

**Remo vs. Secretary of Foreign Affairs
G.R. 169202; 5 March 2010**

Facts: Maria Virginia V. Remo (Remo) is a Filipino citizen, married to Francisco R. Rallonza. Her Philippine passport, which was to expire on 27 October 2000, showed “Rallonza” as her surname, “Maria Virginia” as her given name, and “Remo” as her middle name. While her marriage was still subsisting, she applied for the renewal of her passport with the Department of Foreign Affairs office in Chicago, Illinois, U.S.A., with a request to revert to her maiden name and surname in the replacement passport. When her request was denied, she made a similar request to the Secretary of Foreign Affairs. The Secretary of Foreign Affairs denied the request, holding that while it is not obligatory for a married woman to use her husband’s name, she could use her maiden name in her passport application only if she had not used her married name in her previous application. The Secretary explained that under the implementing rules of Republic Act No. 8239 or the *Philippine Passport Act of 1996*, a woman applicant may revert to her maiden name only in cases of annulment of marriage, divorce, and death of the husband. Remo brought the case to the Office of the President which affirmed the Secretary’s ruling. Remo filed a petition for review before the Court of Appeals which denied the petition. When her motion for reconsideration was denied, Remo filed a petition for review before the Supreme Court. Remo argued that RA 8239 conflicted with and was an implied repeal of Article 370 of the Civil Code which allows the wife to continue using her maiden name upon marriage, as settled in the case of *Yasin vs. Honorable Judge Shari’a District Court* [311 Phil. 696, 707 (1995)].

Issue: Whether or not Remo, who originally used her husband’s surname in her expired passport, can revert to the use of her maiden name in the replacement passport, despite the subsistence of her marriage.

Ruling: The petition was denied. Remo cannot use her maiden name in the replacement passport while her marriage subsists.

No conflict between Civil Code and RA 8239

Indeed, under Article 370 of the Civil Code and as settled in the case of *Yasin vs. Honorable Judge Shari’a District Court* (supra), a married woman has an option, but not an obligation, to use her husband’s surname upon marriage. She is not prohibited from continuously using her maiden name because when a woman marries, she does not change her name but only her civil status. RA 8239 does not conflict with this principle.

RA 8239, including its implementing rules and regulations, does not prohibit a married woman from using her maiden name in her passport. In fact, in recognition of this right, the Department of Foreign Affairs (DFA) allows a married woman who applies for a passport for the first time to use her maiden name. Such an applicant is not required to adopt her husband’s surname.

In the case of renewal of passport, a married woman may either adopt her husband’s surname or continuously use her maiden name. If she chooses to adopt her husband’s surname in her new passport, the DFA additionally requires the submission of an authenticated copy of the marriage certificate. Otherwise, if she prefers to continue using her maiden name, she may still do so. The DFA will not prohibit her from continuously using her maiden name.

However, once a married woman opted to adopt her husband's surname in her passport, she may not revert to the use of her maiden name, except in the following cases enumerated in Section 5(d) of RA 8239: (1) death of husband, (2) divorce, (3) annulment, or (4) nullity of marriage. Since Remo's marriage to her husband subsists, she may not resume her maiden name in the replacement passport. Otherwise stated, a married woman's reversion to the use of her maiden name must be based only on the severance of the marriage.

Yasin case not in point

Yasin is not squarely in point with this case. Unlike in *Yasin*, which involved a Muslim divorcee whose former husband is already married to another woman, Remo's marriage remains subsisting. Also, *Yasin* did not involve a request to resume one's maiden name in a replacement passport, but a petition to resume one's maiden name in view of the dissolution of one's marriage.

Special law prevails over general law

Even assuming RA 8239 conflicts with the Civil Code, the provisions of RA 8239 which is a special law specifically dealing with passport issuance must prevail over the provisions of Title XIII of the Civil Code which is the general law on the use of surnames. A basic tenet in statutory construction is that a special law prevails over a general law.

Implied repeals are disfavored

Remo's theory of implied repeal must fail. Well-entrenched is the rule that an implied repeal is disfavored. The apparently conflicting provisions of a law or two laws should be harmonized as much as possible, so that each shall be effective. For a law to operate to repeal another law, the two laws must actually be inconsistent. The former must be so repugnant as to be irreconcilable with the latter act. This, Remo failed to establish.

State is mandated to protect integrity of passport

Remo consciously chose to use her husband's surname in her previous passport application. If her present request would be allowed, nothing prevents her in the future from requesting to revert to the use of her husband's surname. Such unjustified changes in one's name and identity in a passport, which is considered superior to all other official documents, cannot be countenanced. Otherwise, undue confusion and inconsistency in the records of passport holders will arise.

The acquisition of a Philippine passport is a privilege. The law recognizes the passport applicant's constitutional right to travel. However, the State is also mandated to protect and maintain the integrity and credibility of the passport and travel documents proceeding from it as a Philippine passport remains at all times the property of the Government. The holder is merely a possessor of the passport as long as it is valid.

Ponente: J. Antonio T. Carpio

Vote: 5-0