

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. HON. SANTIAGO O. TAÑADA, JUDGE OF THE COURT OF FIRST INSTANCE OF CEBU AND LUA ONG REPRESENTING THE MINOR BABY ONG, ALIAS LUA AN JO...*G.R. No. L-31563. November 29, 1971*

Ponente: CASTRO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/749c38758c0a/>**CASTRO, J.:**

On June 11, 1968 Lua Ong (hereinafter referred to as the respondent), father of the then minor Baby Ong, filed with the Court of First Instance of Cebu, with Judge Santiago O. Tañada (hereinafter referred to as the respondent judge) presiding, a petition for change of the name of his son Baby Ong to Lua An Jok. On June 25, 1968 the court issued an order setting the petition for hearing on November 23, 1968 and directing the publication of the said order in the Cebu Advocate, a newspaper of general circulation in Cebu City and in the province of Cebu, once a week for three consecutive weeks.

On the day of the hearing, because no one, not even the provincial fiscal in representation of the Solicitor General, appeared to interpose any objection to the petition, the respondent judge referred the case to his deputy clerk of court, requiring him to submit a report on the evidence adduced.

On November 26, 1968 the respondent judge issued an order granting the petition, authorizing Baby Ong to use the name An Joc Lua^[1] and directing the local civil registrar of Cebu City to cause the proper entry to be made. On March 5, 1969 the assistant provincial fiscal, on behalf of the Government of the Republic, interposed an appeal to this Court. By resolution dated February 2, 1970, we required the oppositor-appellant to file a petition for review on certiorari instead of submitting copies of the record on appeal, as the appeal raises only questions of law. On March 12, 1970 the Solicitor General, on behalf of the Government of the Republic (hereinafter referred to as the petitioner), filed the present petition for review on certiorari.

This case^[2] raises only two questions: the first, jurisdictional in character, relates to the defective publication of the respondent judge's order dated June 25, 1968 and the defective petition of the respondent; the second relates to the absence of proper and reasonable cause or compelling reason to justify the change of name applied for.

1. Anent the first issue, it is the petitioner's submission that both the caption of the published order and the title of the respondent's petition failed to include the name An Joc Lua, the name allowed by the court a quo for use by the applicant. The non-inclusion of the name An Joc Lua, or properly, the name Lua An Jok, in the caption of the published order and in the title of the petition, constitutes a jurisdictional omission, and hence the respondent judge erred in assuming jurisdiction to hear and determine the respondent's petition. On the other hand, the respondent avers that the name Lua An Jok is not an alias of Baby Ong and therefore should not be included in the title of the petition and in the caption of the published order. He alleges that Lua An Jok is the true and correct name of the applicant - Lua as the surname, and An Jok the first name.

An action for change of name constitutes a judicial proceeding in rem, and a court acquires jurisdiction to hear and determine the corresponding petition only after publication of the order reciting the purpose of the petition and setting the date and place for the hearing thereof at least once a week for three successive weeks in a newspaper of general circulation.[3] Such publication, however, to be valid and effective, should contain the 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 sought. Moreover, the title of the petition should include (1) the applicant's real name and (2) his aliases or other names, if any.[4] The title should also recite the name sought to be adopted.[5] All these, notwithstanding that the body of the petition or of the order includes all the information aforementioned.

Notices published in the newspapers often appear in the back pages thereof or in pages least read or paid attention to. The reader, as usually happens, merely scans these pages and glances fleetingly at the captions of the published orders or the titles of the petitions. Only if the caption or the title strikes him does the reader proceed to read on. And the probability is great that the reader does not at all notice the other names and/ or aliases of the applicant if these are mentioned only in the body of the order or petition. The non-inclusion of all the names and/or aliases of the applicant in the caption of the order or the title of the petition defeats the very purpose of the required publication.[6]

The respondent claims that the name Lua An Jok is not an alias of the applicant but his true and correct name. Concededly, the name Lua An Jok does not constitute an alias within the definition set forth in section 1[7] of Commonwealth Act 142, otherwise known as the Anti-Alias Law, for it is the name by which the applicant has been known since his childhood. As the respondent avers, and this averment remains unrebutted on record, the applicant has been using the name Lua An Jok since birth. This same name the applicant has used in school and in the community, and in his dealings with his friends and the Government authorities. The applicant, the respondent alleges, never made himself known as Baby Ong and has never made use of such name in any record. Therefore, the respondent concludes, no necessity exists for the inclusion of the name Lua An Jok in the title of the petition or the caption of the published order.

The respondent's argument, however, instead of supporting his stance, weakens the same. Thus, aside from, requiring the in-clusion of the name Lua An Jok in the title of the petition and in the caption of the published order because such name constitutes the new name sought by the respondent for his son, the foregoing provides another reason for such inclusion. With the non-inclusion of the name Lua An Jok in the title of the petition and in the caption of the published order, persons who know the applicant Lua An Jok and who have an interest contra the petition, upon reading the title of the petition or the caption of the published order, would not readily know that Lua An Jok and Baby Ong refer to one and the same person and would not thereby be afforded the opportunity to come forward with anything affecting the petition.

The caption of the verified petition dated June 11, 1968 reads:

"IN THE MATTER OF THE CHANGE
OF NAME OF BABY ONG, A MINOR
"LUA ONG,
Petitioner."

The caption of the published order dated June 25, 1968 reads:

"CHANGE OF NAME OF BABY ONG,
"LUA ONG,

Petitioner."

The incomplete and, consequently, invalid publication of the order dated June 25, 1968 does not effectively confer jurisdiction upon the court a quo to take cognizance of the respondent's petition.

En passant, the petitioner imputes to the applicant a violation of the Anti-Alias Law for using the name Lua An Jok which is different from Baby Ong, the name of the said applicant appearing in the local civil registry. Contrary to the petitioner's stand, we observe that section 1 of Commonwealth Act 142, in prohibiting the use of a name different from that by which one has been known since childhood, by necessary implication, allows the use of the latter.[8] Thus, one who, like the applicant, uses a name by which he has been known since childhood incurs no violation of the Anti-Alias Law.[9]

2. Assuming that the court a quo acquired jurisdiction over the petition for change of name, still, the Government argues, the said petition should have been denied because the respondent offered no proper and reasonable cause or compelling reason to warrant the change of name. The respondent, in answer, claims that he seeks the change of name for his son to avoid confusion. He alleges that the attending midwife of the hospital where his wife gave birth to Lua An Jok erred in reporting his son's name as Baby Ong, the name appearing in the certificate of birth in the local civil registry. This erroneous entry he discovered only when the Bureau of Immigration required him to secure his son's birth certificate. And since his son has been using the name Lua An Jok since birth, he filed the petition in order to set the record straight.

To justify a change of name there must exist a proper and reasonable cause or compelling reason. The following have been held to constitute pro-per and reasonable causes or compelling reasons: (1) a ridiculous name, a name tainted with dishonor, or a name extremely difficult to write or pronounce; (2) a change of civil status; and (3) need to avoid confusion.[10]

We are urged by the respondent to consider, as constituting a compelling reason, the uncontroverted fact that his son has been known since birth as Lua An Jok and by no other name, pointing to the improbability that a child would at birth be given a name such as "Baby Ong." Our perceptive study of the record persuades us that the respondent's sub-mission is not without reason. Lua Ong is the name of the respondent who is a Chinaman; Lua is his family name, Ong his first name. The attending midwife was apparently never advised by the child's parents of the name the latter gave to it. So, perfunctorily accomplishing the required report to the civil registrar, the midwife found it expedient to place therein the name "Baby Ong." The resulting mistake was obviously engendered by an erroneous impression on the part of the reporting mid-wife that "Ong" is the family name of the father, because "Ong" follows "Lua." Hence the name "Baby Ong." Under the circumstances above stated, the insistence of the respondent that the entry "Baby Ong" in the civil registry be changed to "Lua An Jok" could very well be motivated, there being no evidence to the contrary, solely by an honest desire to make the civil registry speak the truth.

The above notwithstanding, the petition below cannot be given due course because of the fatal failure, hereinbefore adverted to, on the part of the respondent to comply with jurisdictional requirements.

ACCORDINGLY, the order a quo dated November 26, 1968 is set aside, and the petition below dated June 11, 1968 is dismissed, without prejudice to the respondent's son filing and prosecuting the proper petition in accordance with our observations above. No pronouncement as to costs.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Fernando, Teehankee, Barredo, and Villamor, JJ., concur. Makasiar, J., no part.

[1] Although the respondent sought the name Lua An Jok for his son, the respondent judge ordered the change of name instead to An Joc Lua, without offering any explanation therefor.

[2] Submitted for decision without the respondent's brief.

[3] Tan vs. Republic, 4 SCRA 1128; Ng Yao Siong vs. Republic, 16 SCRA 483.

[4] Ng Yao Siong vs. Republic, *supra*.

[5] Republic vs. Lee Wai Lam, 28 SCRA 1043.

[6] Ng Yao Siong vs. Republic, *supra*; Republic vs. Lee Wai Lam, *supra*; Chan Chin vs. The Local Civil Registrar of Manila, 29 SCRA 448.

[7] Section 1 provides:

"Except as a pseudonym for literary purposes, no person shall use any name different from the one with which he was christened or by which he has been known since his childhood, or such substitute name as may have been authorized by a competent court. The name shall comprise the patronymic name and one or two surnames."

[8] People vs. Uy Jui Pio, 550G 8463.

[9] Albano, etc. vs. Republic; 56 OG 4750.

[10] Yu Chi Han vs. Republic, 15 SCRA 454; Haw Liong vs. Republic, 16 SCRA 677; Chiu Hap Chiu vs. Republic, 16 SCRA 864; Republic vs. Lee Wai Lam, *supra*.

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