OFFICIAL GAZETTE · SPECIAL THIRTEENTH DIVISION · NOVEMBER 15, 2010

IN RE: PETITION FOR CHANGE OF NAME OF MARIVIC ESTRADA LONZANIDA ALSO KNOWN AS MARY OR MHAVIC AND CORRECTION OF ENTRIES IN HER CERTIFICATE OF LIVE BIRTH, MARIVIC ESTRADA LONZANID...

CV No. 87306, November 15, 2010

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Court of Appeals

The Republic of the Philippines, through the Office of the Solicitor General ("OSG") is before the Court appealing the Decision dated March 21, 2006 of the Regional Trial Court ("RTC") Branch 70 of Iba, Zambales, which held:

> WHEREFORE, as prayed for, and pursuant to Rule 103 and 108 of the Revised Rules of Court, the Local Civil Registrar of San Antonio, Zambales and the Civil Registrar General of the National Statistics Office (NSO), Quezon City, are hereby directed:
>
> 1. To change the first name of the petitioner from SONIA to MARIVIC;
>
> 2. To correct her date of birth from AUGUST 7, 1971 to JULY 31, 1971;
>
> 3. To correct the name of her mother from PERLITA REYES to PERLITA MARTEJA MEJOS;
>
> 4. To correct the name of her father from NICOLAS ESTRADA to NICOLAS FLORES ESTRADA.
>
> Let copies of this decision be furnished the Local Civil Registrar of San Antonio, Zambales and the Civil Registrar General of the National Statistics Office, Quezon City for proper annotation of the change of name of the petitioner as well as the corrections in her birth certificate in their respective official records. Let a copy of the decision be sent also the office of the Solicitor General, Makati City.
>
> SO ORDERED. "(Rollo, pp. 53-54).

Marivic Estrada Lonzanida (herein "appellee") filed on May 31, 2004 with the RTC of Iba, Zambales, a petition to change her name and correct some entries in her certificate of live birth. Appellee claimed that her registered name as shown in her Certificate of Live Birth issued by the Local Civil Registrar of San Antonio, Zambales and the National Statistics Office ("NSO") is "sonia mejos estrada." She never used and does not intend to use the said name. In all her official transactions, she had been using the name "marivic mejos estrada" as appearing in several of her documents such as Certificate of Baptism, Certification from her Elementary School, Certification from her High School, College Diploma, Certificate of Marriage, Employment Appointment, GSIS Policy, PAGIBIG Membership Form, Philhealth Form, and Philippine Public School Teachers Association Membership Form. She claimed that she is also known in the community as Mary" or "Mhavic". (Record, pp. 2-3)

Appellee further averred that her Certificate of Live Birth had several incorrect entries. Her date of birth was written as August 7, 1971 when it should be July 31, 1971; her mother's name was written as PERLITA REYES when it should be PERLITA MARTEJA MEJOS, and; her father's name was stated as NICOLAS ESTRADA

when it should be NICOLAS FLORES ESTRADA. (Records, pp. 3-4).

Appellee also alleged that she was never charged administratively or criminally before any tribunal and that she filed the petition because the wrong entries in her Certificate of Live Birth are causing confusion as to her true identity. (Records, p. 4).

On June 9, 2004, the RTC issued an Order setting the petition for initial hearing on July 23, 2004 and ordering that the same be published in a newspaper of general circulation in Zambales once a week for three consecutive weeks. (Records, p. 19). The Order was thereafter published in the "Philippine Recorder" for three consecutive weeks, on June 28-July 4, July 5-11, and July 12-18, 2004. (Records, pp. 32-33).

After several postponements, the appellee testified on August 12, 2005 in support of her petition. She explained that it was her aunt in her father's side, who registered the fact of her birth with the local civil registrar. She claims to have no idea why there were errors in the entries in her birth certificate. It is no longer possible to ask her aunt for the latter is now deaf and of poor vision. Appellee's mother Perlita also testified on December 9, 2005 corroborating her claims. On December 15, 2005 appellee filed her Formal Offer of Exhibits. (Records, pp. 63-102).

The RTC then rendered its Decision on March 21, 2006, which is now subject of the present appeal.

In assailing the said Decision, the OSG is claiming that

> I
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> THE COURT A QUO ERRED IN PROCEEDING WITH THE CASE DESPITE WANT OF JURISDICTION
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> II
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> THE COURT A QUO ERRED IN NOT FINDING THAT APPELLEE FAILED TO SUFFICIENTLY PROVE THAT THE CHANGE OF NAME IS NOT RESROTED (SIC) TO FOR ILLEGAL PURPOSES. (Rollo, p. 35).

The OSG argues that since the change of name is a special proceeding to establish the status of a person involving his relation with others, it is a proceeding in rem and as such, strict compliance with all jurisdictional requirements, particularly on publication is essential in order to vest jurisdiction on the court. In this case, the caption of appellee's petition did not state the name of appellee as it appears in her certificate of live birth, i.e., SONIA MEJOS ESTRADA. The caption of the order of hearing as published in the Philippine Recorder also did not state the name 'Sonia'. Also, the scheduled hearing, July 23, 2004, as ordered by the trial court and as published in the Philippine Recorder, is within four months from July 12-18 2004, the date of the last publication, contrary to Sec. 3 of Rule 103 of the Rules of Court. Even the subsequent notices/orders resetting the initial hearing to October 22, November 12 and December 6, 2004 were not published. Moreover, the order of publication and hearing did not cite the cause for which the change of name is sought. (Rollo, pp. 42-47).

The OSG also avers that the RTC erred in not finding that the appellee failed to sufficiently prove that the change of name is not resorted to for illegal purposes. Appellee failed to present the necessary clearances showing that "Sonia Mejos Estrada" is of good moral character and that the change of name to Marivic Mejos Estrada is not sought for any evil or fraudulent intent. (Rollo, pp. 48-49).

Appellee submitted her Comment, and later her Appellee's Brief claiming that she has complied with all the required substantial and formal requirements imposed by law and that she was able to sufficiently show that her petition was not resorted to for illegal purposes. (Rollo, pp. 57, 62-66).

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As no reply brief was filed by the OSG within the period given, the present petition was deemed submitted for resolution sans the said pleading. (Rollo, p. 72).

The Court finds the appeal impressed with merit.

It is a ruling of long standing that a change of name is not a right, but a mere privilege. (Silverio v. Republic, 537 SCRA 373, 384 [2007/). No person can change his name or surname without judicial authority. This is reasonable requirement for those seeking such changes because a person's name necessarily affects his identity, interests and interactions. The State has an interest in the names borne by individuals for purposes of identification. The State must therefore be necessarily involved in the process and decision to change the name of any of its citizens. (Silverio v. Republic, supra, p. 384; Republic v. Capote, 514 SCRA 76, 80, 81 [2007]).

The official name of a person, whose birth is registered in the civil register, is the name appearing therein. If a change in one's name is desired, it can only be done by filing and strictly complying with the substantive and procedural requirements for a special proceeding for a change of name under Rule 103 of the Rules of Court, wherein the sufficiency of the reasons or grounds therefor can be threshed out and accordingly determined. Since a petition for a change of name is a proceeding in rem , impressed as it is with public interest, strict compliance with all the requisites in order to vest the court with jurisdiction is essential, and failure therein renders the proceedings a nullity. (Republic v. Hernandez, 253 SCRA 509, 523 [1996]).

In this case, the OSG assails the fact that the caption of the petition a quo did not state the name of appellee as it appears in her certificate of live birth, i.e., "Sonia Mejos Estrada". The caption of the order of hearing as published in the Philippine Recorder also did not mention the name Sonia. The OSG postulates that such omissions are jurisdictional defects that are fatal to the petition. (Rollo, p.46).

The Court agrees.

In Republic v. Marcos (182 SCRA 223 [1990]) which was correctly cited by the

OSG, the Supreme Court held that the trial court did not acquire jurisdiction over the subject of the proceedings due to the failure of the petitioner therein to state in the caption of both the verified petition and the published order one of her aliases. (Supra, p. 227). Quoting Jesus Ng Yao Siong v. Republic (16 SCRA 483 [1966]), the Supreme Court reiterated the ruling that "for a change of name to be valid, the title thereof should include, first, his real name, and second his aliases, if any. (Repubiic v. Marcos, supra, p. 226).

Indeed it has been settled in many cases that 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 v. Zosa, 165 SCRA 292, 296 [1988]; Pabellar v. Republic, 70 SCRA 16, 20 [1976]; Republic v. Reyes, 45 SCRA 570, 573 [1972]).

The reason for this is that notices in newspapers usually appear in the back pages and the reader usually only glances at the title of the petition. The probability is that the portions in the body of the publication will escape the reader's notice and the purpose of which the publication is made, which is to inform, may thus be unserved. (Republic v. Reyes, supra, p. 574).

The failure to include all the names or aliases of the petitioner in the caption of the order or in the title of the petition defeats the very purpose of the required publication. It precludes the court from obtaining jurisdiction to

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entertain the petition, thereby warranting the dismissal of the same. (Republic v. Zosa, p. 296; Pabellar v. Republic, supra, p. 21; Republic v. Reyes, supra, p. 575).

The OSG also correctly pointed out that the scheduled hearing was in violation of Sec. 3 Rule 103 of the Rules of Court which requires that"... The date set for the hearing shall not be....within four (4) months after the last publication of the notice."

In this case, the Order issued by the RTC on June 9, 2004 which directed the publication thereof, stated that the initial hearing of the case shall be on July 23, 2004. Appellee thereafter caused the publication of said order for three consecutive weeks, the last of which was on July 12-18, 2004, clearly disregarding the expressed requirement of Rule 103, Sec. 3.

It should be emphasized that the required publication serves as notice to the whole world and vest the court with jurisdiction to hear and decide the case. Following Section 3, Rule 103, publication is valid if the following requisites concur: (1) the petition and the copy of the order indicating the date and place for the hearing must be published; (2) the publication must be at least be once a week for three successive weeks; and, (3) the publication must be in some newspaper of general circulation published in the province as the court shall deem best. Another validating element is that the petition not be heard within 30 days prior to an election or within four months after the last publication of the notice of hearing. (Repubiic v. Bolante, 495 SCRA 729, 737 [2006]).

Considering that the changes sought by appellee in her certificate of live birth are substantial, i.e., to change her name from "Sonia" to "Marivic", her birth date from "August 7, 1971" to "July 31, 1971" and her mother's maiden name from "Reyes" to "Marteja", as well as to insert her father's middle name, "Flores" where originally there was none, appellee, thronnh counsel, should have been circumspect and diligent in faithfully complying with the jurisdictional requirements of petitions for change of name. As appellee failed to meet the strict requirements set by Rules and pertinent jurisprudence, the Court has no choice but to strike down her petition for change of name and correction of entries in her certificate of live birth.

WHEREFORE, the appeal is granted. The Decision dated March 21, 2006 of the Regional Trial Court, Branch 70 of Iba, Zambales, is hereby reversed and set aside without prejudice to the refiling of Sonia Mejos Estrada also known as Marivic/Mary/ Mhavic Estrada Lonzanida of a petition for change of name and correction of entries in the civil registry in strict compliance with the requirements therefor.

SO ORDERED.

Villamor and Lantion [**], JJ., concur.

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[*] Court of Appeals Reports Annotated, Vol. 49.

[**] Acting Junior Member per Office Order No. 329-10-RSF dated October 29, 2010. 4296

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