

EIGHTH DIVISION

[CA-G.R. CV No. 95286, October 31, 2014]

**GABRIELLA MICHELLE ZABARTE OROSA, PETITIONER-APPELLEE,
VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.**

DECISION

GARCIA-FERNANDEZ, J.:

This is an appeal interposed by oppositor-appellant Republic of the Philippines from the decision issued by the Regional Trial Court, Quezon City, Branch 96, in SP. Proc. No. Q-07-60986 dated March 2, 2009^[1] which granted the petition filed by the petitioner-appellee Gabriella Michelle Zabarte Orosa and ordered the Civil Registrar General of the National Statistics Office to change the name of GABRIELLA MICHELLE ZABARTE OROSA to GABRIELLA MICHELLE FERNANDEZ ZABARTE.

The facts of the case are as follows:

Petitioner-appellee is the daughter of Maria Margarita Fernandez Zabarte (Maria) who, in turn, is the daughter of Cita Fernandez (Cita). Petitioner-appellee's father is Ramon S. Orosa (Ramon), who is Cita's live-in partner for twenty (20) years.

Petitioner-appellee's name was initially registered by Maria as GABRIELLA MICHELLE FERNANDEZ ZABARTE^[2], without declaring Ramon as petitioner-appellee's father. On April 29, 2005, Ramon acknowledged petitioner-appellee as his child, leading the local civil registrar to place the following annotation on petitioner-appellee's Certificate of Live Birth:

Hereby changed from ZABARTE to OROSA on April 29, 2005. The child shall be known as GABRIELLA MICHELLE ZABARTE OROSA, pursuant to R.A. 9255.

On August 27, 2007, petitioner-appellee, assisted by Maria, filed before the RTC of Quezon City, Branch 96 a petition^[3] to change her name from GABRIELLA MICHELLE ZABARTE OROSA ("Zabarte Orosa") to GABRIELLA MICHELLE FERNANDEZ ZABARTE ("Fernandez Zabarte"). In her petition, petitioner-appellee claims that the change made by the local civil registrar is not consistent with law since the change of name under Republic Act 9255 is merely permissive. Further, petitioner-appellee claims that the change of name from Zabarte Orosa to Fernandez Zabarte is for her best interest. In sum, petitioner-appellee claims that her petition must be granted in order that she would grow up and lead a life without the taint of her past.

Upon receipt of the petition, the RTC issued an order dated October 2, 2007, directing the publication of the order dated October 2, 2007 in a newspaper of

general circulation in the city where the petitioner-appellee resides, and service of copies of the order dated October 2, 2007 together with the petition on the Office of the Solicitor General, Office of the City Prosecutor, Office of the Local Civil Registrar of Quezon City, and the Registrar General of the National Statistics Office^[4]. Petitioner-appellee complied with the foregoing requirements^[5].

On November 14, 2007, the oppositor-appellant Republic filed an Opposition^[6] to the petition, alleging that: 1) the reason supplied by the petitioner-appellee in support of her petition is not among the valid grounds for change of name; 2) that the lower court cannot speculate on the effect of the change of name on petitioner and it would be better to wait until the latter would reach the age of majority before the petition is considered; and 3) in praying for a change of name from Zabarte Orosa to Fernandez Zabarte, petitioner-appellee is in effect asking the lower court to declare that she is Maria's sister, which would surely create confusion in petitioner-appellee's identity.

Petitioner-appellee presented Maria and Cita as witnesses in support of the petition. Oppositor-appellant did not cross-examine these witnesses. It also did not present any witness against the petition.

After hearing, the trial court granted the petition, to wit:

Article 376 of the Civil Code is explicit "No person can change his name or surname without judicial authority." "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. *However, illegitimate children may use the surname of their father if their filiation has been expressly recognized by the father through the record of birth appearing in the civil register, or when an admission in a public document or private handwritten instrument is made by the father; Provided, the father has the right to institute an action before the regular courts to prove non-filiation during his lifetime.* The legitime of each illegitimate child shall consist of one-half of the legitime of a legitimate child." (Article 176 amendment italicized)

The provisions of Republic Act No. 9255 is [sic] merely permissive. It does not render inoperative the mandatory provision of Art. 376 of the Civil Code of the Philippines. It appears that the annotation in the certificate of live Birth of the petitioner was surreptitiously done by Ramon Orosa because as testified to by Ma. Margarita F. Zabarte, the mother of herein petitioner who has been exercising parental authority over her daughter, did not even know and did not approve the change of her daughter's family name; After assiduous evaluation, the Court is convinced that the change of name sought by the petitioner is in order, despite the fact that the father has acknowledged publicly, his filiation with the petitioner.

According to the court, what may be considered, among others, as proper and reasonable causes that may warrant the change of name are: (1) when the name is ridiculous, tainted with dishonor, or is extremely