

GABRIELLA MICHELLE ZABARTE OROSA, PETITIONER-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.

Ponente: GARCIA-FERNANDEZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/9715c0e610aa/>

GARCIA-FERNANDEZ, J.:

This is an appeal interposed by oppositor-appellant Republic of the Philippines from the decision issued by the Regional Trial Court, Quezon City, Branch 96, in SP. Proc. No. Q-07-60986 dated March 2, 2009[1] which granted the petition filed by the petitioner-appellee Gabriella Michelle Zabarte Orosa and ordered the Civil Registrar General of the National Statistics Office to change the name of GABRIELLA MICHELLE ZABARTE OROSA to GABRIELLA MICHELLE FERNANDEZ ZABARTE.

The facts of the case are as follows:

Petitioner-appellee is the daughter of Maria Margarita Fernandez Zabarte (Maria) who, in turn, is the daughter of Cita Fernandez (Cita). Petitioner-appellee's father is Ramon S. Orosa (Ramon), who is Cita's live-in partner for twenty (20) years.

Petitioner-appellee's name was initially registered by Maria as GABRIELLA MICHELLE FERNANDEZ ZABARTE[2], without declaring Ramon as petitioner-appellee's father. On April 29, 2005, Ramon acknowledged petitioner-appellee as his child, leading the local civil registrar to place the following annotation on petitioner-appellee's Certificate of Live Birth:

Hereby changed from ZABARTE to OROSA on April 29, 2005. The child shall be known as GABRIELLA MICHELLE ZABARTE OROSA, pursuant to R.A. 9255.

On August 27, 2007, petitioner-appellee, assisted by Maria, filed before the RTC of Quezon City, Branch 96 a petition[3] to change her name from GABRIELLA MICHELLE ZABARTE OROSA ("Zabarte Orosa") to GABRIELLA MICHELLE FERNANDEZ ZABARTE ("Fernandez Zabarte"). In her petition, petitioner-appellee claims that the change made by the local civil registrar is not consistent with law since the change of name under Republic Act 9255 is merely permissive. Further, petitioner-appellee claims that the change of name from Zabarte Orosa to Fernandez Zabarte is for her best interest. In sum, petitioner-appellee claims that her petition must be granted in order that she would grow up and lead a life without the taint of her past.

Upon receipt of the petition, the RTC issued an order dated October 2, 2007, directing the publication of the order dated October 2, 2007 in a newspaper of general circulation in the city where the petitioner-appellee resides, and service of copies of the order dated October 2, 2007 together with the petition on the Office of the Solicitor General, Office of the City Prosecutor, Office of the Local Civil Registrar of Quezon City, and the Registrar General of the National Statistics Office[4]. Petitioner-appellee complied with the foregoing requirements[5].

On November 14, 2007, the oppositor-appellant Republic filed an Opposition[6] to the petition, alleging that: 1) the reason supplied by the petitioner-appellee in support of her petition is not among the valid grounds for change of name; 2) that the lower court cannot speculate on the effect of the change of name on petitioner and it would be

better to wait until the latter would reach the age of majority before the petition is considered; and 3) in praying for a change of name from Zabarte Orosa to Fernandez Zabarte, petitioner-appellee is in effect asking the lower court to declare that she is Maria's sister, which would surely create confusion in petitioner-appellee's identity.

Petitioner-appellee presented Maria and Cita as witnesses in support of the petition. Oppositor-appellant did not cross-examine these witnesses. It also did not present any witness against the petition.

After hearing, the trial court granted the petition, to wit:

Article 376 of the Civil Code is explicit "No person can change his name or surname without judicial authority." "Illegitimate children shall use the surname and shall be under the parental authority of their mother, and shall be entitled to support in conformity with this Code. However, illegitimate children may use the surname of their father if their filiation has been expressly recognized by the father through the record of birth appearing in the civil register, or when an admission in a public document or private handwritten instrument is made by the father; Provided, the father has the right to institute an action before the regular courts to prove non-filiation during his lifetime. The legitime of each illegitimate child shall consist of one-half of the legitime of a legitimate child." (Article 176 amendment italicized)

The provisions of Republic Act No. 9255 is [sic] merely permissive. It does not render inoperative the mandatory provision of Art. 376 of the Civil Code of the Philippines. It appears that the annotation in the certificate of live Birth of the petitioner was surreptitiously done by Ramon Orosa because as testified to by Ma. Margarita F. Zabarte, the mother of herein petitioner who has been exercising parental authority over her daughter, did not even know and did not approve the change of her daughter's family name; After assiduous evaluation, the Court is convinced that the change of name sought by the petitioner is in order, despite the fact that the father has acknowledged publicly, his filiation with the petitioner.

According to the court, what may be considered, among others, as proper and reasonable causes that may warrant the change of name are: (1) when the name is ridiculous, tainted with dishonor, or is extremely difficult to write or pronounce; (2) when the request for change is a consequence of a change of status, such as when a natural child is acknowledged or legitimated; and (3) when the change is necessary to avoid confusion.

Considering the precarious situation of the family under which Gabriella Michelle F. Zabarte was born, and considering that the Family Name sought to be changed is tainted with dishonor and would not in any way affect the illegitimate status of Gabriella Michelle F. Zabarte, the court is convinced that his petition should be granted.[7] [Citations omitted.]

Oppositor-appellant's Motion for Reconsideration was denied by the trial court in its order dated October 8, 2009[8] for lack of merit. Hence, this appeal.

The oppositor-appellant assigned the following error to the RTC:

THE HONORABLE COURT ERRED IN GRANTING PETITIONER-APPELLEE'S PRAYER TO CHANGE HER REGISTERED NAME FROM GABRIELLA MICHELLE ZABARTE OROSA TO GABRIELLA MICHELLE FERNANDEZ ZABARTE BECAUSE THE SAME IS NOT IN ACCORDANCE WITH THE LAW AND EXISTING JURISPRUDENCE.

Oppositor-appellant claims that while it does not have objection to petitioner-appellee's use of the surname Zabarte, the RTC should not allow the petitioner-appellee to use her mother's maiden middle name Fernandez since this would only lead to confusion. Oppositor-appellant prays that the decision dated March 2, 2009 be modified by changing petitioner-appellant's new name from GABRIELLA MICHELLE FERNANDEZ ZABARTE to GABRIELLA MICHELLE ZABARTE.

In her brief, petitioner-appellee raised no objection to the cancellation or the dropping of the middle name

Fernandez as long as she is allowed to adopt Maria's surname, Zabarte, as her own surname[9].

The issue regarding the proper middle name to be adopted by an illegitimate child is fairly novel in this jurisdiction. In fact, the Supreme Court has only discussed this issue, albeit in obiter, in the case of *In Re: Petition for Change of Name and/or Correction/Cancellation of Entry in Civil Registry of Julian Lin Carulasan Wang*, to wit:

Our laws on the use of surnames state that legitimate and legitimated children shall principally use the surname of the father. The Family Code gives legitimate children the right to bear the surnames of the father and the mother, while illegitimate children shall use the surname of their mother, unless their father recognizes their filiation, in which case they may bear the father's surname.

Applying these laws, an illegitimate child whose filiation is not recognized by the father bears only a given name and his mother's surname, and does not have a middle name. The name of the unrecognized illegitimate child therefore identifies him as such. It is only when the illegitimate child is legitimated by the subsequent marriage of his parents or acknowledged by the father in a public document or private handwritten instrument that he bears both his mother's surname as his middle name and his father's surname as his surname, reflecting his status as a legitimated child or an acknowledged illegitimate child.[10] [Citations omitted.]

The Supreme Court cited the foregoing ruling in the case of *Republic of the Philippines vs. Trinidad R.A. Capote*[11]. Considering that petitioner-appellee has already stated that she is amenable to not having a middle name in view of the aforequoted ruling, then this Court, after a review of the case records, sees no reason to deny the oppositor-appellant's appeal.

WHEREFORE, the appeal is GRANTED. The decision dated March 2, 2009 issued by the Regional Trial Court, Quezon City, Branch 96, in SP. Proc. No. Q-07-60986, is MODIFIED. The petitioner-appellee's name is changed to and shall be registered as GABRIELLA MICHELLE ZABARTE.

SO ORDERED.

Lampas Peralta, (Chairperson), Acosta, and JJ., concur.

[1] Rollo, pp. 32-35.

[2] Records, p. 47.

[3] Records, pp. 1-7.

[4] Records, p. 33.

[5] Records, pp. 35-36, 72-75.

[6] Records, pp. 37-44.

[7] Supra note 1.

[8] Rollo, p. 36.

[9] Rollo, pp. 39-48.

[10] G.R. No. 159966, March 30, 2005.

[11] G.R. No. 157043, February 2, 2007.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.