

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. COURT OF APPEALS AND CYNTHIA VICENCIO, RESPONDENTS.

G.R. No. 88202. December 14, 1998

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This is an appeal interposed by the Republic of the Philippines as represented by the Office of the Solicitor General (OSG), assailing the decision[1] of the Court of Appeals promulgated on April 28, 1989, which affirmed the decision[2] of the Regional Trial Court of Manila, Branch 52, dated, August 31, 1987. The appealed decision granted private respondent Cynthia Vicencio's petition for change of surname, from "Vicencio" to "Yu".

As found by the trial court, hereunder are the facts and circumstances of the case:

"Petitioner's evidence is to the effect that she was born on 19 January 1971 at the Capitol Medical Center, Quezon City, to the spouses Pablo Castro Vicencio and Fe Esperanza de Vega Leabres (Exh. C, also marked Annex A of Petition); that on 10 January 1972, after a marital spat, Pablo Vicencio left their conjugal abode then situated at Meycauayan, Bulacan; that since then Pablo Vicencio never reappeared nor sent support to his family and it was Ernesto Yu who had come to the aid of Fe Esperanza Labres (sic) and her children; that on 29 June 1976, Fe Esperanza Leabres filed a petition in the then Juvenile and Domestic Relations Court of Manila for dissolution of their conjugal partnership, Civil Case No. E-02009, which was granted in a decision rendered by the Hon. Regina C. Ordoñez Benitez on 11 July 1977 (Exhs. D, D-1 to D-3); that sometime in 1983, petitioner's mother filed another petition for change of name, Sp. Proc. No. 83-16346, that is to drop the surname of her husband therefrom, and after hearing a decision was rendered on 5 July 1983 by the Hon. Emeterio C. Cui of Branch XXV of this Court approving the petition (Exh. E); that in 1984, petitioner's mother again filed another petition with this Court, Sp. Proc. No. 84-22605, for the declaration of Pablo Vicencio as an absentee, and which petition was granted on 26 April 1984 in a decision rendered by the Hon. Corona Ibay-Somera (Exh. F & F-1); that on 15 April 1986, petitioner's mother and Ernesto Yu were joined in matrimony in a ceremony solemnized by Mayor Benjamin S. Abalos of Mandaluyong, Metro Manila (Exh. G).

It was also established that evern (sic) since her childhood, petitioner had not known much less remembered her real father Pablo Vicencio, and her known father had been and still is Ernesto Yu; that despite of which she had been using the family name "Vicencio" in her school and other related activities therein; that in view of such situation, confusion arose as to her parentage and she had been subjected to inquiries why she is using Vicencio as her family name, both by her classmates and their neighbors, causing her extreme embarrassment; that on two (2) occasions when she ran as a beauty contestant in a Lions Club affair and in a Manila Red Cross pageant, her name was entered as Cynthia L. Yu; that her step-father had been priorly consulted about this petition and had given his consent thereto; that in fact Ernesto Yu testified for petitioner and confirmed his consent to the petition as he had always treated petitioner as his own daughter ever since." [3]

At the hearing of the petition for change of name by the trial court, the OSG manifested that it was opposing the petition. It participated in the proceedings by cross-examining the private respondent Cynthia Vicencio, (petitioner a quo) and her witnesses.

Disregarding the OSG's contention, the trial court ruled that there is no valid cause for denying the petition. Further, the trial court stated that it could not compel private respondent's step-father to adopt her, as adoption is a voluntary act; but failure to resort to adoption should not be a cause for disallowing private respondent to legally change her name.[4] Hence, it granted the change of surname of private respondent from Vicencio to Yu.

The decision of the trial court was affirmed by the appellate court, which held that it is for the best interest of petitioner that her surname be changed. The appellate court took into account the testimonies of private respondent and her witnesses that allowing the change of surname would "give her an opportunity to improve her personality and welfare." [5] It likewise noted that the discrepancy between her original surname, taken from her biological father; and the surname of her step-father, who has been socially recognized as her father, caused her embarrassment and inferiority complex.[6]

The main issue before us is whether the appellate court erred in affirming the trial court's decision allowing the change of private respondent's surname to that of her step-father's surname.

In *Republic vs. Hernandez* [7], we have recognized inter alia, the following as sufficient grounds to warrant a change of name: (a) when the name is ridiculous, dishonorable or extremely difficult to write or pronounce; (b) when the change is a legal consequence of legitimation or adoption; (c) when the change will avoid confusion; (d) when one has continuously used and been known since childhood by a Filipino name and was unaware of alien parentage; (e) when the change is based on a sincere desire to adopt a Filipino name to erase signs of former alienage, all in good faith and without prejudice to anybody; and (f) when the surname causes embarrassment and there is no showing that the desired change of name was for a fraudulent purpose, or that the change of name would prejudice public interest.

Private respondent asserts that her case falls under one of the justifiable grounds aforecited. She says that confusion has arisen as to her parentage because ever since childhood, Ernesto Yu has acted as her father, assuming duties of rearing, caring and supporting her. Since she is known in society as the daughter of Ernesto Yu, she claims that she has been subjected to inquiries regarding her use of a different surname, causing her much humiliation and embarrassment. However, it is not denied that private respondent has used Vicencio as her surname in her school records and related documents. But she had used the surname of her step-father, Yu, when she participated in public functions, such as entering beauty contests, namely, with the Lion's Club and the Manila Red Cross, and when she celebrated her debut at the Manila Hotel.[8]

The Solicitor General however argues that there is no proper and reasonable cause to warrant private respondent's change of surname. Such change might even cause confusion and give rise to legal complications due to the fact that private respondent's step-father has two (2) children with her mother. In the event of her step-father's death, it is possible that private respondent may even claim inheritance rights as a "legitimate" daughter. In his memorandum, the Solicitor General, opines that - Ernesto Yu has no intention of making Cynthia as an heir because despite the suggestion made before the petition for change of name was heard by the trial court that the change of family name to Yu could very easily be achieved by adoption, he has not opted for such a remedy." [9]

We find merit in the Solicitor General's contention.

"The touchstone for the grant of a change of name is that there be 'proper and reasonable cause' for which the change is sought." [10] The assailed decision as affirmed by the appellate court does not persuade us to depart from the applicability of the general rule on the use of surnames [11], specifically the law which requires that legitimate children shall principally use the surname of their father [12].

Private respondent Cynthia Vicencio is the legitimate offspring of Fe Leabres and Pablo Vicencio. As previously

stated, a legitimate child generally bears the surname of his or her father. It must be stressed that a change of name is a privilege, not a matter of right, addressed to the sound discretion of the court, which has the duty to consider carefully the consequences of a change of name and to deny the same unless weighty reasons are shown.[13]

Confusion indeed might arise with regard to private respondent's parentage because of her surname. But even, more confusion with grave legal consequences could arise if we allow private respondent to bear her step-father's surname, even if she is not legally adopted by him. While previous decisions have allowed children to bear the surname of their respective step-fathers even without the benefit of adoption, these instances should be distinguished from the present case. In *Calderon vs. Republic*,[14] and *Llaneta vs. Agrava*,[15] this Court allowed the concerned child to adopt the surname of the step-father, but unlike the situation in the present case where private respondent is a legitimate child, in those cases the children were not of legitimate parentage. In *Moore vs. Republic*,[16] where the circumstances appears to be similar to the present case before us, the Court upheld the Republic's position:

"We find tenable this observation of government's counsel. Indeed, if a child born out of a lawful wedlock be allowed to bear the surname of the second husband of the mother, should the first husband die or be separated by a decree of divorce, there may result a confusion as to his real paternity. In the long run the change may redound to the prejudice of the child in the community.

While the purpose which may have animated petitioner is plausible and may run along the feeling of cordiality and spiritual relationship that pervades among the members of the Moore family, our hand is deferred by a legal barrier which we cannot at present overlook or brush aside."[17]

Similarly in *Padilla vs. Republic*,[18] the Court ruled that:

"To allow said minors to adopt the surname of their mother's second husband, who is not their father, could result in confusion in their paternity. It could also create the suspicion that said minors, who were born during the coverture of their mother with her first husband, were in fact sired by Edward Padilla, thus bringing their legitimate status into discredit."[19]

Private respondent, might sincerely wish to be in a position similar to that of her step-father's legitimate children, a plausible reason the petition for change of name was filed in the first place. Moreover, it is laudable that Ernesto Yu has treated Cynthia as his very own daughter, providing for all her needs as a father would his own flesh and blood. However, legal constraints lead us to reject private respondent's desire to use her stepfather's surname. Further, there is no assurance the end result would not be even more detrimental to her person, for instead of bringing a stop to questions, the very change of name, if granted, could trigger much deeper inquiries regarding her parentage.

Lastly, when this case was decided by the appellate court, private respondent was already 18 years old but still considered a minor because Republic Act 6809,[20] lowering the age of majority, was then in effect. However, regardless of private respondent's age, our conclusion remains considering the circumstances before us and the lack of any legally justifiable cause for allowing the change of her surname.

WHEREFORE, the appealed decision is hereby REVERSED and SET ASIDE; and the instant petition is hereby GRANTED.

SO ORDERED.

Davide Jr., C.J. (Chairman), Vitug, and Panganiban JJ., concur.

Melo, J., no part.

[1] COURT OF APPEALS-DECISION (CA-G.R. CV No. 17236), Annex "E", Rollo, pp. 50-53.

[2] RTC- DECISION (Sp. Proc. No. 86-37480), Annex "B", Rollo, pp. 21-23.

[3] Ibid, pp. 22-23.

[4] Id., p. 23.

[5] Supra 1, at 52.

[6] Ibid, p. 53.

[7] 253 SCRA 509, 535 citing Republic vs. Court of Appeals, et al., G.R. No. 97906, May 21, 1992, 209 SCRA 189, 199 and cases therein cited. See also Republic vs. Avila, etc., et al., L-33131, May 30, 1983, 122 SCRA 483.

[8] MEMORANDUM FOR RESPONDENT; Rollo, p. 113.

[9] MEMORANDUM for PETITIONER; Rollo, p. 106.

[10] Section 5, Rule 103, Rules of Court; PETITION, Rollo, p. 6 citing Ng Yao Siong vs. Republic, 16 SCRA 483; Republic vs. Judge of Br. III of the CFI of Cebu, 132 SCRA 462, 470.

[11] Ibid, Section 5 Rule 103, Rules of Court.

[12] Article 364 Civil Code of the Philippines.

[13] Supra 7.

[14] 19 SCRA 721.

[15] 57 SCRA 29.

[16] 8 SCRA 282.

[17] Ibid, p. 284.

[18] 113 SCRA 789.

[19] Ibid, p. 791.

[20] Approved December 31, 1989.

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