

FIRST DIVISION

[G.R. NO. 157043, February 02, 2007]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. TRINIDAD
R.A. CAPOTE, RESPONDENT.**

D E C I S I O N

CORONA, J.:

This petition for review on certiorari^[1] seeks to set aside the Court of Appeals (CA) decision^[2] dated January 13, 2003 in CA-G.R. CV No. 66128, which affirmed the decision of the Regional Trial Court (RTC), Branch 23 of San Juan, Southern Leyte dated September 14, 1999 granting a petition for change of name.

Respondent Trinidad R. A. Capote filed a petition for change of name of her ward from *Giovanni N. Gallamaso* to *Giovanni Nadores* on September 9, 1998. In Special Proceeding No. R-481,^[3] Capote as Giovanni's guardian *ad litem* averred:

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1. [Respondent] is a Filipino citizen, of legal age, married, while minor GIOVANNI N. GALLAMASO, is also a Filipino citizen, sixteen (16) years old and both are residents of San Juan, Southern Leyte where they can be served with summons and other court processes;
2. [Respondent] was appointed guardian [*ad litem*] of minor Giovanni N. Gallamaso by virtue of a court order in Special [Proc.] No. R-459, dated [August 18, 1998] xxx xxx authorizing her to file in court a petition for change of name of said minor in accordance with the desire of his mother [who is residing and working abroad];
3. Both [respondent] and minor have permanently resided in San Juan, Southern Leyte, Philippines for more than fifteen (15) years prior to the filing of this instant petition, the former since 1970 while the latter since his birth [in 1982];
4. The minor was left under the care of [respondent] since he was yet nine (9) years old up to the present;
5. Minor GIOVANNI N. GALLAMASO is the illegitimate natural child of Corazon P. Nadores and Diosdado Gallamaso. [He] was born on July 9, 1982 [,] prior to the effectivity of the New Family Code and as such, his mother used the surname of the natural father despite the absence of marriage between them; and [Giovanni] has been known by that name since birth [as per his birth certificate

registered at the Local Civil Register of San Juan, Southern Leyte];

6. The father, Diosdado Gallamaso, from the time [Giovanni] was born and up to the present, failed to take up his responsibilities [to him] on matters of financial, physical, emotional and spiritual concerns. [Giovanni's pleas] for attention along that line [fell] on deaf ears
xxx xxx xxx;
7. [Giovanni] is now fully aware of how he stands with his father and he desires to have his surname changed to that of his mother's surname;
8. [Giovanni's] mother might eventually petition [him] to join her in the United States and [his] continued use of the surname Gallamaso, the surname of his natural father, may complicate [his] status as natural child; and
9. The change of name [from] GIOVANNI N. GALLAMASO to GIOVANNI NADOREs will be for the benefit of the minor.

xxx xxx xxx^[4]

Respondent prayed for an order directing the local civil registrar to effect the change of name on Giovanni's birth certificate. Having found respondent's petition sufficient in form and substance, the trial court gave due course to the petition.^[5] Publication of the petition in a newspaper of general circulation in the province of Southern Leyte once a week for three consecutive weeks was likewise ordered.^[6] The trial court also directed that the local civil registrar be notified and that the Office of the Solicitor General (OSG) be sent a copy of the petition and order.^[7]

Since there was no opposition to the petition, respondent moved for leave of court to present her evidence *ex parte* before a court-appointed commissioner. The OSG, acting through the Provincial Prosecutor, did not object; hence, the lower court granted the motion.

After the reception of evidence, the trial court rendered a decision ordering the change of name from Giovanni N. Gallamaso to Giovanni Nadores.^[8]

From this decision, petitioner Republic of the Philippines, through the OSG, filed an appeal with a lone assignment of error: the court *a quo* erred in granting the petition in a summary proceeding.

Ruling that the proceedings were sufficiently adversarial in nature as required, the CA affirmed the RTC decision ordering the change of name.^[9]

In this petition, the Republic contends that the CA erred in affirming the trial court's decision which granted the petition for change of name despite the non-joinder of indispensable parties.^[10] Petitioner cites *Republic of the Philippines v. Labrador*^[11] and claims that the purported parents and all other persons who may be adversely affected by the child's change of name should have been made respondents to make

the proceeding adversarial.^[12]

We deny the petition.

"The subject of rights must have a fixed symbol for individualization which serves to distinguish him from all others; this symbol is his name."^[13] Understandably, therefore, no person can change his name or surname without judicial authority.^[14] This is a reasonable requirement for those seeking such change because a person's name necessarily affects his identity, interests and interactions. The State must be involved in the process and decision to change the name of any of its citizens.

The Rules of Court provides the requirements and procedure for change of name. Here, the appropriate remedy is covered by Rule 103,^[15] a separate and distinct proceeding from Rule 108 on mere cancellation and correction of entries in the civil registry (usually dealing only with innocuous or clerical errors thereon).^[16]

The issue of non-joinder of alleged indispensable parties in the action before the court *a quo* is intertwined with the nature of the proceedings there. The point is whether the proceedings were sufficiently adversarial.

Summary proceedings do not extensively address the issues of a case since the reason for their conduct is expediency. This, according to petitioner, is not sufficient to deal with substantial or contentious issues allegedly resulting from a change of name, meaning, legitimacy as well as successional rights.^[17] Such issues are ventilated only in adversarial proceedings wherein all interested parties are impleaded and due process is observed.^[18]

When Giovanni was born in 1982 (prior to the enactment and effectivity of the Family Code of the Philippines),^[19] the pertinent provision of the Civil Code then as regards his use of a surname, read:

Art. 366. A natural child acknowledged by both parents shall principally use the surname of the father. If recognized by only one of the parents, **a natural child shall employ the surname of the recognizing parent.** (emphasis ours)

Based on this provision, Giovanni should have carried his mother's surname from birth. The records do not reveal any act or intention on the part of Giovanni's putative father to actually recognize him. Meanwhile, according to the Family Code which repealed, among others, Article 366 of the Civil Code:

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. xxx xxx xxx (emphasis ours)

Our ruling in the recent case of *In Re: Petition for Change of Name and/or Correction/Cancellation of Entry in Civil Registry of Julian Lin Carulasan Wang*^[20] is enlightening:

Our laws on the use of surnames state that legitimate and legitimated children shall principally use the surname of the father. The Family Code