

**IN THE MATTER OF THE PETITION FOR CHANGE OF NAME OF
MARIA ESTRELLA VERONICA PRIMITIVA DUTERTE, ESTRELLA S.
ALFON, PETITIONER, VS. REPUBLIC OF THE PHILIPPINES,
RESPONDENT.**

G.R. No. 51201. May 29, 1980

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

This is a petition filed pursuant to Republic Act No. 5440 to review an Order of the Court of First Instance of Rizal, Branch XXIII, dated December 29, 1978, which partially denied petitioner's prayer for a change of name. Only a question of law is involved and there is no controversy over the facts which are well-stated in the questioned Order as follows:

"This is a verified petition filed on April 28, 1978 by petitioner Maria Estrella Veronica Primitiva Duterte through her counsel, Atty. Rosauro Alvarez, praying that her name be changed from Maria Estrella Veronica Primitiva Duterte to Estrella S. Alfon.

"The notice setting the petition for hearing on December 14, 1978 at 8:30 o'clock in the morning was published in the Times Journal in its issues of July 28, August 5 and 11, 1978 and a copy thereof together with a copy of the petition was furnished the Office of the Solicitor General (Exhibits C, C-1, C-2 and C-3.)

"At the hearing of the petition on December 14, 1978, Atty. Rosauro Alvarez appeared for the petitioner and Fiscal Donato Sor. Suyat, Jr. represented the office of the Solicitor General. Upon motion of counsel for the petitioner, without objection on the part of Fiscal Suyat, the Deputy Clerk of Court was appointed commissioner to receive the evidence and to submit the same for resolution of the Court.

"From the testimonial and documentary evidence presented, it appears that petitioner Maria Estrella Veronica Primitiva Duterte was born on May 15, 1952 at the U.S.T. Hospital (Exhibit A). She was registered at the Local Civil Registrar's Office as Maria Estrella Veronica Primitiva Duterte. On June 15, 1952, she was baptized as Maria Estrella Veronica Primitiva Duterte at the St. Anthony de Padua Church, Singalong, Manila (Exhibit B). Her parents are Filomeno Duterte and Estrella B. Alfon. Since her infancy, Maria Estrella Veronica Primitiva Duterte has been taken care of by Mr. and Mrs. Hector Alfon. Petitioner and her uncle, Hector Alfon, have been residing at 728 J. R. Yulo Street corner Ideal Street, Manda-luyong, Metro Manila for twenty-three (23) years. When petitioner started schooling, she used the name Estrella S. Alfon. She attended her first grade up to fourth year high school at Stella Maris College using the name Estrella S. Alfon (Exhibits E, E-1, E-2 and E-3). After graduating from high school, she enrolled at the Arellano University and finished Bachelor of Science in Nursing (Exhibit E-4). Her scholastic records from elementary to college show that she was registered by the name of Estrella S. Alfon. Petitioner has exercised her right of suffrage under the same name (Exhibit D). She has not committed any felony or misdemeanor (Exhibits G, G-1, G-2, G-3 and G-4).

"Petitioner has advanced the following reasons for filing the petition:

1. She has been using the name Estrella Alfon since her childhood;

2. She has been enrolled in the grade school and in college using the same name;
3. She has continuously used the name Estrella S. Alfon since her infancy and all her friends and acquaintances know her by this name;
4. She has exercised her right of suffrage under the same name.

'Section 5, Rule 103 of the Rules of Court provides:

'Upon satisfactory proof in open court on the date fixed in the order that such order has been published as directed and that the allegations of the petition are true, the court shall, if proper and reasonable cause appears for changing the name of the petitioner adjudge that such name be changed in accordance with the prayer of the petition.'

"The evidence submitted shows that the change of name from Maria Estrella Veronica Primitiva Duterte to Estrella Alfon is not proper and reasonable with respect to the surname. The fact that petitioner has been using a different surname and has become known with such surname does not constitute proper and reasonable cause to legally authorize and change her surname to Alfon. The birth certificate clearly shows that the father of petitioner is Filomeno Duterte. Petitioner likewise admitted this fact in her testimony. To allow petitioner to change her surname from Duterte to Alfon is equivalent to allowing her to use her mother's surname. Article 364 of the Civil Code provides:

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

"If another purpose of the petitioner is to carry the surname of Alfon because her uncle who reared her since childhood has the surname "Alfon" then the remedy is not a petition for change of name.

"WHEREFORE, the petition insofar as the first name is granted but denied with respect to the surname. Petitioner is authorized to change her name from Maria Estrella Veronica Primitiva Duterte to Estrella Alfon Duterte.

"Let copy of this order be furnished the Local Civil Registrar of Pasig, Metro Manila pursuant to Section 3, Rule 103 of the Rules of Court."

The lower court should have fully granted the petition.

The only reason why the lower court denied the petitioner's prayer to change her surname is that as legitimate child of Filomeno Duterte and Estrella Alfon she should principally use the surname of her father invoking Art. 364 of the Civil Code. But the word "principally" as used in the codal provision is not equivalent to "exclusively" so that there is no legal obstacle if a legitimate or legitimated child should choose to use the surname of its mother to which it is equally entitled. Moreover, this Court in *Haw Liong vs. Republic*, G.R. No. L-21194, April 29, 1966, 16 SCRA 677, 679, said:

"The following may be considered, among others, as proper or reasonable causes that may warrant the grant of a petitioner for change of name: (1) when the name is ridiculous, tainted with dishonor, or is extremely difficult to write or pronounce; (2) when the request for change is a consequence of a change of status, such as when a natural child is acknowledged or legitimated; and (3) when the change is necessary to avoid confusion (Tolentino, *Civil Code of the Philippines*, 1953 ed., Vol. 1, p. 660)."

In the case at bar, it has been shown that petitioner has, since childhood, borne the name Estrella S. Alfon although her birth records and baptismal certificate show otherwise; she was enrolled in the schools from the grades up to college under the name Estrella S. Alfon; all her friends call her by this name; she finished her course in Nursing in college and was graduated and given a diploma under this name; and she exercised the right of suffrage likewise under this name. There is therefore ample justification to grant fully her petition which is not

whimsical but on the contrary is based on a solid and reasonable ground, i.e. to avoid confusion.

WHEREFORE, the Order appealed from is hereby modified in that the petitioner is allowed to change not only her first name but also her surname so as to be known as ESTRELLA S. ALFON. No costs.

SO ORDERED.

Barredo, (Chairman), Aquino, Concepcion, Jr., and De Castro, JJ., concur.

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