

PETITION FOR CHANGE OF NAMES. JOSEFINA ANG CHAY AND MERCEDITA ANG CHAY, PETITIONERS-APPELLEES, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.

G.R. No. L-28507. July 31, 1970

Ponente: REYES, J. B. L., J.

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REYES, J. B. L., J.:

Appeal arising from the granting by the Court of First Instance of Rizal (in Sp. Proc. No. C-9858) of the petition of Josefina Ang Chay and Mercedita Ang Chay for change of their names to Josefina Hernandez and Mercedita Hernandez, respectively.

In their amended petition filed in the Court of First Instance of Rizal (Quezon City),[1] Josefina Ang Chay and Mercedita Ang Chay prayed for the change of their respective names to Josefina Hernandez and Mercedita Hernandez, upon allegations that they were both of legal age, single and residents of San Francisco del Monte, Quezon City, at least 3 years prior to the filing of the petition; that having elected Philippine citizenship on 7 February 1966, they would like to use Filipino names by having their surnames "Ang Chay" changed to "Hernandez", the surname that they have been using from the time they started schooling until they finished their studies and went into employment, and by which surname they have come to be known by everybody.

The petition was opposed by the government, on the ground that the reason adduced therefor was not proper and reasonable. After hearing, judgment was entered for the petitioners, and their surnames were decreed changed from "Ang Chay" to "Hernandez", for all legal intents and purposes. It is from this decision that the oppositor Republic of the Philippines is appealing on the same issue of the propriety and reasonableness of the ground for petitioners' action for change of their name.

As found by the trial court and supported by the evidence presented during the hearing, petitioners' mother, Paz Sta. Ana, a Filipino citizen, was the widow of one Jose Hernandez when she contracted marriage for the second time on 13 September 1934, with Alejandro Ang Chay, a Chinese.[2] Of this second marriage, two daughters were born: Josefina Ang Chay, on 19 March 1935,[3] and Mercedita Ang Chay, on 28 August 1938.[4] In 1939, however, the spouses Paz and Alejandro agreed to live separately from each other, with the two children remaining with the mother. When the Ang Chay girls, who allegedly were not told of their Chinese forbear, reached the school age, they were enrolled at the F. Calderon Elementary School in Manila by one of Paz's daughters by her first marriage, as "Josefina Hernandez" and "Mercedita Hernandez". In the report cards of these girls, their mother signed herself, not as the widow of the Chinese Alejandro Ang Chay who was said to have died in 1945,[5] but as "Paz S. vda. de Hernandez".[6] There is also record to show that Josefina Ang Chay graduated from the Jose Abad Santos High School[7] and obtained the degree of Bachelor of Business Administration from the University of the East in 1955,[8] as "Josefina B. Hernandez". Thereafter, she found employment, paid her income taxes, and exercised voting privileges under the same name. For her part, petitioner Mercedita Ang Chay presented proof that she completed the secondary course in the Jose Abad Santos High School in 1954:[9]

received the degree of Bachelor of Arts from the University of the Philip-pines in 1958,[10] and obtained employment,[11] as "Mercedita Hernandez". Petitioners had always been of the belief that they were Filipinos until January, 1966, when their mother disclosed to them that their father is a Chinese and their true surname is Ang Chay. Whereupon, petitioners executed statements electing Philippine citizenship and took in the oath of allegiance to the Republic of the Philippines, which papers were duly registered in the Civil Register of Manila on 9 February 1966,[12] following the Opinion of the Secretary of Justice allowing delayed registration of elections of Philippine citizenship in certain meritorious cases.[13] On 23 February 1966, the present case was commenced in the Court of First Instance of Rizal.

We find no error in the decision of the court below. It is a ruling of long standing in this jurisdiction that change of name is not a matter of right; that being a privilege, before it can be authorized, the person petitioning for such change must first show proper cause or compelling reason therefor.[14] And what may constitute as proper and compelling reason shall depend on the particular circumstances of each case, and upon the discretion of the trial court.[15]

In the present proceeding, there is valid reason to justify the continued use by petitioners of the names by which they have been known, and with which they have always conducted, in good faith, their various social and business activities. Notable is the failure of the oppositor to controvert petitioners' claim that until January, 1966, they had no knowledge whatsoever that their father is a Chinese and that their surnames properly should be Ang Chay. On the contrary, there is overwhelming evidence that from childhood, petitioners have been carrying the family name, "Hernandez"; that they finished their schooling and got employments, voted in the local and national elections, and paid their income taxes, under that surname. It is not difficult to understand that for them to start using the family name "Ang Chay" at this time would cause no little amount of confusion and trouble in the lives of these girls, who do not appear to have any hand at all in creating the situation they now find themselves in. Besides, there is nothing on the record to intimate that herein petitioners' use of the surname "Hernandez" would cause damage or prejudice, either to the government or to any other private party, including their mother's children by the first marriage. For, as this Court has succinctly declared, a mere change of name would not cause a change in one's existing family relations, nor create new family rights and duties where none exists before. Neither would it affect a person's legal capacity, civil status or citizenship. What would only be altered is the word or group of words by which he is identified and distinguished from the rest of his fellow men.[16] Thus, this court, in some meritorious cases, granted the applications of naturalized Filipinos for change of their foreign names to Filipino-sounding ones, in order that the handicap in their social and business dealings, Posed by their alien names, may be removed and thus enable their full integration into the Philippine society where they now belong.[17] There is more compelling reason, therefore, for the granting of this petition and allowing the use of Filipino names by herein petitioners, whose mother is a Filipino, and who have been reared and schooled, and have actually lived, as Filipinos.

Applicable to these petitioners is our ruling in *Uy vs. Republic*, L-22712, 29 November 1965, 15 SCRA 457:

"It has not been shown that petitioner has any fraudulent intent in seeking a change of name. No criminal, civil, tax or any other liability on his part, which he may avoid by the change of name, has been suggested. Nothing has been presented to show any prejudice to the Government or to any individual should the petition be granted. In the absence of prejudice to the State or any individual, a sincere desire to adopt a Filipino name to erase signs of former alien nationality which unduly hamper social and business life, is a proper and reasonable cause for a change of name. It is not trivial, whimsical or capricious." (Cas. cit., 15 SCRA 460)

The decision appealed from is hereby affirmed, without pronouncement as to costs.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Castro, Fernando, Teehankee, and Villamor, JJ., concur.

Barredo, J., did not take part.

[1] The original petition was filed on 23 February 1966 and amended on 13 June 1966.

[2] Exhibit H.

[3] Exhibit J-Josefina.

[4] Exhibit A-Mercedita

[5] Page 17, t.s.n., hearing of 22 February 1967.

[6] Exhibits B-Josefina and "B"-Mercedita

[7] Exhibit B-1, Josefina.

[8] Exhibit B-2, Josefina.

[9] Exhibit B-1, Mercedita.

[10] Exhibit B-2, Mercedita.

[11] Exhibit C, Mercedita.

[12] Exhibits F, F-1, Josefina, and F, F-2, Mercedita.

[13] The Secretary of Justice had considered as appropriate ground for allowing the late registration of election of citizenship papers the fact that the person concerned has always believed himself to be a Filipino, he being born of a Filipino mother who reared and educated him according to Filipino customs and ways of life (Op. No. 367, s. 1951; Op. No. 136, s. 1951; also Op. No. 83, s. 1949.)

[14] Ong Peng Oan vs. Republic, L-8035, 29 Nov. 1957, 102 Phil. 468; Yu Chi Han vs. Republic, L-22040, 29 Nov. 1965, 15 SCRA 454; Ng Yao Siong vs. Republic L-20306, 31 March 1966, 16 SCRA 483; Nacionales vs. Republic, L-18067, 29 April 1966, 16 SCRA 636; Que Liong Sian vs. Republic; L-23167, 20 SCRA 1070; Rotaquio vs. Republic, L-18971, 27 Jan. 1968, 22 SCRA 280.

[15] Yu vs. Republic, L-14022, 28 Dec. 1959, 106 Phil. 762; Ong Te vs. Republic, L-15549, 30 June 1962, 5 SCRA 4848; Uy vs. Republic, L-22712, 29 November 1965, 15 SCRA 457.

[16] Yu vs. Republic, L-20874, 25 May 1966, 17 SCRA 253.

[17] Uy vs. Republic, L-22712, 29 November 1965, 15 SCRA 457; Que Liong Sian vs. Republic, *supra*.

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