

IN THE MATTER OF THE ADOPTION OF STEPHANIE NATHY ASTORGA GARCIA HONORATO B. CATINDIG, PETITIONER.

G.R. NO. 148311. March 31, 2005

Ponente: SANDOVAL-GUTIERREZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-148311/>

SANDOVAL-GUTIERREZ, J.:

May an illegitimate child, upon adoption by her natural father, use the surname of her natural mother as her middle name? This is the issue raised in the instant case.

The facts are undisputed.

On August 31, 2000, Honorato B. Catindig, herein petitioner, filed a petition^[1] to adopt his minor illegitimate child Stephanie Nathy Astorga Garcia. He alleged therein, among others, that Stephanie was born on June 26, 1994;^[2] that her mother is Gemma Astorga Garcia; that Stephanie has been using her mother's middle name and surname; and that he is now a widower and qualified to be her adopting parent. He prayed that Stephanie's middle name Astorga be changed to "Garcia," her mother's surname, and that her surname "Garcia" be changed to "Catindig," his surname.

On March 23, 2001,^[3] the trial court rendered the assailed Decision granting the adoption, thus:

"After a careful consideration of the evidence presented by the petitioner, and in the absence of any opposition to the petition, this Court finds that the petitioner possesses all the qualifications and none of the disqualification provided for by law as an adoptive parent, and that as such he is qualified to maintain, care for and educate the child to be adopted; that the grant of this petition would redound to the best interest and welfare of the minor Stephanie Nathy Astorga Garcia. The Court further holds that the petitioner's care and custody of the child since her birth up to the present constitute more than enough compliance with the requirement of Article 35 of Presidential Decree No. 603.

WHEREFORE, finding the petition to be meritorious, the same is GRANTED. Henceforth, Stephanie Nathy Astorga Garcia is hereby freed from all obligations of obedience and maintenance with respect to her natural mother, and for civil purposes, shall henceforth be the petitioner's legitimate child and legal heir. Pursuant to Article 189 of the Family Code of the Philippines, the minor shall be known as STEPHANIE NATHY CATINDIG.

Upon finality of this Decision, let the same be entered in the Local Civil Registrar concerned pursuant to Rule 99 of the Rules of Court.

Let copy of this Decision be furnished the National Statistics Office for record purposes.

SO ORDERED."^[4]

On April 20, 2001, petitioner filed a motion for clarification and/or reconsideration^[5] praying that Stephanie should be allowed to use the surname of her natural mother (GARCIA) as her middle name.

On May 28, 2001,[6] the trial court denied petitioner's motion for reconsideration holding that there is no law or jurisprudence allowing an adopted child to use the surname of his biological mother as his middle name.

Hence, the present petition raising the issue of whether an illegitimate child may use the surname of her mother as her middle name when she is subsequently adopted by her natural father.

Petitioner submits that the trial court erred in depriving Stephanie of a middle name as a consequence of adoption because: (1) there is no law prohibiting an adopted child from having a middle name in case there is only one adopting parent; (2) it is customary for every Filipino to have as middle name the surname of the mother; (3) the middle name or initial is a part of the name of a person; (4) adoption is for the benefit and best interest of the adopted child, hence, her right to bear a proper name should not be violated; (5) permitting Stephanie to use the middle name "Garcia" (her mother's surname) avoids the stigma of her illegitimacy; and; (6) her continued use of "Garcia" as her middle name is not opposed by either the Catindig or Garcia families.

The Republic, through the Office of the Solicitor General (OSG), agrees with petitioner that Stephanie should be permitted to use, as her middle name, the surname of her natural mother for the following reasons:

First, it is necessary to preserve and maintain Stephanie's filiation with her natural mother because under Article 189 of the Family Code, she remains to be an intestate heir of the latter. Thus, to prevent any confusion and needless hardship in the future, her relationship or proof of that relationship with her natural mother should be maintained.

Second, there is no law expressly prohibiting Stephanie to use the surname of her natural mother as her middle name. What the law does not prohibit, it allows.

Last, it is customary for every Filipino to have a middle name, which is ordinarily the surname of the mother. This custom has been recognized by the Civil Code and Family Code. In fact, the Family Law Committees agreed that "the initial or surname of the mother should immediately precede the surname of the father so that the second name, if any, will be before the surname of the mother." [7]

We find merit in the petition.

Use Of Surname Is Fixed By Law –

For all practical and legal purposes, a man's name is the designation by which he is known and called in the community in which he lives and is best known. It is defined as the word or combination of words by which a person is distinguished from other individuals and, also, as the label or appellation which he bears for the convenience of the world at large addressing him, or in speaking of or dealing with him.[8] It is both of personal as well as public interest that every person must have a name.

The name of an individual has two parts: (1) the given or proper name and (2) the surname or family name. The given or proper name is that which is given to the individual at birth or at baptism, to distinguish him from other individuals. The surname or family name is that which identifies the family to which he belongs and is continued from parent to child. The given name may be freely selected by the parents for the child, but the surname to which the child is entitled is fixed by law.[9]

Thus, Articles 364 to 380 of the Civil Code provides the substantive rules which regulate the use of surname[10] of an individual whatever may be his status in life, i.e., whether he may be legitimate or illegitimate, an adopted child, a married woman or a previously married woman, or a widow, thus:

"Art. 364. Legitimate and legitimated children shall principally use the surname of the father.

Art. 365. An adopted child shall bear the surname of the adopter.

x x x

Art. 369. Children conceived before the decree annulling a voidable marriage shall principally use the surname of the father.

Art. 370. A married woman may use:

- (1) Her maiden first name and surname and add her husband's surname, or
- (2) Her maiden first name and her husband's surname or
- (3) Her husband's full name, but prefixing a word indicating that she is his wife, such as 'Mrs.'

Art. 371. In case of annulment of marriage, and the wife is the guilty party, she shall resume her maiden name and surname. If she is the innocent spouse, she may resume her maiden name and surname. However, she may choose to continue employing her former husband's surname, unless:

- (1) The court decrees otherwise, or
- (2) She or the former husband is married again to another person.

Art. 372. When legal separation has been granted, the wife shall continue using her name and surname employed before the legal separation.

Art. 373. A widow may use the deceased husband's surname as though he were still living, in accordance with Article 370.

Art. 374. In case of identity of names and surnames, the younger person shall be obliged to use such additional name or surname as will avoid confusion.

Art. 375. In case of identity of names and surnames between ascendants and descendants, the word 'Junior' can be used only by a son. Grandsons and other direct male descendants shall either:

- (1) Add a middle name or the mother's surname,
- (2) Add the Roman numerals II, III, and so on.

x x x"

Law Is Silent As To The Use Of Middle Name –

As correctly submitted by both parties, there is no law regulating the use of a middle name. Even Article 176[11] of the Family Code, as amended by Republic Act No. 9255, otherwise known as "An Act Allowing Illegitimate Children To Use The Surname Of Their Father," is silent as to what middle name a child may use.

The middle name or the mother's surname is only considered in Article 375(1), quoted above, in case there is identity of names and surnames between ascendants and descendants, in which case, the middle name or the mother's surname shall be added.

Notably, the law is likewise silent as to what middle name an adoptee may use. Article 365 of the Civil Code merely provides that "an adopted child shall bear the surname of the adopter." Also, Article 189 of the Family Code, enumerating the legal effects of adoption, is likewise silent on the matter, thus:

"(1) For civil purposes, the adopted shall be deemed to be a legitimate child of the adopters and both shall

acquire the reciprocal rights and obligations arising from the relationship of parent and child, including the right of the adopted to use the surname of the adopters;

x x x”

However, as correctly pointed out by the OSG, the members of the Civil Code and Family Law Committees that drafted the Family Code recognized the Filipino custom of adding the surname of the child’s mother as his middle name. In the Minutes of the Joint Meeting of the Civil Code and Family Law Committees, the members approved the suggestion that the initial or surname of the mother should immediately precede the surname of the father, thus

“Justice Caguioa commented that there is a difference between the use by the wife of the surname and that of the child because the father’s surname indicates the family to which he belongs, for which reason he would insist on the use of the father’s surname by the child but that, if he wants to, the child may also use the surname of the mother.

Justice Puno posed the question: If the child chooses to use the surname of the mother, how will his name be written? Justice Caguioa replied that it is up to him but that his point is that it should be mandatory that the child uses the surname of the father and permissive in the case of the surname of the mother.

Prof. Baviera remarked that Justice Caguioa’s point is covered by the present Article 364, which reads:

Legitimate and legitimated children shall principally use the surname of the father.

Justice Puno pointed out that many names change through no choice of the person himself precisely because of this misunderstanding. He then cited the following example: Alfonso Ponce Enrile’s correct surname is Ponce since the mother’s surname is Enrile but everybody calls him Atty. Enrile. Justice Jose Gutierrez David’s family name is Gutierrez and his mother’s surname is David but they all call him Justice David.

Justice Caguioa suggested that the proposed Article (12) be modified to the effect that it shall be mandatory on the child to use the surname of the father but he may use the surname of the mother by way of an initial or a middle name. Prof. Balane stated that they take note of this for inclusion in the Chapter on Use of Surnames since in the proposed Article (10) they are just enumerating the rights of legitimate children so that the details can be covered in the appropriate chapter.

x x x

Justice Puno remarked that there is logic in the simplification suggested by Justice Caguioa that the surname of the father should always be last because there are so many traditions like the American tradition where they like to use their second given name and the Latin tradition, which is also followed by the Chinese wherein they even include the Clan name.

x x x

Justice Puno suggested that they agree in principle that in the Chapter on the Use of Surnames, they should say that initial or surname of the mother should immediately precede the surname of the father so that the second name, if any, will be before the surname of the mother. Prof. Balane added that this is really the Filipino way. The Committee approved the suggestion.”[12] (Emphasis supplied)

In the case of an adopted child, the law provides that “the adopted shall bear the surname of the adopters.”[13] Again, it is silent whether he can use a middle name. What it only expressly allows, as a matter of right and obligation, is for the adoptee to bear the surname of the adopter, upon issuance of the decree of adoption.[14]

The Underlying Intent of
Adoption Is In Favor of the
Adopted Child –

Adoption is defined as the process of making a child, whether related or not to the adopter, possess in general, the rights accorded to a legitimate child.[15] It is a juridical act, a proceeding in rem which creates between two persons a relationship similar to that which results from legitimate paternity and filiation.[16] The modern trend is to consider adoption not merely as an act to establish a relationship of paternity and filiation, but also as an act which endows the child with a legitimate status.[17] This was, indeed, confirmed in 1989, when the Philippines, as a State Party to the Convention of the Rights of the Child initiated by the United Nations, accepted the principle that adoption is impressed with social and moral responsibility, and that its underlying intent is geared to favor the adopted child.[18] Republic Act No. 8552, otherwise known as the “Domestic Adoption Act of 1998,”[19] secures these rights and privileges for the adopted.[20]

One of the effects of adoption is that the adopted is deemed to be a legitimate child of the adopter for all intents and purposes pursuant to Article 189[21] of the Family Code and Section 17[22] Article V of RA 8552.[23]

Being a legitimate child by virtue of her adoption, it follows that Stephanie is entitled to all the rights provided by law to a legitimate child without discrimination of any kind, including the right to bear the surname of her father and her mother, as discussed above. This is consistent with the intention of the members of the Civil Code and Family Law Committees as earlier discussed. In fact, it is a Filipino custom that the initial or surname of the mother should immediately precede the surname of the father.

Additionally, as aptly stated by both parties, Stephanie’s continued use of her mother’s surname (Garcia) as her middle name will maintain her maternal lineage. It is to be noted that Article 189(3) of the Family Code and Section 18[24], Article V of RA 8552 (law on adoption) provide that the adoptee remains an intestate heir of his/her biological parent. Hence, Stephanie can well assert or claim her hereditary rights from her natural mother in the future.

Moreover, records show that Stephanie and her mother are living together in the house built by petitioner for them at 390 Tumana, San Jose, Baliuag, Bulacan. Petitioner provides for all their needs. Stephanie is closely attached to both her mother and father. She calls them “Mama” and “Papa”. Indeed, they are one normal happy family. Hence, to allow Stephanie to use her mother’s surname as her middle name will not only sustain her continued loving relationship with her mother but will also eliminate the stigma of her illegitimacy.

Liberal Construction of Adoption Statutes In Favor Of Adoption –

It is a settled rule that adoption statutes, being humane and salutary, should be liberally construed to carry out the beneficent purposes of adoption.[25] The interests and welfare of the adopted child are of primary and paramount consideration,[26] hence, every reasonable intendment should be sustained to promote and fulfill these noble and compassionate objectives of the law.[27]

Lastly, Art. 10 of the New Civil Code provides that:

“In case of doubt in the interpretation or application of laws, it is presumed that the lawmaking body intended right and justice to prevail.”

This provision, according to the Code Commission, “is necessary so that it may tip the scales in favor of right and justice when the law is doubtful or obscure. It will strengthen the determination of the courts to avoid an injustice which may apparently be authorized by some way of interpreting the law.”[28]

Hence, since there is no law prohibiting an illegitimate child adopted by her natural father, like Stephanie, to use,

as middle name her mother's surname, we find no reason why she should not be allowed to do so.

WHEREFORE, the petition is GRANTED. The assailed Decision is partly MODIFIED in the sense that Stephanie should be allowed to use her mother's surname "GARCIA" as her middle name.

Let the corresponding entry of her correct and complete name be entered in the decree of adoption.

SO ORDERED.

Panganiban, (Chairman), Corona, Carpio-Morales, and Garcia, JJ., concur.

[1] Rollo at 34-36.

[2] Annex "C", id. at 33.

[3] Annex "F", id. at 41-43.

[4] Rollo at 42-43.

[5] Annex "G", id. at 44-48.

[6] Annex "H", id. at 49.

[7] Minutes of the Joint Meeting of the Civil Code and Family Law Committees, August 10, 1985, p. 8.

[8] Republic vs. Court of Appeals and Maximo Wong, G.R. No. 97906, May 21, 1992, 209 SCRA 189, citing 38 Am Jur, Name 594-595.

[9] Republic vs. Hon. Hernandez, et al., G.R. No. 117209, February 9, 1996, 253 SCRA 509, citing Tolentino, A.M., Civil Code of the Philippines, Commentaries and Jurisprudence, Vol. I, 1993 ed., 672.

[10] Republic vs. Court of Appeals and Maximo Wong, *supra*.

[11] "Art. 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. However, illegitimate children may use the surname of their father if their filiation has been expressly recognized by the father through the record of birth appearing in the civil register, or when an admission in a public document or private handwritten instrument is made by the father. Provided, the father has the right to institute an action before the regular courts to prove non-filiation during his lifetime. The legitime of each illegitimate child shall consist of one-half of the legitime of a legitimate child."

[12] Minutes of the Joint Meeting of the Civil Code and Family law Committees, August 10, 1985, pp. 16-18.

[13] Article 365 of the New Civil Code.

[14] Republic vs. Hon. Hernandez, et al., *supra*; Republic vs. Court of Appeals and Maximo Wong, *supra*.

[15] Paras, Civil Code of the Philippines Annotated, Vol. I, Fifteenth Edition, 2002, p. 685.

[16] Pineda, The Family Code of the Philippines Annotated, 1989 Edition, p. 272-273, citing 4 Valverde, 473.

[17] Paras, *supra*, citing Prasnick vs. Republic, 98 Phil. 665.

[18] Lahom vs. Sibulo, G.R. No. 143989, July 14, 2003, 406 SCRA 135, citing United Nation General Assembly/44/49 (1989).

[19] “Sec. 17. Legitimacy. – The adoptee shall be considered the legitimate son/daughter of the adopter(s) for all intents and purposes and as such is entitled to all the rights and obligations provided by law to legitimate sons/daughters born to them without discrimination of any kind. To this end, the adoptee is entitled to love, guidance and support in keeping with the means of the family.”

[20]id.

[21] “Art. 189. (1) For civil purposes, the adopted shall be deemed to be a legitimate child of the adopters and both shall acquire the reciprocal rights and obligations arising from the relationship of parent and child, including the right of the adopted to use the surname of the adopters;”

[22] Supra.

[23] Domestic Adoption Act of 1998.

[24] “Sec. 18. Succession. – In legal and intestate succession, the adopter(s) and the adoptee shall have reciprocal rights of succession without distinction from legitimate filiation. However, if the adoptee and his/her biological parent(s) had left a will, the law on testamentary succession shall govern.”

[25] Republic of the Philippines vs. Court of Appeals, et al., G.R. No. 92326, January 24, 1992, 205 SCRA 356, citing 2 Am Jur 2d, Adoption, 865.

[26] Republic of the Philippines vs. Court of Appeals, et al., id., citing 2 Am Jur 2d, Adoption, 910.

[27] Republic of the Philippines vs. Court of Appeals, et al., id., citing Bobanovic, et al. vs. Montes, etc., et al., 142 SCRA 485 (1986).

[28] Paras, supra, p. 91.

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.