

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. HON. SEGUNDO M. ZOSA, JUDGE OF THE COURT OF FIRST INSTANCE OF SAMAR, CATBALOGAN, SAMAR, BRANCH I, AND LEE KING SING, RESPONDENTS.

G.R. No. L-48762. September 12, 1988

Ponente: BIDIN, J.

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BIDIN, J.:

The Republic of the Philippines appealed from the order dated July 20, 1978 of the former Court of First Instance of Samar granting the petition of respondent Lee King Sing for change of his name to Antonio C. Lee and ordering the civil registrar of Samar to enter in the civil registry record the said name.

The facts of the case are as follows:

On February 10, 1977, respondent Lee King Sing filed a petition with the CFI of Samar for change of name. For clarity, the said petition docketed as Special Proceeding No. 5634 is reproduced herein as follows:

"IN RE: PETITION FOR

CHANGE OF NAME,

SPEC. PROC. No. 5634

LEE KING SING,

Petitioner.

P e t i t i o n

COMES, the Petitioner through the undersigned counsel and to this Honorable Court, most respectfully states:

- That the petitioner is a bona fide resident of Catbalogan, Samar, for at least three years prior to the filing of this petition, since his birth on January 3, 1934 to the present continuously;
- That the petitioner is a naturalized Filipino citizen per Certificate of Naturalization No. 007217 (Pet. No. 001844-A) issued by the Special Committee on Naturalization on December 20, 1976 pursuant to Presidential Decree No. 1055, after taking his Oath of Allegiance on December 15, 1976 and it is his desire to be known with Filipino name inasmuch as his associates, friends and all other persons with which he is dealing are Filipinos and petitioner is known to them and they call him Antonio or Tony;
- That he desires that his present name be changed to ANTONIO C. LEE. The Lee appearing in his present name is in fact his surname but in the chinese way of writing the name, the surname is stated first; hence, his desire to have ANTONIO as his first name, C. in the first letter of his mother' surname and LEE his present surname which he desires to be written after his first name as it is the filipino way. The name he now asked for

is ANTONIO C. LEE.

WHEREFORE, it is most respectfully prayed that after due publication and hearing, the Honorable Court issues an order changing the name of the petitioner LEE KING SING to ANTONIO C. LEE.

Catbalogan, Samar, February 10, 1977.

(SGD.) LOPE C. QUIMBO
Counsel for the Petitioner"

(pp. 47-48, Rollo).

On February 15, 1977, the lower court issued an order setting the petition for hearing. Said order was subsequently published in the Leyte Forum on February 22, March 1, and March 3, 1977.

On March 18, 1977, herein petitioner through the Solicitor General filed a motion to dismiss the petition on the ground that the name sought to be adopted by respondent and other names by which he is known are not indicated or included in the title of the petition. On December 10, 1977, respondent filed an opposition to the motion to dismiss. On March 8, 1978, the lower court denied the aforesaid motion.

After trial and hearing, the court a quo on July 20, 1978, as already stated, granted the petition; hence, the instant appeal, petitioner raising a lone assignment of error:

"THAT RESPONDENT JUDGE OF THE COURT OF FIRST INSTANCE OF SAMAR ERRED IN TAKING COGNIZANCE OF THE PETITION FOR CHANGE OF NAME DESPITE SUBSTANTIAL DEFECT IN THE PETITION AND PUBLICATION OF THE NOTICE OF HEARING." (p. 84, Rollo).

The proceeding for a change of name is a proceeding in rem. Jurisdiction to hear and determine the petition for change of name is acquired after due publication of the order containing certain data, among which is the name sought to be adopted, a matter which should be indicated in the title of the petition (*Pabellar vs. Republic*, 70 SCRA 16 (1976); *Gil Go vs. Republic*, 77 SCRA 65 (1977)).

In a petition for change of name the title of the petition should include (1) the applicant's real name, (2) his aliases or other names, if any, and (3) the name sought to be adopted even if these data are found in the body of the petition. For the publication to be valid and effective, the published order should reproduce the title of the petition containing the data already stated and should contain correct information as to (1) the name or names of the applicant, (2) the cause for the changed name, and (3) the new name asked for (*Republic vs. Lee Wai Lam*, 28 SCRA 1043 (1969); *Republic vs. Tanada*, 42 SCRA 419 (1971); *Republic vs. Reyes*, 45 SCRA 570 (1972); *Secan Kok vs. Republic*, 52 SCRA 322 (1973)).

In the present case, the petition itself, as well as the order published, carries the following title "In Re: Petition for Change of Name Lee King Sing, Petitioner." It does not contain the name (Antonio C. Lee) sought to be adopted and the names by which petitioner was known to his friends and associates. The title should have read "In the Matter of the Change of Name of Lee King Sing, otherwise known as Antonio or Tony to Antonio C. Lee, Lee King Sing, Petitioner." The petition does not indicate in its title or caption that herein respondent desires to change his name to Antonio C. Lee. The published order setting his petition for hearing reproduced that defective title. The failure to include the name sought to be adopted in the title of the petition nor in the title or caption of the notices published in the newspapers renders the trial court without jurisdiction to hear and determine the petition (*Republic vs. Reyes*, *supra*)).

The reason for the rule requiring the inclusion of the name sought to be adopted by and the other names or aliases of the applicant in the title of the petition or in the caption of the published order is that the ordinary reader only

glances fleetingly at the caption of the published order or the title of the petition in a special proceeding. Only if the caption or the title strikes him does he proceed to read the contents of the order. And the probability is great that he does not at all notice the other names or aliases of the applicant if these are mentioned only in the body of the order or petition. The non-inclusion of all the names or aliases of the applicant in the caption of the order or in the title of the petition defeats the very purpose of the required publication (*Go vs. Republic*, (supra); *Telmo vs. Republic*, 73 SCRA 29 [1976]).

Considering that the title of the petition in this case and the order setting it for hearing are defective as indicated above, the lower court did not acquire jurisdiction over the proceeding (*Jesus Ng Yao Siong vs. Republic*, 16 SCRA 483 [1966]); *Go Chiu Beng vs. Republic*, 48 SCRA 617 [1972]). Its dismissal is in order.

WHEREFORE, the lower court's order under appeal is Reversed and the petition for change of name is Denied. No costs.

SO ORDERED.

Fernan, C.J., Gutierrez, Jr., Feliciano, and Cortes, JJ., concur.

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