



ANACLETO
BALLAHO
ALANIS III
VS.
COURT OF
APPEALS



**GR NO.
216425**

11 NOVEMBER 2020



PETITION TO CHANGE NAME

PETITIONER: Anacleto Ballaho Alanis III

→ MOTHER: Jarmila Imelda Ballaho y Al-Raschid

FATHER: Mario Alanis y Cimafranca

RTC ZAMBOANGA
CITY,
BRANCH 12



PETITIONER: ~~Anacleto~~ Ballaho Alanis III
→ Abdulhamid

MOTHER: Jarmila Imelda Ballaho y Al-Raschid

FATHER: Mario ~~Alanis~~ y Cimafranca

✓ **ABDULHAMID BALLAHO**

PETITION TO CHANGE NAME

DENIED (Order dated 9 April 2008)

* RTC Zamboanga,
branch 12 →

-Petitioner failed to prove any grounds to warrant change of name.

-The mere fact that petitioner has been using a different name and has become known by is is not a valid ground for change of name.

-To allow petitioner to drop his last name was to disregard the surname of his natural and legitimate father in violation of the Family Code and the Civil Code, which provided that the legitimate children shall PRINCIPALLY use their fathers' surname.

-Confusion could exist, but granting the petition would create more confusion.

-Granting the petition could trigger much deeper inquiries regarding her parentage and/or paternity.

PETITION TO CHANGE NAME

* RTC Zamboanga,
branch 12 →

-Petitioner moved for reconsideration, but the **RTC DENIED** this in an Order dated 2 June 2008

-A month before RTC rendered its order, the counsel of the petitioner had figured in a shooting incident.

-The petitioner, with a new counsel, filed a Record of Appeal and Notice of Appeal on 3 September 2008 reiterating his former counsel's excusable negligence.

-The Record and Notice of Appeal were **DENIED** by the RTC for having been failed out of time.

PETITION TO CHANGE NAME

-Petitioner filed a Petition for Certiorari before the Court of Appeals (CA), providing the same reason to explain his failure to timely appeal.

* Court of Appeals



- The CA **DENIED** the Petition in its Order dated 26 May 2014 holding that petitioner failed to show any reason to relax or disregard the technical rules of procedure.

-A motion for reconsideration was also **DENIED** by the CA.

* Supreme Court



-Petitioner filed a Petition for Certiorari (Rule 65) before the Supreme Court

ISSUES



Whether or not legitimate children have the right to use their mother's surnames as their surnames



Whether or not the petitioner has established a recognized ground for changing his name

Whether or not the Petition should be dismissed for petitioner's failure to show grave abuse of discretion

FAILURE TO SHOW GRAVE ABUSE OF DISCRETION



In the exercise of **EQUITY JURISDICTION**, the Court delve into the substantial issues of this case

- ① The Petition was filed under Rule 65, but the petitioner did not even attempt to show any grave abuse of discretion on the part of the CA and on this ground alone, the Petition may be dismissed.
- ② It is not disputed that the Record on Appeal was filed out of time. The CA could have relaxed the rules for perfecting an appeal, but was not required, by law, to review it.
- ③ The Court cannot sidestep the rule on reglementary periods for appealing decisions except in the most meritorius cases.

The fundamental equality of women and men before the law shall be ensured by the State. It is guaranteed by no less than the Constitution, a statute, and an international convention to which the Philippines is a party.

••• *Convention on the Elimination of All Forms of Discrimination Against Women*

Where the text of a law allows for an interpretation that treats women and men more equally, that is the correct interpretation.

•••

USE OF MOTHERS' SURNAMES

The Family Code gives legitimate children the right to bear the surnames of the father and the mother , while illegitimate children shall use the surname of their mother, unless their father recognizes their filiation.

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Article 174 of the Family Code

Legitimate children shall have the right:

(1) To bear the surnames of the father and the mother, in conformity with the provisions of the Civil Code on Surnames.



Article 364 of the Civil Code

Legitimate and legitimated children shall principally use the surnames of the father



USE OF MOTHERS' SURNAMES

RTC's application of Article 364 of the Civil Code is incorrect.

"Principally" does not mean "exclusively". This gives ample room to incorporate into Article 364 the State policy of ensuring the fundamental quality of women and men before the law, and no discernible reason to ignore it.



VALID GROUND FOR THE CHANGE OF NAME

Whether people inquire deeper into petitioner's parentage or paternity because his name is inconsequential here, seems to be more of a matter of intrigue and gossip than an issue for courts to consider.



To have the petitioner suddenly use the name in his Certificate of Live Birth would cause undue embarrassment to the petitioner since he has never been known by such name.



A mere correction of his private and public records to conform to the name stated in his Certificate of Live Birth would create more confusion because petitioner has been using the name Abdulhamid Ballaho since enrollment in grade school until finishing his law degree



VALID GROUND FOR THE CHANGE OF NAME

Regardless of which name petitioner uses, his father's identity still appears in his birth certificate, where it will always be written and which can be referred to in cases where paternity is relevant.



Aside from unduly restrictive and highly speculative, trial court's reasoning is also contrary to the spirit and mandate of the Convention, the Constitution, and a statute which all require that the State take appropriate measures to ensure fundamental equality of women and men.



COO
PABS



THANK
YOU & ASSOCIATES

