

IN THE MATTER OF THE PETITION FOR CHANGE OF NAME MARIO PABELLAR, PETITIONER-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.

G.R. No. L-27298. March 04, 1976

Ponente: AQUINO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/3846ed74f847/>

AQUINO, J.:

The Republic of the Philippines appealed from the decision of the Court of First Instance of Quezon Province dated December 1, 1966, granting the petition of Mario Pabellar for the change of his surname to Carandang and ordering the civil registrar of Lucena City to make the corresponding change "in his record of birth or in his civil registry by way of marginal notes" (Special Proceeding No. 4095). The facts of the case are as follows:

Petitioner Mario Pabellar was born on November 11, 1937 at Lucena, Tayabas. Presumably, no record of his birth in the civil register is available for none was presented in evidence. His record at the Lucena Catholic Church shows that when he was baptized on May 27, 1938 as the illegitimate child of Teofila Pabellar with an unknown father and paternal grandparents, he was given the name Mario Pabellar (Exh. H a baptismal certificate). However, he used that name only when he filed the petition in this case.

He testified that his father is Esteban Carandang who is married to Rufina Marasigan. They were separated. She lived in Batangas. Esteban Carandang took Teofila Pabellar as his common-law wife and lived with her in Lucena. The petitioner has lived with his parents in Lucena since birth. He has always used the name Mario Carandang as shown in (1) his elementary school certificate issued on March 30, 1953 by the Jesus' Sacred Heart College at Lucena (Exh. B); (2) his public high school diploma issued on March 28, 1958 by the principal of the Quezon Provincial High School (Exh. C); (3) his certificate of completion of the two-year basic course of the Reserve Officers' Training Corps (ROTC) issued on March 28, 1960 by the commandant at the Luzonian Colleges (Exh. D); (4) his two 1965 appointments as train delivery checker of the Manila Railroad Company (Exh. E and F); (5) his Policy No. 418660 issued on August 1, 1965 by the Government Service Insurance System (GSIS) (Exh. G) where the name actually used is Mario P. Carandang; and (6) the birth certificates of his three children (Exh. I to 1-2) where his name appears to be Mario Pabellar Carandang. His fourth child is named Mario Carandang (11 tsn).

His father urged him to see a lawyer so that he could change his surname from Pabellar to Carandang. On February 28, 1966 the petitioner filed the instant petition for change of name. He used in the petition the name, Mario Pabellar. The notice of hearing was published once a week for three consecutive weeks in the Quezon Times, a provincial newspaper published at Lucena City.

The City Fiscal opposed the petition on the grounds that the change of name was not justified and that since the petitioner is an illegitimate child he has no right to use his father's surname.

As may be seen from the title of this case, the petitioner merely indicated therein his name, Mario Pabellar, but he did not specify his supposed alias, Mario Carandang, and the name which he sought to adopt. And in the lower

court's order setting the petition for hearing, which order was published, the cause for which the change of name was sought was not stated.

At the hearing the petitioner did not prove the allegation in his petition that his name in the civil register is Mario Pabellar. He did not present any birth certificate. The lower court's finding that the petitioner's name in the civil register of Lucena is Mario Pabellar is unfounded because, as abovestated, no certified copy of the entry in the civil register as to petitioner's name was presented in evidence.

What the petitioner presented in evidence was his baptismal certificate, a private document, which, being hearsay, is not a conclusive proof of filiation (*Canales vs. Arrogante*, 91 Phil. 6; *Vidaurreazaga vs. Court of Appeals*, 91 Phil. 492; *Malonda vs. Malonda*, 81 Phil. 149). It does not have the same probative value as a record of birth, an official or public document (See sec. 37, Rule 130 and secs. 20 and 25, Rule 132, Rules of Court).

As already stated, the lower court granted the petition. It erroneously assumed that the petitioner's name in the civil register at Lucena is Mario Pabellar although that *factum probandum* was not established by any *factum probans*.

The Solicitor General in this appeal contends that the petitioner failed to show any reasonable justification for the change of name and that there was no compliance with the jurisdictional requirements. The petitioner did not file any brief. That omission might signify that he had realized the impropriety of his petition.

For this is a case where the petitioner, an illegitimate child, has consistently and publicly used for more than three decades, without objection from anybody, the name, Mario Carandang (Carandang being his natural father's surname). When he discovered in his baptismal certificate (not his birth certificate) that his name is Mario Pabellar (Pabellar being his natural mother's surname), he sought to change his surname Pabellar to Carandang. He did not prove that in the 1937 record of births of the civil register at Lucena his surname is Pabellar. He failed to present any birth certificate maybe because it was not available.

We hold under the foregoing facts that his petition for change of name is devoid of factual and legal justification.

It is true that as a supposed illegitimate child other than natural he should use his mother's surname, Pabellar (Art. 368, Civil Code). But the decisive fact is that since childhood he has been using his father's surname, Carandang, in school and official records.

Section 1 of Commonwealth Act No. 142, which regulates the use of aliases, allows a person to use a name "by which he has been known since childhood" (*Lim Hok Albano vs. Republic*, 104 Phil. 795; *People vs. Uy Jui Pio*, 102 Phil. 679; *Republic vs. Tañada*, *infra*). Even legitimate children cannot enjoin the illegitimate children of their father from using his surname (*De Valencia vs. Rodriguez*, 84 Phil. 222).

The fact that the petitioner was christened Mario Pabellar does not justify his petition for the change of his surname to Carandang. "The real name of a person is that given to him in the civil register, not the name by which he was baptized in his church" (*Chomi vs. Local Civil Registrar of Manila*, 99 Phil. 1004). The evidence herein does not reveal petitioner's real name in the civil register.

In a petition for change of name "the only name that may be changed is the true or official name recorded in the civil register" (*Jesus Ng Yao Siong vs. Republic*, 63 O. G. 4408, 16 SCRA 483), a name which, as already noted, was not proven by the petitioner.

In reality what the petitioner seeks is not a change of name. What he wants is judicial authority for his continued use of the surname, Carandang, which he has been using since childhood. That use is allowed by Commonwealth Act No. 142. According to his testimony, his use of the surname Carandang has the sanction of his natural father.

Judicial authority is required for a change of name or surname (Art. 376, Civil Code) but not for the use of a surname which the petitioner has already been using since childhood. Hence, the petition in this case was uncalled for. In colloquial parlance, it has no leg to stand on.

Moreover, the Solicitor General's contention that the jurisdictional requirements were not observed is correct. That is another ground for reversing the order under appeal.

A change of name is a proceeding in rem. Jurisdiction to hear and determine the petition for change of name is acquired after due publication of the order containing certain data (Secan Kok vs. Republic, L-27621, August 30, 1973, 52 SCRA 322).

In a petition for change of name the title of the petition should include (1) the applicant's real name, (2) his aliases or other names, if any, and (3) the name sought to be adopted even if these data are found in the body of the petition. For the publication to be valid and effective, the published order should reproduce the title of the petition containing the data already stated and should contain correct information as to (1) the name or names of the applicant, (2) the cause for the change of name, and (3) the new name asked for (Republic vs. Lee Wai Lam, L-22607, July 30, 1969, 28 SCRA 1043, 1052; Republic vs. Tañada, L-31563, November 29, 1971, 42 SCRA 419; Republic vs. Reyes, L-29850, June 30, 1972, 45 SCRA 570; Secan Kok vs. Republic, L-27621, supra).

In this case, the title of the petition does not contain the aliases of the petitioner and the name sought to be adopted. The order setting the petition for hearing does not state the petitioner's aliases and the cause for the change of name.[*]

As the title of the petition in this case and the order setting it for hearing were defective or deficient, the lower court did not acquire jurisdiction over the proceeding (Jesus Ng Yao Siong vs. Republic, 63 O. G. 4408, 16 SCRA 483; Jayme Tan vs. Republic, 114 Phil. 1070; Go Chiu Beng vs. Republic, L-29574, August 18, 1972, 46 SCRA 617). Its dismissal is warranted.

WHEREFORE, the lower court's order under appeal is reversed. No costs.

SO ORDERED.

Fernando, (Chairman), Concepcion, Jr., and Martin, JJ., concur.

Antonio, J., concurs in the result.

Barredo, J., did not take part.

Martin, J., was designated to sit in the Second Division.

[*] The order reads:

"This is a petition for change of name filed by petitioner praying that his name Mario Pabellar be changed to Mario Carandang. Finding said petition to be sufficient in form and substance. Let the petition be set for hearing on September 23, 1966 at 8:30 o'clock in the Morning, before Branch I of this Court at Lucena City. Let copies of the order be published in the Quezon Times once a week for three consecutive weeks. SO ORDERED."

CONCURRING OPINION

ANTONIO, J.:

I concur in the result. The petition for change of name does not appear necessary, considering that petitioner has consistently and publicly used for more than three (3) decades, the surname "Carandang" of his natural father, without objection from anybody. Petitioner had the right to use the name "Mario Carandang" because he has since childhood been known by that name, and it has not been shown that continued use of such surname has caused confusion or prejudice to third persons.[1]

[1] CF. *People vs. Uy Jui Pio*, 102 Phil. 677, 681; *Lim Hok Albano, et. al. vs. Republic*, 104 Phil. 795, 797.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.