

IN THE MATTER OF THE CHANGE OF NAME OF GERTRUDES JOSEFINA DEL PRADO, THRU HER NATURAL GUARDIAN CORAZON ADOLFO CALDERON, PETITIONER-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPP...

G.R. No. 18127. April 05, 1967

Ponente: ZALDIVAR, J.

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ZALDIVAR, J.:

This is an appeal by the Solicitor General from the order of the Court of First Instance of Davao granting the petition of petitioner-appellee, Gertrudes Josefina del Prado, for a change of name.

On July 23, 1959, Gertrudes Josefina del Prado, a minor, through her mother and natural guardian, Co-razon Adolfo Calderon, filed a petition in the Court of First Instance of Davao, praying that her name "Gertrudes Josefina del Prado" be changed to "Gertrudes Jose-fina Calderon." It is alleged in the petition that the petitioner is an illegitimate child, born on March 17, 1956, out of a bigamous marriage contracted by Manuel del Prado with Corazon Adolfo; that the surname "Del Prado" which the petitioner carries is a stigma of illegitimacy, by reason of which she has become the sub-ject of unfair comments; that the surname which the pe-titioner carries would constitute a handicap in her life in later years, and would give cause for constant irri-tation in her social relations with other people; that petitioner is living with her mother who is now married to Engineer Romeo C. Calderon; and that it is the desire of the petitioner to have her surname changed from "Del Prado" to "Calderon" which is the surname of her foster father, the husband of her mother.

The publication of the order for the hearing of the petition was duly made.

On July 11, 1960, the Provincial Fiscal of Davao, representing the Solicitor General, filed an opposition to the petition upon the ground that the change of sur-name of the petitioner is unwarranted, considering that said petitioner was born out of a bigamous marriage and as such she has the status of an acknowledged natural child by legal fiction and under the law she should bear the surname of her father Manuel del Prado; and that the change of the surname of the petitioner would be preju-dicial to the rights and interest which she has by vir-tue of the judgment in Civil Case No. 2272 of the Court of First Instance of Davao, annulling the marriage of her mother, Corazon Adolfo, to Manuel del Prado, and would also be prejudicial to her right as conferred upon her by law. Counsel for the petitioner filed a reply to the opposition, the provincial fiscal filed a supplemental opposition, and counsel for the petitioner filed a reply to the supplemental opposition.

After hearing the court a quo issued an order, under date of July 28, 1960, granting the petition and ordering the change of the name of the petitioner from "Gertrudes Josefina del Prado" to "Gertrudes Josefina Calderon." The dispositive portion of the order of the court further states: "This order, however, shall not operate to deprive the petitioner of her status, rights and obligations as recognized by law."

From the above-mentioned order the provincial fis-cal, representing the Solicitor General, appealed to this Court.

In this appeal the Solicitor General contends[1] that the lower court erred in finding as proper and reasonable ground for the change of the surname of the petitioner the reason that petitioner's present surname carries the stigma of illegitimacy, and[2] that the lower court erred in declaring "that although the law is specific that petitioner shall principally use the surname of the father yet it does not follow that petitioner is prohibited from using other surnames when justified."

The issue to be resolved in the present case is whether the lower court's order granting the petition is based upon "proper and reasonable cause" as required by Section 5 of Rule 103 of the new Rules of Court.

The lower court found that petitioner Gertrudes Josefina del Prado was born on March 17, 1956, an illegitimate child of Manuel del Prado and Corazon Adolfo as a result of their bigamous marriage which was annulled on July 18, 1957, after a judgment of conviction of said Manuel del Prado on the complaint for bigamy on December 5, 1956; that subsequently, on December 26, 1957, Corazon Adolfo, mother of the petitioner, got married to Romeo C. Calderon; that the petitioner is living with her mother and her foster father; and that Romeo C. Calderon declared in open court his consent to the petitioner's adopting his surname, especially so because he is the one supporting her. The lower court says, "In the opinion of the Court the reasons adduced by the petitioner are valid and will redound to the best interests of said minor who after all is not at fault to have come to this world as an illegitimate child."

We agree with the court a quo. A petition to change the name of an infant, as in this case, should be granted only where to do so is clearly for the best interest of the child. When the mother of the petitioner filed the instant petition she had in mind what she believed was for the best interest of her child considering that her husband Romeo C. Calderon is the one supporting the child and that he is agreeable to the child's using his surname. The other had considered the generous attitude of her husband as an opportunity for her to promote the personality, and enhance the dignity, of her daughter, by eliminating what constitutes a stigma of illegitimacy which her child would continue to bear if her surname is that of her illegitimate father.

The Solicitor General, in his brief, avers that the evident purpose of petitioner in seeking a change of her surname is to conceal her status as an illegitimate child and that any attempt to conceal illegitimacy cannot be motivated by good faith and an honest purpose. The Solicitor General further alleges that to authorize the change of the name of the petitioner would be to sanction a misrepresentation because the petitioner wants to appear as if she is the daughter of Romeo C. Calderon. We cannot agree with the view of the Solicitor General. The Solicitor General seems to support the idea that since the petitioner has the misfortune of being born illegitimate she must bear that stigma of illegitimacy as long as she lives. That idea should not be countenanced. Justice dictates that every person be allowed to avail of any opportunity to improve his social standing as long as in so doing he does not cause prejudice or injury to the interests of the State or of other people.

The Solicitor General also contends that the status of the petitioner is that of a natural child by legal fiction and under Article 367 of the Civil Code she shall principally enjoy the surname of the father. We agree with the lower court when it said that "While it is true that the Code provides that a natural child by legal fiction as the petitioner herein shall principally enjoy the surname of the father, yet, this does not mean that such child is prohibited by law from taking another surname with the latter's consent and for justifiable reasons." If under the law a legitimate child may secure a change of his name through judicial proceedings, upon a showing of a "proper and reasonable cause", We do not see any reason why a natural child cannot do the same. The purpose of the law in allowing a change of name, as contemplated by the provisions of Rule 103 of the Rules of Court, is to give a person an opportunity to improve his personality and to promote his best interests. We are satisfied that the facts and circumstances as borne out by the record amply justify the change of the surname of the petitioner as ordered by the lower court. We have held that the matter whether to grant or deny a petition for a change of name is left to

the sound discretion of the court, and in the present case we believe that the court a quo had exercised its discretion in a judicious way when it granted the petition.

The Solicitor General expresses an apprehension that because the petitioner here is of tender age, who cannot as yet understand and appreciate the value of the change of her name, may be prejudiced in her rights under the law. This apprehension is dispelled by the pronouncement of this Court, speaking through Mr. Justice Makalintal, as follows:

"x x x But a change of name as authorized under Rule 103 does not by itself define, or affect a change in, one's existing family relations, or in the rights and duties flowing therefrom; nor does it create new family rights and duties where none before was existing. It does not alter one's legal capacity, civil status, or citizenship. What is altered is only the name, which is that word or combination of words by which a person is distinguished from others and which he bears as a label or appellation for the convenience of the world at large in addressing him, or in speaking of or dealing with him (38 Am. Jur. 596)." (In Re Petition for the Change of Name of Joselito Yu, *Juan S. Barrera v. Republic of the Philippines*, L-20874, May 25, 1966)

IN VIEW OF THE FOREGOING, the order appealed from is affirmed, without pronouncement as to the costs.

IT IS SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Regala, Makalintal, Bengzon, J.P., Sanchez, and Castro, JJ., concur.

[1] As quoted from the second assignment of error.

[2] *Uy v. Republic*, L-22712, November 29, 1965.

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