

IN RE PETITION FOR THE CHANGE OF NAME OF JOSELITO YU.

G.R. No. 20874. May 25, 1966

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

In the Juvenile and Domestic Relations Court, Joselito Yu, represented by his guardian ad litem Juan S. Barrera, filed a petition to have his name changed to Ricardo Sy.

Petitioner avers in his petition that he is a minor of 13 years, and a Chinese citizen who has been a resident of Manila for more than three years prior to the filing of the petition. As grounds for the change of name, he alleges that as far as he can remember he has been using the name "Ricardo Sy," that he grew up under the care and custody of Juan Sy Barrera, his guardian ad litem; that he is enrolled in school under the said name; and that he was baptized "Ricardo Sy with his real name also stated."

Without a hearing being had, the court *motu proprio* dismissed the petition on the ground that Rule 103 of the Revised Rules of Court may not be invoked by aliens.

In his appeal petitioner[1] contends that the lower court erred (1) in ruling that an alien cannot avail himself of the provisions of the rules of court relating to change of name; (2) in concluding that in this jurisdiction family or personal rights of an alien should be governed by the laws of his country; (3) in concluding that a simple reason why an alien's name should not be changed by judicial decree in this jurisdiction may be found in the inability of the local judicial authority to provide for the alien's change, of name in his passport; and (4) in engaging in judicial legislation beyond its authority when it applied the law on change of name.

Rule 103 does not say that only citizens of the Philippines may petition for a change of name.[2] Section 1 provides that "a person desiring to change, his name shall present the petition to the Court of First Instance of the province in which he. resides, or, in the City of Manila, to the Juvenile and Domestic Relations Court." Here the word "person" is a generic term which is not limited to Filipino citizens, but embraces all natural persons. The rule does not even require that the citizenship of the petitioner be stated in his petition. It is enough that the petition be verified, signed by the petitioner or some other person in his behalf, and set forth (a) that the petitioner has been a bonafide resident of the province where the petition is filed for at least three (3) years prior to the date of filing; (b) the cause for which the change of name is sought; and (c) the name asked for (section 2). The rule is clear and affords no room for interpretation. It sets forth all the requirements, and Filipino citizenship is not one of them.

The court *a quo* ruled that since the use of surnames is based on family rights, and since under Article 15 of the Civil Code laws relating to family rights and duties, or to the status, condition and legal capacity of persons are binding upon citizens of the Philippines even though living abroad, the converse of the principle must be recognized, that is to say, the same matters in respect of an alien must be governed by the laws of his own country. The major premise of the proposition may be true in a general sense: one's surname is usually that by which not only one as an individual but one's family as well is known. Thus Title XIII of the Civil Code, (Articles

364 to 373) contains provisions for the use of surnames by legitimate, legitimated, illegitimate, and adopted children, as well as by women who are married, widowed or legally separated from their husbands. But a change of name as authorized under Rule 103 does not itself define, or effect 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 were 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 the 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. 595). The situation is no different whether the person whose name is changed be a citizen or an alien.

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 on the public mind. But this is precisely the purpose of the judicial application—to determine whether there is proper and reasonable cause for the change of name. As held by this Court in several cases, in which pertinently enough the petitioners were aliens, the change is not a matter of right but of judicial discretion, to be exercised in the light of the reasons adduced and the consequences that will likely follow (*Ong Peng Oan vs. Republic*, 102 Phil., 468; *Tan vs. Republic*, L-16384, April 26, 1962; *Ong Te, vs. Republic*, L-15549, June 30, 1962; *Moore vs. Republic*, L-18407, June 26, 1963). In not one of those cases, however, has it been ruled that an alien is not entitled to file a petition at all.

Wherefore, the order appealed from is set aside and the case is remanded to the court of origin for further proceedings. No costs.

Bengzon, C.J., Bautista Angelo, Concepcion, Reyes, J.B.L., Barrera, Dizon, Regala, Bengzon, J.P., Zaldivar and Sanchez, JJ., concur.

Order set aside, case remanded for further proceedings.

[1] The Solicitor General, appearing- in behalf of the Republic of the Philippines pursuant to section 4 of Rule 103, has filed a brief supporting the stand of the petitioner.

[2] Neither does Public Act No. 1386 of the Philippine Commission (enacted September 1, 1905) from which the Rule has been adopted.

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