

**IN RE: PETITION FOR CHANGE OF NAME FROM “SANTIAGO B. BUOT”
TO “SAMMY SANTIAGO B. BUOT”, SOLEDAD BULADO BUOT, FOR HIM
AND IN BEHALF OF HER SON, SANTIAGO B. BUOT,
PETITIONER-APPEL...**

Ponente: CONTRERAS, J.

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CONTRERAS, J.:

This is an Appeal[1] filed by the Office of the Solicitor General (OSG) representing the Republic of the Philippines to annul the Resolution[2] dated January 21, 2011 of the Regional Trial Court, Branch 11, Sindangan, Zamboanga del Norte (lower court) in Special Proceedings No. SR-762 for Change of Name.

The antecedent facts are:

On August 19, 2010, appellee Soledad Bulado Buot filed before the lower court the instant petition on behalf of her son, Santiago B. Buot (Santiago for brevity), seeking the change of the latter's first name from Santiago to Sammy Santiago. She impleaded the Municipal Civil Registrar of Sindangan, Zamboanga del Norte as party-respondent. The petition alleged the following: Santiago B. Buot is a resident of Z-936 Uranus Street, Tumaga, Zamboanga City, but he was born in Sindangan, Zamboanga del Norte and that the fact of his birth was registered in the office of the Municipal Civil Registrar of Sindangan; Santiago is one of the legitimate children of Spouses Pablo Buot and petitioner and that he was born on July 26, 1961; and per Certificate of Live Birth, Santiago was registered as Santiago B. Buot.[3]

Appellee desired to change the name of Santiago to Sammy Santiago B. Buot based on several reasons, to wit: Santiago has been using the name Sammy Santiago B. Buot in some of his public and private documents; Santiago is publicly known as Sammy Santiago B. Buot; and the name Sammy Santiago has given Santiago good luck and good life and has spared him from sickness and accidents.[4]

On July 30, 2010, the lower court issued an Order[5] requiring appellee to publish the petition in a newspaper of general circulation in the Province of Zamboanga del Norte and in the cities of Dipolog and Dapitan once a week for three (3) consecutive weeks at the expense of appellee. Likewise, he was required to furnish copies of the publication to the Provincial Prosecutor of Zamboanga del Norte, OSG and the Office of the Municipal Civil Registrar of Sindangan, Zamboanga del Norte.

At the trial, appellee, upon her motion and with the concurrence of the public prosecutor, presented her evidence summarily and submitted her formal offer of exhibits for the consideration of the lower court. Appellee's evidence are the following:

- Special Power of Attorney executed by Santiago in favor of his mother Soledad B. Buot, herein appellee;
- Certificate of Live Birth of Santiago;
- Letter-request of Santiago;

- National Bureau of Investigation (NBI) Clearance of Santiago;
- Order of Publication issued by the lower court
- The Mindanao Observer newspapers dated September 2, 9 and 16;
- Affidavit of Publication executed by Adrian Michael A. Amatong, Managing Editor of The Mindanao Observer; and
- Notice of Appearances of the Solicitor General and Memorandum to the Provincial Prosecutor to support the petition.[6]

Eventually, the lower court rendered the assailed Resolution dated January 21, 2011, the dispositive portion[7] of which reads:

WHEREFORE, premises considered, judgment is hereby rendered DIRECTING the Office of the Municipal Civil Registrar of Sindangan, Zamboanga del Norte to effect or to cause to be effected the necessary change of the name of the petitioner's son, as appearing in the Record of Birth (Exhibit "B") of the latter, from "SANTIAGO B. BUOT" to "SAMMY SANTIAGO B. BUOT", upon payment of the requisite legal fees therefor.

SO ORDERED.

The OSG filed on March 4, 2011, a motion for reconsideration,[8] but the same was denied by the lower court in a Resolution[9] dated April 8, 2011. Hence, the OSG appealed to Us raising a lone assignment of error, thus:

THE TRIAL COURT ACTED WITHOUT JURISDICTION IN GRANTING THE PETITION.[10]

The Appeal is meritorious.

The doctrine of primary jurisdiction requires that if the determination of a case calls for the application of the expertise, specialized training and knowledge of an administrative body, relief must first be obtained in an administrative proceeding before resorting to the court.[11] The court, for its part, should suspend the judicial proceeding, so that the administrative body may have the opportunity to settle the claim or, if the parties would not be unfairly disadvantaged, dismiss the case without prejudice.[12]

In this case, it is the Municipal or City Civil Registrar who has primary jurisdiction since the petition is only for change of first name. Section 1 of the Republic Act No. 9048[13] reads:

Section 1. Authority to Correct Clerical or Typographical Error and Change of First Name or Nickname – No entry in a civil register shall be changed or corrected without a judicial order, except for clerical or typographical errors and change of first name or nickname which can be corrected or changed by the concerned city or municipal civil registrar or consul general in accordance with the provisions of this Act and its implementing rules and regulations. (Emphasis Supplied)

In *Rommel Jacinto Dantes Silverio v. Republic of the Philippines*,[14] the Supreme Court is decisive in this wise:

R.A. 9048 now governs the change of first name. It vests the power and authority to entertain petitions for change of first name to the city or municipal civil registrar or consul general concerned. Under the law, therefore, jurisdiction over applications for change of first name is now primarily lodged with the aforementioned administrative officers. The intent and effect of the law is to exclude the change of first name from the coverage of Rules 103 (Change of Name) and 108 (Cancellation or Correction of Entries in the Civil Registry) of the Rules of Court, until and unless an administrative petition for change of name is first filed and subsequently denied. It likewise lays down the corresponding venue, form and procedure. In sum, the remedy

and the proceedings regulating change of first name are primarily administrative in nature, not judicial.

The lower court can only assume jurisdiction over the same case by way of appeal after such petition had been filed and denied by the concerned Municipal or City Civil Registrar. In *Republic of the Philippines v. Merlyn Mercader, etc.*,^[15] the Supreme Court declared the following:

Under R.A. No. 9048, the city or municipal civil registrar or consul general, as the case may be, is now authorized to effect the change of first name or nickname and the correction of clerical or typographical errors in civil registry entries. "Under said law, jurisdiction over applications for change of first name is now primarily lodged with administrative officers. The law now excludes the change of first name from the coverage of Rules 103 until and unless an administrative petition for change of name is first filed and subsequently denied" and removes "correction or changing of clerical errors in entries of the civil register from the ambit of Rule 108." Hence, what is left for the scope of operation of the rules are substantial changes and corrections in entries of the civil register. (Emphasis Supplied)

Here, however, the appellee filed the petition directly with the lower court. She failed to observe the doctrines of primary jurisdiction and exhaustion of administrative remedies. It is a well-established rule that before a party is allowed to seek remedy from the court, it is imperative that such party should avail himself of all administrative remedies afforded him by law. Hence, the premature resort to the court is fatal to one's cause of action.^[16]

WHEREFORE, the Appeal is hereby GRANTED. The Resolution dated January 21, 2011 of the Regional Trial Court, Branch 11, Sindangan, Zamboanga del Norte in Special Proceedings No. SR-762 for Change of Name is ANNULLED and SET ASIDE for lack of jurisdiction. The Petition for Change of Name is DISMISSED without prejudice.

SO ORDERED.

Lloren, J., Ch., and Santos, JJ., concur.

[1] Rollo, pp. 19-33

[2] Records, pp. 24-25

[3] Records, pp. 1-6

[4] Records, pp. 3-4

[5] Records, p. 13

[6] Records, pp. 12-21

[7] Records, p. 25

[8] Records, pp. 26-34

[9] Records, pp. 38-41

[10] Rollo, p. 26

[11] *The Province of Aklan v. Jody King Construction and Development Corp.*, G.R. Nos. 197592 & 20262, November 27, 2013

[12] *The Province of Aklan v. Jody King Construction and Development Corp.*, G.R. Nos. 197592 & 20262, November 27, 2013

[13] An Act Authorizing The City Or Municipal Civil Registrar Or The Consul General To Correct A Clerical Or Typographical Error In An Entry And/Or Change Of First Name Or Nickname In The Civil Register Without Need Of A Judicial Order, Amending For This Purpose Articles 376 And 412 Of The Civil Code Of The Philippines

[14] G.R. No. 174689, October 22, 2007

[15] G.R. No. 186027, December 8, 2010

[16] Samar Ii Electric Cooperative, Inc. (SAMELCO II) et al. v. Ananias D. Seludo, Jr., G.R. No. 173840, April 25, 2012

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