

AMADA LOURDES LERMA GARCIA, ETC., PETITIONER AND APPELLANT, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLEE.

G.R. No. L-16085. November 29, 1961

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This is a petition for change of name filed before the Court of First Instance of Quezon City under Rule 103 of the Rules of Court. Petitioner is Amada Lourdes Lerma Garcia who is represented by her natural mother Paz Bonifacia Suñga de Garcia. She desires to change her name to that of Amada Lourdes S. Lague because her natural father has recognized her as his child and she desires to adopt his surname.

No formal opposition was filed to the petition but during the trial the Solicitor General made it of record that he was opposing the petition on two main grounds, to wit: (1) the basis of the petition is the fact that petitioner is the recognized child of her alleged father and under Article 282 of the new Civil Code she has already the right to bear the surname of the father who has recognized her as his natural child; and (2) since judicial approval is needed for such recognition under Article 281 of the same Code, the step she should take is not to file a petition for a change of name but to institute an action to obtain such judicial approval. The trial court upheld this contention and on the basis thereof denied the petition. Hence this appeal.

Petitioner was born out of wedlock. In accomplishing her birth certificate her natural parents declared therein; names other than their true names to conceal their dishonor resultant from the arrival of a child out of wedlock. The testimony of her mother and the sworn statement of her father were presented in evidence to show that petitioner is their acknowledged natural child. Among other things, petitioner's mother Paz Bonifacia Sunga testified that petitioner is living with her in her residence; that she is using the name Maria Lourdes Garcia the last of which she wants to change to Lague in order to bear the family name of her natural father Amado Vargas Lague; that she has been recognized by Amado Lague although there is no document nor judicial proceeding to that effect;; that Amado Lague gave permission to petitioner to adopt his family name as indicated on the petition she signed at the Office of Judge Caluag; and that petitioner's natural father has been spending for her education such as paying for her books and school fees.

Considering the foregoing facts we are inclined to uphold the opposition of the government to the effect that the appropriate remedy that petitioner should pursue is not to present a petition for change of name but to bring an action for recognition since it is a fact established by her own evidence that her natural father has already recognized her as his natural child in the light of the provisions of Article 878 and 281 of the new Civil Code. This objective she can easily accomplish there being willingness on the part of her parents to have her as their natural child, and once this is accomplished she can then avail of the rights granted by law to a natural child one of them being to bear the surname of her natural father.

Rule 103 of our Rules of Courts has been adopted for purposes other than the one sought for by petitioner in "the

present proceeding. The procedure set by law for certain purposes should be delimited. One should not confuse or misapply one procedure for another lest we create a confusion in the application of the proper remedy.

Wherefore, the resolution appealed from is affirmed, without costs.

Bengzon, C. J., Padilla, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon and De Leon, JJ., concur.

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