

**MRS. DINTOY TAN SUAREZ, PETITIONER AND APPELLEE, VS.
REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLANT.***G. R. No. L-20914. December 24, 1965*

Ponente: CONCEPCION, J.

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Appeal by the Solicitor General from a decision of the Court of First Instance of Sulu, granting the petition of appellee, Mrs. Dintoy Tan Suarez, for the adoption of the minor Engracio Guligado, Jr., and declaring that the latter shall hereafter be known as Engracio Tan Suarez. Appellant maintains that the lower court erred: 1) in authorizing the adoption, despite the alleged absence of competent proof of the consent thereto of the natural parents of said minor; and 2) in permitting the latter to bear the petitioner's surname as a married woman, although her husband has not joined in the adoption.

The minor Engracio Guligado, Jr. is the son of Capt. Engracio Guligado and Guneng T. Guligado. The latter is a younger sister of petitioner herein. Engracio Guligado is, in turn, a half-brother of petitioner's husband, Col. Alejandro Suarez, Ret., who has several children by a previous marriage and has expressly consented to the adoption of said child by his wife. Shortly after the birth of Engracio Guligado Jr. in Jolo, Sulu, on May 28, 1951, his parents left him in the custody of petitioner herein, a resident of said island. Since then, the child had lived continuously with petitioner, whom he regards as his mother, who, in turn, has treated him as such, and supported him, as well as sent him to school. Meanwhile, his natural parents had left Jolo and are now residing in San Juan del Monte, Rizal.

Petitioner testified that she had written to them about intention to apply for the adoption of the minor and that they had given their consent thereto and understood ably so, for, in addition to their close relationship by consanguinity and affinity, petitioner is fairly well off financially, inasmuch as she owns real estate in the Islands of Jolo and Siasi with an aggregate assessed value (for real estate tax purposes) of P73,310, aside from a 35-door building under construction in the Jolo townsite when this case was heard. In fact, petitioner has attached to the petition a statement, subscribed and sworn to before a notary public, on February 4, 1958, by Captain Engracio Guligado and his wife Gumeng T. Guligado, confirming the foregoing facts, and expressing their conformity to the adoption of Engracio Guligado, Jr. by petitioner herein, not only for the reasons already adverted to, but, also, because the affiants now have several other children, whereas petitioner has none. However, no testimonial evidence, identifying the signatures on said statement, was introduced by petitioner herein and, hence, the assistant provincial fiscal, who appeared at the hearing of this case in the lower court, objected to the admission of said statement, when petitioner offered it as part of her evidence.

The lower court did not err in overruling said objection, admitting said statement in evidence, and considering, as a proven fact, that the natural parents of the minor being adopted had given their written consent to the adoption. Apart from the fact that said statement was duly authenticated by a Notary Public, the other evidence on record strongly indicates that it is what it purports to be.

We agree, however, with appellant herein that the minor cannot bear petitioner's surname as a married woman, for her husband has not joined in this petition for adoption and can not join it, because he has children by a previous marriage. As stated in the case of the adoption of the minor Ana Isabel Renriotta Antonia Concepcion Georgians, L-18284 (April 30, 1963),

"Since the adoption gives the person adopted the same rights and duties as if he were a legitimate child of the adopter (Art. 341, par. 1, Civil Code), much confusion would indeed result, as correctly pointed out by the Solicitor General, if the minor child herein were allowed to use the surname of the spouse who did not join in the adoption.

"For one thing, to allow the minor to adopt the surname of the husband of the adopter, would mislead the public into believing that she has also been adopted by the husband, which is not the case. And when later, questions of successional rights arise, the husband's consent to the adoption might be presented to prove that he has actually joined in the adoption.

"It is to forestall befuddling situations that may arise in the future, that this Court is inclined to apply strictly provision of the Civil Code to the effect that an adopted child use the surname of the adopter himself or herself, and not that which is acquired by marriage."

With the modification that the minor shall hereafter be known as Engraeio Tan, the decision appealed from is, therefore, affirmed in all other respects, without special pronouncement as to costs. It is so ordered.

Bengzon, C. J., Bautista Angelo, Reyes, J. B. L., Dizon, Regala, Makatintal, Bengzon, J. P. and Zoldivar, JJ., concur.

Judgment affirmed with modification.

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