

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. GERSON R. ABADILLA, LUZVIMINDA M. CELESTINO, AND THE MINORS EMERSON C. ABADILLA AND RAFAEL C. ABADILLA, REPRESENTED BY THEIR GUARDIA...**

*G.R. No. 133054. January 28, 1999*

Ponente: QUISUMBING, J.

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**QUISUMBING, J.:**

Gerson Abadilla and Luzviminda Celestino have been living together as husband and wife without the benefit of marriage. During their cohabitation, Luzviminda begot two children, Emerson[1] and Rafael.[2] In the Certificates of Birth of these two children, they were registered with the surname “Abadilla” and the name of their father was entered as “Herson” Abadilla. Moreover, the entry in the date and place of marriage of the children’s parents appeared as June 19, 1987 at Dingras, Ilocos Norte.

Thereafter, an Amended Petition for Correction/Cancellation of Entries dated February 5, 1997[3] was filed by Gerson Abadilla, Luzviminda Celestino and their two minor children, Emerson and Rafael, with the Regional Trial Court of Laoag City, Branch 65, seeking to have the following corrections made in the Certificates of Birth of Emerson and Rafael:

“ x x x x x x x x

a.

ordering that the entries as to the date and place of marriage of petitioner GERSON R. ABADILLA and LUZVIMINDA M. CELESTINO appearing in the certificates of birth of Emerson C. Abadilla and Rafael C. Abadilla be deleted;

b.

ordering that the entry as to the first name of petitioner Gerson C. Abadilla appearing in the certificates of birth of (sic) Emerson C. Abadilla and Rafael C. Abadilla be corrected as GERSON;

x x x x x x x x” [4]

During the hearing of the petition, both Gerson Abadilla and Luzviminda Celestino testified that they are not yet married to each other despite bearing two children.

In a decision dated February 17, 1998, the trial court granted the petition and ordered the corresponding correction to be made as follows:

“ WHEREFORE, under the foregoing premises, the Civil Registrar of San Nicolas, Ilocos Norte is hereby ordered to issue an Amended Birth Certificate and Change an Entry therein by deleting the first name HERSON in the column “Name of Father” and substitute it with GERSON, and also to delete the entry

appearing the column “Date of Marriage of Parents” and “Place of Marriage of Parents and leave it blank, after payment of the required fees.

SO ORDERED” [5]

The instant petition for review on certiorari is now being interposed by the Office of the Solicitor General on the ground that the trial court committed a reversible error when it allowed the deletion of the “date and place of marriage of parents” from the birth certificates of minors Emerson C. Abadilla and Rafael C. Abadilla but failed to order the change of the minors’ surname from “Abadilla” to “Celestino.”

The petition must be granted.

There is no dispute that Emerson C. Abadilla and Rafael C. Abadilla are illegitimate children, their parents, Spouses Herson and Luzviminda not being married to each other even up to now.

During the birth of Emerson[6] and Rafael[7], the Family Code[8] was already the governing law and Article 176 of which explicitly provides as follows:

“ Article 176. Illegitimate children shall use the surname and shall be under the parental authority of their mother, and shall be entitled to support in conformity with this Code. The legitime of each illegitimate child shall consist of one half of the legitime of a legitimate child.”

Thus, as illegitimate children, Emerson and Rafael should bear the surname of their mother, Luzviminda Celestino. Resultingly, with the correction of the entries in their birth certificates which deleted the entry in the date and place of marriage of parents, the corresponding correction with respect to their surname should have also been made and changed to Celestino, their mother’s surname.

ACCORDINGLY, in view of the foregoing considerations, the Decision of the Regional Trial Court of Laoag City, Branch 65, dated February 17, 1998 in Spcl. Proc. No. 11114-65 is hereby MODIFIED. The Civil Registrar of San Nicolas, Ilocos Norte is hereby ordered to change the entry in the Amended Birth Certificates of respondent-minors Emerson C. Abadilla and Rafael C. Abadilla with respect to their surname, and enter instead therein the surname “Celestino”.

**SO ORDERED.**

Bellosillo, (Chairman), Puno, Mendoza and Buena, JJ., concur.

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[1] Born on October 18, 1989.

[2] Born on July 28, 1992.

[3] Docketed as Spcl. Proc. No. 11114-65.

[4] Rollo p. 23.

[5] Rollo p. 20

[6] Born on October 18, 1989.

[7] Born on July 28, 1992.

[8] Which took effect on August 30, 1988.

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