



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

**DENISE ELLISON M. VIÑA,** G.R. No. 273935  
Petitioner,

Present:

-versus-

**STEPHANIE OTEYZA TY,**  
Respondent.

Promulgated:  
AUG 18 2025

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DECISION

**LEONEN, J.:**

Nonmarital children<sup>1</sup> may use the surname of their father if the father expressly recognized their filiation through the record of birth appearing in the civil register, or through an admission in a public document or private handwritten instrument made by the father.<sup>2</sup>

This resolves a Petition for Review on *Certiorari*<sup>3</sup> under Rule 45 of the Rules of Court, assailing the September 13, 2023 Decision<sup>4</sup> and the May 17, 2024 Resolution<sup>5</sup> of the Court of Appeals. The Court of Appeals partially

<sup>1</sup> In *Aquino v. Aquino*, 918-A Phil. 371 (2021) [Per J. Leonen, *En Banc*], this Court used the term “nonmarital child” in place of “illegitimate child” to refer to the status of a child whose parents are not married to each other.

<sup>2</sup> FAMILY CODE, art. 176, as amended by Republic Act No. 9255.

<sup>3</sup> *Rollo*, pp. 10–24.

<sup>4</sup> *Id.* at 25–39. The Decision in CA-G.R. CV No. 117879 was penned by Associate Justice Zenaida T. Galapate-Laguilles and concurred in by Associate Justice Alfredo D. Ampuan and Associate Justice Selma Palacio Alaras of the Thirteenth Division of the Court of Appeals, Manila.

<sup>5</sup> *Id.* at 41–42. The Resolution was penned by Associate Justice Zenaida T. Galapate-Laguilles and

granted Stephanie Oteyza Ty's (Stephanie) appeal. It affirmed the June 30, 2021 Decision<sup>6</sup> and October 15, 2021 Order<sup>7</sup> of the Regional Trial Court denying Stephanie's petition for adoption, but granted the prayer for change of name and ordered the Local Civil Registrar of Makati City and the Philippine Statistics Authority to cancel Brandon Tyler Ty Viña's (Brandon) certificate of live birth and to issue a new one with the name "Brandon Tyler Ty."

This case originated from a petition for adoption captioned, "In the Matter of the Adoption of Brandon Tyler Ty Viña with Application for Change of Name to Brandon Tyler Ty,"<sup>8</sup> filed by Stephanie before the Regional Trial Court of Makati City to adopt her son Brandon.<sup>9</sup>

Brandon was born on January 19, 2013.<sup>10</sup> According to Stephanie, she is the biological mother of Brandon while petitioner Denise Ellison M. Viña (Denise) is the biological father of Brandon.<sup>11</sup>

After Brandon was born, Stephanie and Denise got married on March 17, 2013.<sup>12</sup> However, their marriage was eventually declared null and void due to the lack of authority of the solemnizing officer.<sup>13</sup> Consequently, Brandon was declared a nonmarital child and Stephanie was granted sole parental authority over Brandon.<sup>14</sup>

Stephanie decided to adopt Brandon. She sought the consent of Denise who signed the Affidavit of Consent.<sup>15</sup>

According to Stephanie, Brandon knew that Denise was his father. She also allowed Denise to visit and communicate with Brandon.<sup>16</sup>

Stephanie testified that she initiated the petition for adoption because she wanted Brandon to have the rights of a legitimate child. She was aware that Denise would be stripped of his legal rights over Brandon as a result of the adoption.<sup>17</sup>

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concurred in by Associate Justice Alfredo D. Ampuan and Associate Justice Selma Palacio Alaras of the Former Thirteenth Division of the Court of Appeals, Manila.

<sup>6</sup> *Id.* at 44–54. The Decision in R-MKT-18-05059-SP was penned by Judge Liza Marie R. Picardal-Tecson of Branch 144, Regional Trial Court, Makati City.

<sup>7</sup> *Id.* at 55–56. The Order in R-MKT-18-05059-SP was penned by Judge Liza Marie R. Picardal-Tecson of Branch 144, Regional Trial Court, Makati City.

<sup>8</sup> *Id.* at 25.

<sup>9</sup> *Id.* at 44.

<sup>10</sup> *Id.* at 26.

<sup>11</sup> *Id.* at 45.

<sup>12</sup> *Id.* at 26. In other parts of the *rollo*, the date is March 17, 2010.

<sup>13</sup> *Id.* at 45.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 46.

<sup>17</sup> *Id.*

Stephanie claimed that Denise was not concerned with Brandon's welfare and only gave support whenever he wanted.<sup>18</sup> When asked regarding the parental obligations performed by Denise, Stephanie acknowledged that in addition to financial support, he would also visit and spend time with Brandon.<sup>19</sup>

During the cross-examination, Stephanie stated that she assumed that Brandon would automatically be legitimized upon marrying Denise.<sup>20</sup> She also admitted that when she asked Denise to sign the Affidavit of Consent, she merely told him that the document was for the legitimization of Brandon.<sup>21</sup>

On April 22, 2019, Denise filed his Opposition to the Petition for Adoption, together with a Repudiation and Withdrawal of Affidavit of Consent.<sup>22</sup>

According to Denise, Stephanie only wanted to sever his relationship with Brandon and did not consider Brandon's best interest.<sup>23</sup> He claimed that there was no compelling reason to change Brandon's last name and that it would only amount to declaring that he had no father, which would expose him to shame and ridicule.<sup>24</sup>

Denise also averred that he was not given the opportunity to examine the contents of the Affidavit of Consent as Stephanie hurriedly asked him to sign the document without telling him that it will be used in adoption proceedings.<sup>25</sup> Denise also did not appear before the notary public who notarized the affidavit.<sup>26</sup>

Denise asserted that since 2015 he had been giving financial support to Stephanie for the expenses of Brandon as shown by several receipts and deposit slips.<sup>27</sup>

Ruby De Guzman, the court social worker, did not give any recommendation for this adoption case considering that Denise opposed the petition for adoption. She emphasized that an affidavit of consent from the biological parent is necessary for the adoption to proceed.<sup>28</sup>

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<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 47.

<sup>20</sup> *Id.* at 46.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at 44.

<sup>23</sup> *Id.* 50.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.* at 51.

<sup>28</sup> *Id.* at 48.

The Regional Trial Court denied the petition for adoption because of the lack of consent from Denise, who is the biological father of Brandon.<sup>29</sup> The dispositive portion of the Regional Trial Court's Decision reads:

**WHEREFORE**, in view of the foregoing, this Petition for Adoption is **DENIED**.

**SO ORDERED.**<sup>30</sup> (Emphasis in the original)

Stephanie's Motion for Reconsideration was also denied by the Regional Trial Court in its October 15, 2021 Order.<sup>31</sup>

Aggrieved, Stephanie filed an appeal with the Court of Appeals, which partially granted her petition.<sup>32</sup> The Court of Appeals affirmed the Decision and Order of the Regional Trial Court, denying the Petition for Adoption on the ground that Denise, the biological father of Brandon, did not give his consent to the adoption.<sup>33</sup> However, the Court of Appeals granted Stephanie's prayer to change Brandon's name from "Brandon Tyler Ty Viña" to "Brandon Tyler Ty" on the ground that nonmarital children shall use the surname of their mother pursuant to Article 176 of the Family Code, as amended by Republic Act No. 9255.<sup>34</sup>

The dispositive portion of the Court of Appeals' Decision reads:

**WHEREFORE**, premises considered, the *Appeal* filed by petitioner-appellant Stephanie Oteyza Ty on 22 October 2021 under Rule 41 of the Rules of Court is **PARTLY GRANTED**.

The *Decision* and *Order* rendered by the Regional Trial Court, Branch 144, Makati City on 30 June 2021 and 15 October 2021 in Case No. R-MKT-18-05059-SP, denying petitioner-appellant Stephanie Oteyza Ty's *Petition for Adoption*, are **AFFIRMED**.

The Local Civil Registrar of Makati City and the Philippine Statistics Authority are **ORDERED** to cancel Brandon Tyler Ty Viña's Certificate of Live Birth with Registry No. 2013-0756, and to issue a new one with his name appearing thereon as "Brandon Tyler Ty."

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<sup>29</sup> *Id.* at 53.

<sup>30</sup> *Id.* at 54.

<sup>31</sup> *Id.* at 55–56.

<sup>32</sup> *Id.* at 38.

<sup>33</sup> *Id.* at 36–37.

<sup>34</sup> *Id.* at 37. FAMILY CODE, art. 176, as amended by Republic Act No. 9255, states: Article 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. 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.

**SO ORDERED.<sup>35</sup> (Emphasis in the original)**

In its May 17, 2024 Resolution, the Court of Appeals denied Denise's Motion for Partial Reconsideration.<sup>36</sup>

Hence, this Petition was filed by Denise where he claims that the Court of Appeals erred in partially granting Stephanie's appeal. He argues that the matter of the change of name was not raised as an issue on appeal<sup>37</sup> and should be subject of a separate court proceeding.<sup>38</sup> He adds that the change of surname will not redound to the best interest of the minor.<sup>39</sup>

In her Comment,<sup>40</sup> respondent countered that the Court of Appeals did not err in acting upon the change of name since it was an incidental relief sought in the petition for adoption.<sup>41</sup> Furthermore, the Court of Appeals did not err in granting the change of name in the absence of an affidavit to use the surname of the father as required by the Revised Implementing Rules and Regulations of Republic Act No. 9255<sup>42</sup> and citing *Barcelote v. Republic*.<sup>43</sup>

The sole issue to be resolved is whether the Court of Appeals erred in granting respondent Stephanie Oteyza Ty's prayer to change the name of her minor child from Brandon Tyler Ty Viña to Brandon Tyler Ty.

The Petition is meritorious.

**I**

The application for change of name is an incidental relief sought in the petition for adoption. Respondent herself emphasizes that "the petition [she] filed before the trial court involves the incidental relief of change of surname, should the petition for adoption be granted."<sup>44</sup> "Incidental" means –

*"contingent upon or pertaining to something that is more important; that which is necessary, appertaining to, or depending upon another known as the principal." Incidental is synonymous with "accessory, accidental, added, additional, allied, associated, attendant."*<sup>45</sup> (Citation omitted)

<sup>35</sup> *Rollo*, p .38.

<sup>36</sup> *Id.* at 42.

<sup>37</sup> *Id.* at 67.

<sup>38</sup> *Id.* at 70.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.* at 220–225.

<sup>41</sup> *Id.* at 220–221.

<sup>42</sup> *Id.* at 221–223.

<sup>43</sup> 815 Phil. 664 (2017) [Per J. Carpio, Second Division].

<sup>44</sup> *Rollo*, p. 220.

<sup>45</sup> *Municipality of Tupi v. Faustino*, 860 Phil. 363, 383–384 (2019) [Per J. Lazaro-Javier, *En Banc*].

Naturally so, because under Article 189<sup>46</sup> of Executive Order No. 209 or the Family Code of the Philippines, a necessary effect of adoption is that the adopted acquires the right to use the surname of the adopter. Further, under Article 365 of the Civil Code<sup>47</sup> “[a]n adopted child shall bear the surname of the adopter.” Thus, “the change of the surname of the adopted child is more an incident rather than the object of adoption proceedings.”<sup>48</sup>

The law allows the change of the surname of the adopted as a natural and necessary consequence of the adoption granted.<sup>49</sup> Reversibly, the denial of the petition for adoption forecloses any need to act upon the application for change of name, the same being only contingent upon the main action and deriving its jurisdictional support therefrom. Hence, the Court of Appeals erred in proceeding to grant the change of name despite its affirmation of the denial of the petition for adoption.

In this instance, the proper remedy for respondent is to file a petition for change of name under Rule 103 of the Rules of Court.

The official name of a person whose birth is registered in the civil register is the name appearing therein. If a change in one’s name is desired, this can only be done by filing and strictly complying with the substantive and procedural requirements for a special proceeding for change of name under Rule 103 of the Rules of Court, wherein the sufficiency of the reasons or grounds therefor can be threshed out and accordingly determined.<sup>50</sup>

It must be stressed, however, that the grant of a change of name is conditioned upon strict compliance with all jurisdictional requirements and proof of proper and compelling reasons supporting the change requested. As held in *Republic v. Hernandez*:<sup>51</sup>

[A] petition for change of name being a proceeding *in rem*, impressed as it is with public interest, strict compliance with all the requisites therefor in order to vest the court with jurisdiction is essential, and failure therein renders the proceedings a nullity.

<sup>46</sup> ARTICLE 189. Adoption shall have the following effects:

- (1) For civil purposes, the adopted shall be deemed to be a legitimate child of the adopters and both shall acquire the reciprocal rights and obligations arising from the relationship of parent and child, including the right of the adopted to use the surname of the adopter;
- (2) The parental authority of the parents by nature over the adopted shall terminate and be vested in the adopters, except that if the adopter is the spouse of the parent by nature of the adopted, parental authority over the adopted shall be exercised jointly by both spouses; and
- (3) The adopted shall remain an intestate heir of his parents and other blood relatives. (39(1)a, (2)a, (3)a, PD 603)

<sup>47</sup> CIVIL CODE, art. 365; Republic Act No. 386 (19490).

<sup>48</sup> *Republic v. Court of Appeals*, 284-A Phil 643, 658 (1992) [Per J. Regalado, Second Division].

<sup>49</sup> *Republic v. Hernandez*, 323 Phil. 606, 621–623 (1996) [Per J. Regalado, Second Division].

<sup>50</sup> *Id.* at 622–623.

<sup>51</sup> *Id.* at 606.

It must likewise be stressed once again 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. Before a person can be authorized to change his name, that is, his true or official name or that which appears in his birth certificate or is entered in the civil register, he must show proper and reasonable cause or any convincing reason which may justify such change.

Jurisprudence has recognized, *inter alia*, the following grounds as being sufficient to warrant a change of name: (a) when the name is ridiculous, dishonorable or extremely difficult to write or pronounce; (b) when the change results as a legal consequence of legitimization 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.<sup>52</sup> (Citations omitted).

## II

The Court of Appeals' approval of the change of name is not only procedurally flawed but also lacked legal basis.

Article 176 of the Family Code, as amended by Republic Act No. 9255, provides guidance on the use of surname by a nonmarital child:

Article 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. 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 legitimate of each illegitimate child shall consist of one-half of the legitimate of a legitimate child.

In granting respondent's prayer to change Brandon's name from "Brandon Tyler Ty Viña" as appearing on his certificate of live birth to "Brandon Tyler Ty," the Court of Appeals merely cited Article 176 of the Family Code, as amended, without any discussion on how the cited provision applied to Brandon.

The Court of Appeals seemed to have ignored the second sentence of Article 176, which permits nonmarital children to use the surname of their

<sup>52</sup> *Id.* at 636-638.

father provided that the father expressly recognized their filiation through the record of birth appearing in the civil register, or through an admission in a public document or private handwritten instrument made by the father. There was no mention that petitioner did not recognize his filiation with Brandon for the Court of Appeals to grant the prayer for change of name.

Respondent herself stated in her appeal before the Court of Appeals that Brandon was a nonmarital child, being born before she got married to petitioner.<sup>53</sup> As a nonmarital child at the time he was born, Brandon should have used the surname of his mother pursuant to Article 176 of the Family Code, as amended. However, the fact that Brandon was able to use the surname of his father means that petitioner expressly recognized his filiation with Brandon.

That petitioner recognized his filiation with Brandon is strengthened by the fact that petitioner vehemently opposed respondent's petition for adoption with an application for Brandon's change of name. Respondent also never alleged that petitioner did not recognize his filiation with Brandon. The records reveal that Brandon was aware that petitioner was his father.<sup>54</sup> Petitioner also provided financial support for Brandon and was allowed to visit and spend time with his child.<sup>55</sup>

Considering that Article 176 of the Family Code allows nonmarital children to use the surname of their father, provided that the father made an express recognition of their filiation, then there would have been no reason for the Court of Appeals to have granted respondent's prayer for her minor child's change of name.

Respondent's contention regarding the absence of an affidavit to use the surname of the father as required by the Revised Implementing Rules and Regulations of Republic Act No. 9255<sup>56</sup> is misplaced. The Rules<sup>57</sup> apply to nonmarital children whose births were unregistered or previously registered under the surname of the mother. Here, the child's birth certificate is already registered under the surname of the father, and it is the mother who now wants to change the surname of her child after her marriage with the father was nullified.

Likewise, *Barcelote v. Republic*<sup>58</sup> invoked by respondent is not squarely on point with this case. There, the Court upheld the cancellation of the birth certificates of the two nonmarital children because they were registered by the biological father, without the participation or consent of the mother, in

<sup>53</sup> *Rollo*, p. 26.

<sup>54</sup> *Id.* at 46.

<sup>55</sup> *Id.* at 47.

<sup>56</sup> *Id.* at 221–223.

<sup>57</sup> Rules and Regulations Governing the Implementation of Republic Act No. 9255, OCRG Administrative Order No. 01-04, (2004)

<sup>58</sup> 815 Phil. 664 (2017) [Per J. Carpio, Second Division].

violation of Act No. 3753 requiring the signature of the mother in her children's birth certificates. No such fact appears in this case.

**ACCORDINGLY**, the Petition is **GRANTED**. The September 13, 2023 Decision and the May 17, 2024 Resolution of the Court of Appeals in CA-G.R. CV No. 117879 are **PARTLY REVERSED** and **SET ASIDE**, insofar as they granted the change of name from "Brandon Tyler Ty Viña" to "Brandon Tyler Ty."

**SO ORDERED.**



MARVIC M.V.F. LEONEN  
Senior Associate Justice

WE CONCUR:



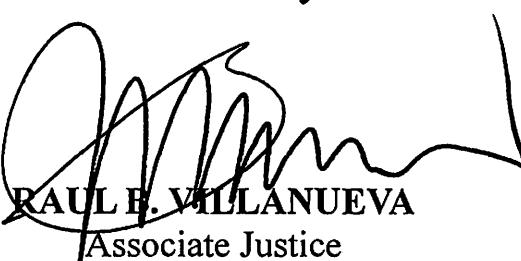
AMY C. LAZARO-JAVIER  
Associate Justice



JHOSEP Y. LOPEZ  
Associate Justice



ANTONIO T. KHO, JR.  
Associate Justice



RAUL F. VILLANUEVA  
Associate Justice

**ATTESTATION**

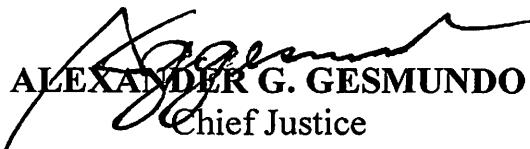
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**MARVIC M.V.F. LEONEN**

Senior Associate Justice  
Chairperson

**CERTIFICATION**

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was as assigned to the writer of the opinion of the Court's Division.

  
**ALEXANDER G. GESMUNDO**

Chief Justice