

CATALINA OSMEÑA DE VALENCIA ET AL., PLAINTIFFS AND APPELLANTS, VS. EMILIA RODRIGUEZ ET AL., DEFENDANTS AND APPELLEES.

G.R. No. L-1261. August 02, 1949

Ponente: PARAS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/b7252b4d931a/>

PARAS, J.:

In an action instituted In the Court of First Instance of Cebu, the plaintiffs prayed for an injunction restraining the defendants from using the surname "Valencia". The defendants filed a motion to dismiss, and this was sustained by the lower court. Hence this appeal by the plaintiffs.

The plaintiffs allege, on the one hand, that they (except Catalina Osmeña) are the legitimate children of the defendant Pio E. Valencia in the latter's lawful wedlock with plaintiff Catalina Osmeña; and, upon the other hand, that the defendants, (except Emilia Rodriguez and Pio E. Valencia) are the illegitimate children of Pio E. Valencia with his common-law-wife, defendant Emilia Rodriguez. It is accordingly contended by the plaintiffs that they alone have the right to bear the surname "Valencia", in accordance with article 114 of the Civil Code which provides that legitimate children have the right to bear the surname of the father. To complete their argument, the plaintiffs point out that, under articles 139 and 845 of the Civil Code, illegitimate children (who are not natural) are entitled only to support.

We concede that the plaintiffs may use the surname of their father as a matter of right by reason of the mere fact that they are legitimate children; but we cannot agree to the view that article 114 of the Civil Code, without more, grants monopolistic proprietary control to legitimate children over the surname of their father. In other words, said article has marked a right of which legitimate children may not be deprived, but it cannot be interpreted as a prohibition against the use by others of what may happen to be the surname of their father. If plaintiff's theory were correct, they can stop countless inhabitants from bearing the surname "Valencia."

The defendants' case becomes the stronger when it is remembered that, from all appearances, Pio E. Valencia (the father) acquiesces in the adoption of his surname by the defendants. But even if he objects, the defendants can still use the surname "Valencia," in the absence of any law granting exclusive ownership over a surname.

The appealed order is affirmed, and it is so ordered with costs against the plaintiffs and appellants.

Moran, C.J., Perfecto, Bengzon, Padilla, Tuason, Montemayor, and Reyes, JJ., concur.

FERIA, J.:

I concur in the result.

CONCURRING AND DISSENTING

OZAETA, J.:

I concur in the affirmance of the order appealed from on the following ground: It appears from paragraph 5 of the complaint that the defendant Pio E. Valencia has allowed his illegitimate children by his codefendant Emilia Rodriguez to bear his surname even after they had reached the age of reason. From this allegation it may be inferred that since their birth these illegitimate children have been given and have borne the surname of their father with the latter's consent. The plaintiffs predicate their case upon articles 114, 139, and 845 of the Civil Code and Rule 103 of the Rules of Court. Article 114 says that legitimate children shall have the right to bear the surnames of their father and mother; and articles 139 and 845 say that illegitimate children who have not the status of natural children shall be entitled only to support. Rule 103 of the Rules of Court prescribes the procedure for change of name. Upon the facts alleged in the complaint, these statutory provisions are not sufficient, in my opinion, to entitle the plaintiffs to the relief sought by their complaint. The mere fact that legitimate children have the right to bear the surnames of their parents and illegitimate children are entitled only to support, does not necessarily imply that the father may not voluntarily permit his illegitimate children to bear his surname. Rule 103 is not applicable because it is not alleged in the complaint that the twelve defendants who are alleged to be illegitimate children of their codefendant Pio E. Valencia have illegally changed their surname from some other to that of Valencia. On the contrary we infer from the complaint that since their birth they have always borne that surname with the knowledge and consent of their putative father.

I dissent from so much of the majority opinion as may convey the idea (1) that a person who claims to be the illegitimate child of another may use or adopt the surname of the latter even against his will and without his consent, and without authorization from the court; and (2) that any person is free to use any surname he may have a fancy for without the authorization of the court even though he may not have originally borne that surname. Concerning the first idea, I am of the opinion that a person cannot adjudicate to himself a status which adversely affects another without the latter's consent or without the intervention of the court. And as to the second idea, it is clear from Rule 103 that a person cannot adopt a new name, or use one other than that he has originally borne, without complying with the requisites provided for in said rule.

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.