

IN THE MATTER OF THE ADOPTION OF THE MINOR ROSSANA E. CRUZ ROSALINA E. CRUZ, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELANT.

G. R. No. L-20927. July 26, 1966

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

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

Appeal from the decree of the Court of First Instance of Zamboanga City, in its Special Case No. 609, granting a petition for adoption on the sole issue of the said court's jurisdiction.

Petitioner-appellee Rosalina E. Cruz filed with the court a quo a petition to adopt a minor. Satisfied as to the sufficiency of the petition, and it appearing that the child's parents, Lucilo Bucoy and Ana E. Bucoy, had given their written consent to the adoption, the court, in an order on 11 January 1962, set the petition for hearing and directed the publication of the order once a week for three consecutive weeks in the "Zamboanga Times".

The court a quo found the following facts: The petitioner, Rosalina E. Cruz, of 39 years of age, is the childless wife of Francisco de la Cruz and is a resident of Zamboanga. Francisco de la Cruz gave his consent to the adoption by his wife, in an affidavit attached to the petition, and also testified thereabout. The minor child sought to be adopted was born on 26 December 1959 and recorded in the local civil registrar's office as Rossana Esperat Bucoy (Exh. "E"); but said child was baptized on 19 September 1960 as Rossana E. Cruz (Exh. "C"); already following the surname of the would-be adopting parent, who reared and took care of the girl since birth, and who has developed a strong maternal love for her. The child's parents by nature, aside from their written consent, testified in court on their consent to the adoption.[1]

The child's name in the petition for adoption, and as published in the newspaper, is Rossana E. Cruz, her baptismal name, instead of Rossana E. Bucoy, her name in the record of birth; thus oppositor-appellant Republic of the Philippines claims that "the lower court erred in taking cognizance of the instant petition for adoption despite the fact that it did not acquire jurisdiction over the case by reason of a substantial defect in the petition and the published order of hearing".

We agree with the view taken by the Solicitor-General.

The name of a person as recorded in the civil register, and not his baptismal name, is, for legal purposes, his real name, baptismal names having never been legally recognized, nor the practice of using baptismal names sanctioned by the law (*Chomi vs. Local Civil Registrar of Manila*, 99 Phil. 1004). It follows, therefore, that the use of the baptismal name of the child to be adopted, instead of its name in the civil register, would countenance or permit that which has always been frowned upon.

A proceeding in adoption is a proceeding in rem (*Ellis, et al., vs. Republic*, L-16922, 30 April 1963; *Van Matre vs. Sankey*, 148 Phil. 536; 36 ME 628) in which notice is made through publication (Sec. 4 of former Rule 100, now Section 4 of Rule 99) to protect the interests of all persons concerned (*3 Moran* 534, 1963 Ed.). Said interests

will not be protected if the notice by publication does not carry the true name of the child to be adopted because the persons to be served by the notice have the right to expect the use of the child's officially recorded name. The defect, in the present case, amounts to a failure of service by publication, and the court a quo acquired no jurisdiction over the case (cf. *Yu Seco vs. Republic*, L-13441, 30 June 1960).

For the foregoing reasons, the appealed decision is hereby reversed, and the petition for adoption dismissed, but without Prejudice to reinstituting the proceedings in conformity with law. Costs against the petitioner-appellee.

Concepcion, C. J., Barrera, Dizon, Regala, Makalintal, Bengzon, Zaldivar, Sanchez and Ruiz Castro, JJ., concur.

[1] The main reason for their consent is that petitioner, who is the sister of Mrs. Bucoy, is childless while Mrs. Bucoy has 10 children and her husband earns little. (T.s.n., 17 March 1962, pp. 16-17) This point was not stated in the appealed decision.

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