

**IN THE MATTER OF THE CHANGE OF NAME OF HERMOGENES
DIANGKINAY. REPUBLIC OF THE PHILIPPINES, PETITIONER, VS.
HON. MANUEL T. REYES, JUDGE OF THE COURT OF FIRST INSTANCE
OF LAGUNA A...**

G.R. No. L-29850. June 30, 1972

Ponente: ANTONIO, J.

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ANTONIO, J.:

Review on certiorari of the Order issued by the Judge of the Court of First Instance of Laguna and San Pablo City dated May 14, 1968, granting the petition of the respondent Hermogenes Diangkinay to change his name to Rolando Deangkinay and the Order dated September 10, 1968 denying the motion for reconsideration of the said decision of May 14, 1968.

On October 18, 1967, petitioner-respondent filed a verified petition for change of name in the Court of First Instance of Laguna and San Pablo City, Branch III, entitling it thus: "In the matter of Change of Name of Hermogenes Diangkinay, Hermogenes Diangkinay, Petitioner." After notices, including by publication, bearing such titles, had been served and made, the City Fiscal of San Pablo filed the following opposition:

"The undersigned City Fiscal, in representation of the Solicitor General unto this Honorable Court most respectfully states:

"That he opposes the petition for change of name of the petitioner Hermogenes Diangkinay, in view of the fact that the same is not justified and the registered name as appears in the Registry of Birth of Hermogenes Diangkinay should remain as such; and that his records like school records and his baptismal certificate should be the ones corrected to conform to his registered name.

"City of San Pablo, May 14, 1968.

s-t/BIENVENIDO V. REYES

City Fiscal"[1]

On the date scheduled for the hearing, evidence was presented by respondent in support hereof.

The evidence disclose that petitioner-respondent was born in Barrio Sta. Filomena, City of San Pablo on December 19, 1936, his parents being Basiho Diangkinay and Cristina is Deangkinay; that he was registered in the Registry of Birth of the Office of the Local Civil Registrar of San Pablo City under the name of Hermogenes Diangkinay; that since his boyhood, he had consistently used the name Rolando Deangkinay because he believed that that was his true name; that in Sta. Filomena Elementary School where he finished his elementary education, in the Laguna College where he completed his secondary course and in the National University where he graduated with the degree of Bachelor of Science in Mechanical Engineering, he had used and had been known by the name of Rolando Deangkinay; in all his official actuations and social dealings, he had, likewise, used the

name Rolando Deangkinay; and when he took his residence certificates and when he entered into marital union with his wife Aurora Federizo on December 23, 1962, he also used Rolando Deangkinay as his name.

On the bases of these facts, the lower court granted the petition. Herein petitioner filed a motion for reconsideration but the same was denied. Hence, this petition for review on certiorari.

The main ground of petitioner's appeal is that the trial court acted without or in excess of jurisdiction. As argued in the motion for reconsideration of petitioner in the Court below:

"In a verified petition filed by the petitioner, he seeks to change his present name from HERMOGENES DIANGKINAY to ROLANDO DEANGKINAY for the reasons that he has been consistently and customarily using since childhood, in school, or universities and up to the present. That he was baptized under this name.

"However, this Christian name (ROLANDO DEANGKINAY) did not appear in the title of said petition. The failure in the heading of the petition to include petitioner's Christian or the name which he is actually known is fundamental and such failure is non-compliance with the strict requirements of publication, hence, fatally defective and the court has no JURISDICTION to hear the case.

"Thus in the case of JESUS NG YAO SIONG VS. REPUBLIC, L-20306, promulgated on March 31, 1966, the Supreme Court said:

'It is our view that this failure in the heading to the application to give the true name sought to be changed is fundamental. Such failure is non-compliance with the strict requirements of publication, it is fatal, and the court did not acquire jurisdiction to hear the case.' "[2]

The questioned orders must be set aside and the instant petition granted. In Republic vs. Lee Wai Lam,[3] We said:

"4. Finally, and in connection also with the use of aliases, this Court has ruled that an applicant for change of name should include in his petition in the title and body thereof – not only his real name and the name sought to be adopted, but also his aliases or other names used. In other words, the title of the petition for change of name should include the real name and all the aliases – not only in the body thereof."

Recently in Republic vs. Tañada,[4] We reiterated the necessity of including in the title of the petition, the name sought to be adopted:

"* * * Moreover, the title of the petition should include (1) the applicant's real name and (2) his aliases or other names, if any. The title should also recite the name sought to be adopted. All these, notwithstanding that the body of the petition or of the order includes all the information aforementioned."

It would thus appear that for a trial court to acquire jurisdiction over a petition for a change of name, the following must appear in the title or caption thereof, to wit: (1) his real name; (2) the name sought to be adopted; and (3) his aliases or other names used.

The reason for the above has earlier been furnished by Ng Yao Siong vs. Republic:[5]

"1. Change of name is a judicial proceeding in rem. Jurisdiction to hear and determine a petition therefor, by law, is acquired after publication of the 'order reciting the purpose of the petition' and the 'date and place for the hearing thereof' -- for three (3) successive weeks in a newspaper of general circulation. Publication is notice to the whole world that the proceeding has for its object 'to bar an objection of any sort against the right sought to be established.'"

* * * * *

"Change of name is a matter of public interest. Petitioner might be in the gallery of wanted criminals; he could

be in hiding to avoid service of sentence or compliance with a judgment in a criminal case; he could have escaped a penal institution into which he had been confined. If an alien, he might have given cause for deportation or might be one against whom an order of deportation had actually been issued. And again the new name petitioner desires to adopt may be similar to that of a respectable person. The latter may have evidence that petitioner is with unsavory reputation. Naturally, it is to the interest of the person actually enjoying the good name to protect it against possible mistaken reference to him as the petitioner."

On the rationale of the requirement that those names should also be embodied in the Title of the Petition sought to be published, We said:

"* * * Notices in the newspapers, like the one under consideration, usually appear in the back pages. The reader, as is to be expected, merely glances at the title of the petition. It is only after he has satisfied himself that the title interests him, that he proceeds to read down further. The probability is that the portions in the publication heretofore quoted will escape the reader's notice. The purpose of which the publication is made, that is, to inform, may thus be unserved." [6]

"Notices published in the newspapers often appear in the back pages thereof or in pages least read or paid attention to. The reader, as usually happens, merely scans these pages and glances fleetingly at the captions of the published orders or the titles of the petitions. Only if the caption or the title strikes him does the reader proceed to read on. And the probability is great that the reader does not at all notice the other names and/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 and/or aliases of the applicant in the caption of the order or the title of the petition defeats the very purpose of the required publication." [7]

To the facts at hand. Records show that Rolando Deangkinay, the name sought to be adopted, neither appears in the title of the petition nor in the title or caption of the notices published in the newspapers. Having failed to comply with this requirement, the lower court acquired no jurisdiction to hear and determine the petition.

We have stressed that petitions for change of name being proceedings in rem, strict compliance with the requirements of publication is essential, for it is by such means that the court acquires jurisdiction. [8] In *Ma Chik Kin vs. Republic*, [9] We held that failure to include the true name of the party whose name is sought to be changed, in the title of the petition and of the notices published in connection therewith, precludes the court from obtaining jurisdiction to entertain the same. We now hold that failure to include the name sought to be adopted in the title of the petition, and consequently in the notices published in the newspapers, is a substantial jurisdictional infirmity. For, as We explained in *Yu vs. Republic*: [10]

"To be sure, there could be instances where the change applied for may be open to objection by parties who already bear the surname desired by the applicant, not because he would thereby acquire certain family ties with them but because the existence of such ties might be erroneously impressed in the public mind."

Respondent argues that since the name Rolando Deangkinay is not an alias, he was therefore not obliged to place the same in the title or caption of his petition. Concededly, the name Rolando Deangkinay is not an alias within the purview of Commonwealth Act No. 142 known as the Anti-Alias Law, it being the name by which respondent was baptized and known since childhood. [11] But this is of no moment. Such name being admittedly the name sought to be adopted, the same must be included in the title of the petition.

It is indeed a pity that this flaw of jurisdiction exists, for it seems quite fair and reasonable that the confusion resulting from the variance between the name used by respondent in all his activities and transactions since childhood, including many public records related thereto, on the one hand, and the one appearing in his record of birth, on the other, should be avoided by allowing respondent to legalize the name by which he has been known since his infancy.

IN VIEW OF THE FOREGOING, the orders appealed from are reversed, without prejudice to respondent re-filing his petition consistently with the above opinion. No costs.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Ruiz Castro, Fernando, and Teehankee, JJ., concur.

Barredo and Makasiar, JJ., took no part.

[1] Record on Appeal (L-29850), p. 28.

[2] Record on Appeal (L-29850), p. 31.

[3] L-22607, July 30, 1969, 28 SCRA 1043, 1052.

[4] L-31563, Nov. 29, 1971, 42 SCRA 419, 421.

[5] L-20306, March 31, 1966, 16 SCRA 483.

[6] Ng Yao Siong vs. Republic. *supra*

[7] Republic vs. Tañada, *supra*.

[8] Tan vs. Republic, L-16384, April 26, 1962, 4 SCRA 1130-1131.

[9] L-28051, July 28, 1970, 34 SCRA 6.

[10] L-20874, May 25, 1966, 17 SCRA 256.

[11] Republic vs. Tañada, *supra*.

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