance, it was invoked and in effect rejected in 1910 in *Sy Joc Lieng v. Sy Quia, et al.*, 16 Phil. 137. It may meet success where officials are with actual or mercenary naivete, but courts have to reject the proposition unless substantiated by strong evidence.' (Sp. Proc. No. D-00089, Constancio Tan, et al., Petitioners).

"Lastly, the court believes that its discretion should be exercised against the instant petition for the reason that it appears that the minors involved herein have been baptized under a different family name. It can be

presumed that Chinese children from abroad have been brought, and are being brought, into this country, either openly or surreptitiously, to assume the identity of children locally born. In most instances, discrepancies are bound to appear. This Court would not like to confirm that a child born under one name with an indicated father, and a child baptized with another name, and with another indicated father, is one and the same person, for the court might unwittingly give practical legality to a substitution of identity."

Considering that appellant's petition is based upon the premise that the persons recorded in the Office of the Local Civil Registrar of Manila as Antonio Ang Gui, Alberto Basas Ang, Ernesto Basas Ang and Evelyn Ang are the very same persons baptized as Antonio Chua, Jr., Alberto Chua, Jose Ernesto Chua Basas and Evelyn Chua, respectively; that the main evidence on the part of the persons to whom these two (2) sets of names correspond is appellant's own testimony, which the trial Judge [] who, having observed appellant's demeanor during the trial, was in a far better position than we are, to gauge her truthfulness found it hardly convincing; that it has not been satisfactorily explained why the aforementioned minors were allegedly baptized with a surname different from that appearing in their respective birth certificates, well as from that of their alleged mother and alleged father; that the relief prayed for by appellant herein is predicated upon an allegation of fact which cannot be determined without passing upon the filiation of said minors, in relation to a man who is not a party in this proceedings, without inquiring into the question whether he is guilty or not of concubinage, and without affecting, not only their civil status, but, also, their nationality; and that the question whether or not the change of name should be authorized is primarily addressed to the judgment, as well as to the discretion of the Court,[1] we do not see how any interference, on our part, on the action complained of the lower court can be legally justified.

WHEREFORE, the decision appealed from should be as it is hereby, affirmed, with costs against petitioner-appellant.

IT IS SO ORDERED.

Reyes, J.B.L., Dizon, Makalintal, Bengzon, J.P., Zaldivar, Sanchez, Ruiz Castro, Angeles, and Fernando, JJ., concur.

[1] Ong Peng Oan vs. Republic, 102 Phil., 468; Yu Kheng Chiau vs. Republic, L-14022, December 28, 1959; Tan vs. Republic, L-16884, April 26, 1962; Ong Te vs. Republic, L-15549, June 30, 1962; Moore vs. Republic, L-18407, June 26, 1963; Uy vs. Republic, November 29, 1965; Ng Yao Siong vs. Republic, L-20306, March 31, 1966; Liong vs. Republic, L-21174, April 29, 1966; Chiu vs. Republic, L-20018, April 30, 1966; Yu vs. Republic, L-20874, May 25, 1966; and Oshita vs. Republic, L-21180, March 31, 1967.

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