

**THEODORE GRANT, JR., REPRESENTED BY THE MOTHER
FRANCISCA CASTRO, GUARDIAN AD LITEM, PETITIONER AND
APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND
APPELLANT.**

G.R. No. L-23609. March 31, 1966

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

Petitioner seeks to change his name from Patrick J. Bolan to Theodore Grant, Jr.

Francisca Castro gave birth to the petitioner on April 30, 1949 at the Bautista Hospital, Cavite City. According to her the father of petitioner is an American soldier by the name of Theodore Grant. Said American and Francisca Castro allegedly lived together prior to the conception of petitioner and continuously up to a few months before his birth. Theodore Grant then left for the United States and his whereabouts is unknown to Francisca Castro.

Another American soldier, Sgt. Patrick Bolan, a friend of Francisca Castro, was the one who brought her to the hospital when she was about to give birth to petitioner. It was he who talked with the attending physician. According to petitioner's mother, Sgt. Patrick Bolan must have furnished the data appearing in petitioner's certificate of birth, naming petitioner Patrick J. Bolan and giving himself as the father (Exh. B).

At that time, however, Francisca Castro believed that the nurse at the hospital had followed her instructions to name the child—if a boy—Theodore Grant, Jr. Francisca Castro therefore called her son Theodore Grant, Jr., and gave him that name when he was baptized on May 21, 1950 (Exh. C). Petitioner has been using the name Theodore Grant, Jr., and is known by that name by all his playmates, friends, teachers and classmates.

Francisca Castro subsequently discovered that her son was named Patrick J. Bolan in the record of birth, when she got a certificate of birth for him.

Petitioner, who resides with her mother in Pasay City, filed in the Court of First Instance of Rizal on May 7, 1960, through his mother as guardian ad litem, a petition for change of name.

After publication and hearing—the Republic of the Philippines opposing the petition, filing a motion to dismiss, which was denied—the aforesaid court rendered judgment on July 26, 1961 granting the petition.

The Republic appealed to the Court of Appeals. Said Court, on September 30, 1964, certified the appeal to us as involving questions purely of law.

The principal question raised is whether proper and reasonable cause exists, under the afore-stated facts, for the desired change of name.

Petitioner, is clearly prompted to change his name from Patrick J. Bolan to Theodore Grant, Jr., not only by the inconvenience that his real name may bring him, but also by his desire to carry and use the surname of his

supposed or putative father—Theodore Grant—as his natural child. As the record shows, the principal evidence submitted by petitioner during the trial is his mother's testimony that he was born sans wedlock after she and Theodore Grant lived together as common law husband and wife; that petitioner's father is Theodore Grant; that for this reason she has always called him Theodore Grant, Jr. Such is the basis of the petition, so much so that it asked for amendment of petitioner's record of birth by entering Theodore Grant, Jr. as his true name and Theodore Grant - in lieu of Patrick Bolan—as his true father (Record on Appeal, p. 4).

For a natural child to use the surname of his father, however, he should be acknowledged by both parents (Arts. 282, 366, New Civil Code). And there is here admittedly no evidence of recognition by Theodore Grant of the petitioner as his child. Since petitioner is not allowed under the law to use the surname of his supposed or putative father, he should not be allowed to do so by way of change of name. Said this Court to such effect in *Manuel vs. Republic*, L-15811, March 27, 1961 :

"It may be observed from the petition quoted above that the plea for change of name, from Juan Manuel to Juan M. Eaton, is prompted not only by the inconveniences his present name brings to petitioner but also by his desire to carry and use the surname of his putative father. Actually, therefore, the granting of the petition would not only result in the change of the name by which he is customarily known, but would also give judicial sanction to the use by petitioner who, admittedly, was born out of wedlock to Maria Arachea Manuel and one John Eaton, of his alleged father's surname.

"Under the Civil Code, a natural child may use the father's surname if he is acknowledged by both parents. Should he be recognized by only one of the parents, the natural child shall employ the surname of such recognizing parent. (Art. 366; also Art. 282). There is no evidence on record that petitioner Juan Manuel was duly recognized by the alleged father. The petition, therefore, for change of his name from Juan Manuel to Juan M. Eaton, should have been denied by the trial court.

"It is true that the question of paternity is not the issue in the instant case, and there may really be some need for a change of his name, yet petitioner should not be allowed to use a surname which otherwise he is not permitted to employ under the law."

As pointed out in *Lerma Garcia v. Republic*, L-16085, November 29, 1961, petitioner's remedy is not a petition for change of name but—should there be evidence to support it—an action for recognition.

Petitioner would however urge on appeal that even solely on consideration of the inconvenience his present name would cause him, without regard to the question as to who is his father, he should be allowed to change his name. The point, however, is that the name he seeks in his petition is Theodore Grant, Jr. From such a name, the question as to who is his father cannot be disengaged. For needless to say the word "Jr." is used by a son who bears the same name as his father.[1]

And, finally, the fact alone that petitioner has been using a different name and has become known by it, does not constitute proper and reasonable cause to legally authorize a change of name (*Ong Te v. Republic*, L-15549, June 30, 1962)..

Wherefore, the judgment appealed from is hereby reversed and the petition for change of name denied. Without costs. So ordered.

Bengzon, C.J., Bautista Angelo, Concepcion, Reyes, J. B. L., Barrera, Regala, Makalintal, Zaldivar, and Sanchez, JJ., concur.

[1] See Article 375 of the New Civil Code providing that the word "Junior" can be used only by a son.

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