

**FRANCISCO L. JISON, PETITIONER, VS. COURT OF APPEALS AND
MONINA JISON, RESPONDENT.***G.R. No. 124853. February 24, 1998*

Ponente: DAVIDE, JR., J.

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This is a petition for review under Rule 45 of the Rules of Court of the 27 April 1995 decision of the Court of Appeals (CA) in CA-G.R. CV No. 32860[1] which reversed the decision of Branch 24 of the Regional Trial Court (RTC) of Iloilo City in Civil Case No. 16373.[2] The latter dismissed the complaint of private respondent Monina Jison (hereafter MONINA) for recognition as an illegitimate child of petitioner Francisco Jison (hereafter FRANCISCO).

In issue is whether or not public respondent Court of Appeals committed reversible error, which, in this instance, necessitates an inquiry into the facts. While as a general rule, factual issues are not within the province of this Court, nevertheless, in light of the conflicting findings of facts of the trial court and the Court of Appeals, this case falls under an exception to this rule.[3]

In her complaint[4] filed with the RTC on 13 March 1985, MONINA alleged that FRANCISCO had been married to a certain Lilia Lopez Jison since 1940. At the end of 1945 or the start of 1946, however, FRANCISCO impregnated Esperanza F. Amolar (who was then employed as the nanny of FRANCISCO's daughter, Lourdes). As a result, MONINA was born on 6 August 1946, in Dingle, Iloilo, and since childhood, had enjoyed the continuous, implied recognition as an illegitimate child of FRANCISCO by his acts and that of his family. MONINA further alleged that FRANCISCO gave her support and spent for her education, such that she obtained a Master's degree, became a certified public accountant (CPA) and eventually, a Central Bank examiner. In view of FRANCISCO's refusal to expressly recognize her, MONINA prayed for a judicial declaration of her illegitimate status and that FRANCISCO support and treat her as such.

In his answer,[5] FRANCISCO alleged that he could not have had sexual relations with Esperanza Amolar during the period specified in the complaint as she had ceased to be in his employ as early as 1944, and did not know of her whereabouts since then; further, he never recognized MONINA, expressly or impliedly, as his illegitimate child. As affirmative and special defenses, FRANCISCO contended that MONINA had no right or cause of action against him and that her action was barred by estoppel, laches and/or prescription. He thus prayed for dismissal of the complaint and an award of damages due to the malicious filing of the complaint.

After MONINA filed her reply,[6] pre-trial was conducted where the parties stipulated on the following issues:

1. Did Francisco Jison have any sexual relation[s] with Esperanza Am[o]lar about the end of 1945 or the start of 1946?
2. Is Monina Jison the recognized illegitimate daughter of Francisco Jison by the latter's own acts and those of his family?

3. Is Monina Jison barred from instituting or prosecuting the present action by estoppel, laches and/or prescription?

4. Damages.[7]

At trial on the merits, MONINA presented a total of eleven (11) witnesses, namely: herself, Ruben Castellanes, Sr., Adela Casabuena, Arsenio Duatin, Zafiro Ledesma, Danthea Lopez, Romeo Bilbao, Rudy Tingson, Alfredo Baylosis, Dominador Zavariz and Lope Amolar.

Ruben Castellanes, Sr., a 63-year old resident of Iloilo City, testified that he had worked for FRANCISCO for a total of six (6) years at Nelly Garden, FRANCISCO's Iloilo residence. Towards the end of the Japanese occupation, FRANCISCO's wife suffered a miscarriage or abortion, thereby depriving FRANCISCO of consortium; thereafter, FRANCISCO's wife managed a nightclub on the ground floor of Nelly Garden which operated daily from 6:00 p.m. till 3:00 a.m. of the following day, thereby allowing FRANCISCO free access to MONINA's mother, Esperanza Amolar, who was nicknamed Pansay.

Adela Casabuena, a 61-year old farmer, testified that she served as the *yaya* ("nanny") of Lourdes from July 1946 up to February 1947. Although Pansay had left Nelly Garden two (2) weeks before Adela started working for the Jisons, Pansay returned sometime in September 1946, or about one month after she gave birth to MONINA, to ask FRANCISCO for support. As a result, Pansay and Lilia Jison, FRANCISCO's wife, quarreled in the living room, and in the course thereof, Pansay claimed that FRANCISCO was the father of her baby. To which, Lilia replied: "I did not tell you to make that baby so it is your fault." During the quarrel which lasted from 10:30 till 11:00 a.m., FRANCISCO was supposedly inside the house listening.

Arsenio Duatin, a 77-year old retired laborer, testified that from 1947 until 1977, he worked as FRANCISCO's houseboy at the latter's house on 12th Street, Capitol Subdivision, Bacolod City. Arsenio met MONINA in 1967, when Felipe Lagarto, the bookkeeper at Nelly Garden, informed Arsenio that MONINA, FRANCISCO's daughter, would arrive at Bacolod City with a letter of introduction from Lagarto.

Initially, Arsenio identified seven (7) black-and-white photographs (Exhs. X-5 to X-11) of MONINA,[8] and as he paid for the telephone bills, he likewise identified six (6) telephone cards (Exhs. G to L). Arsenio then declared that when MONINA arrived in Bacolod City, she introduced herself to him as FRANCISCO's daughter. She stayed at FRANCISCO's house, but when the latter and his wife would come over, Arsenio would "conceal the presence of MONINA because Mrs. Jison did not like to see her face." Once, Arsenio hid MONINA in the house of FRANCISCO's sister, Mrs. Luisa Jison Alano, in Silay City; another time, at the residence of FRANCISCO's cousin, Mrs. Concha Lopez Cuaycong. Finally, Arsenio declared that the last time he saw MONINA was when she left for Manila, after having finished her schooling at La Salle College in Bacolod City.

On re-direct and upon questions by the court, Arsenio disclosed that it was FRANCISCO who instructed that MONINA be hidden whenever FRANCISCO and his wife were around; that although FRANCISCO and MONINA saw each other at the Bacolod house only once, they called each other "through long distance;" and that MONINA addressed FRANCISCO as "Daddy" during their lone meeting at the Bacolod house and were "affectionate" to each other. Arsenio likewise declared that MONINA stayed at FRANCISCO's Bacolod house twice: first for a month, then for about a week the second time. On both occasions, however, FRANCISCO and his wife were abroad. Finally, Arsenio recalled that FRANCISCO likewise bade Arsenio to treat MONINA like his (FRANCISCO's) other daughters.

The testimony of Zafiro Ledesma, a 74-year old banker and former mayor of Iloilo City, initially touched on how he and his wife were related to FRANCISCO, FRANCISCO's wife and MONINA. Zafiro first identified Exhibit

R, a diagram of the family trees of the Jison and Lopez families, which showed that former Vice-President Fernando Lopez was the first cousin of FRANCISCO's wife, then told the court that the family of Vice-President Lopez treated MONINA "very well because she is considered a relative xxx by reputation, by actual perception." Zafiro likewise identified Exhibits X-13 to X-18, photographs taken at the 14 April 1985 birthday celebration of Mrs. Fernando Lopez, which showed MONINA with the former Vice-President and other members of the Lopez family.

Zafiro further testified that while MONINA lived with Mrs. Cuaycong, the latter paid for some of MONINA's school needs and even asked MONINA to work in a hospital owned by Mrs. Cuaycong; and that another first cousin of FRANCISCO's wife, a certain Remedios Lopez Franco, likewise helped MONINA with her studies and problems, and even attended MONINA's graduation in 1978 when she obtained a masteral degree in Business Administration, as evidenced by another photograph (Exh. X-12). Moreover, upon Remedios' recommendation, MONINA was employed as a secretary at Merchant Financing Company, which was managed by a certain Danthea Lopez, the wife of another first cousin of FRANCISCO's wife, and among whose directors were Zafiro himself, his wife and Danthea's husband. In closing, Zafiro identified MONINA's Social Security Record (Exh. W), which was signed by Danthea as employer and where MONINA designated Remedios as the beneficiary.

Danthea Lopez, a 58-year old housekeeper, declared that FRANCISCO was the first cousin of her husband, Eusebio D. Lopez; and that she came to know MONINA in the latter part of 1965 when Remedios Franco recommended MONINA for employment at Merchant Financing Co., which Danthea managed at that time. Remedios introduced MONINA to Danthea "as being reputedly the daughter of Mr. Frank Jison;" and on several occasions thereafter, Remedios made Danthea and the latter's husband understand that MONINA was "reputedly the daughter of [FRANCISCO]." While MONINA worked at Merchant Financing, Danthea knew that MONINA lived with Remedios; however, in the latter part of 1966, as Remedios left for Manila and MONINA was still studying at San Agustin University, Danthea and her husband invited MONINA to live with them. During MONINA's 6-month stay with them, she was not charged for board and lodging and was treated as a relative, not a mere employee, all owing to what Remedios had said regarding MONINA's filiation. As Danthea understood, MONINA resigned from Merchant Financing as she was called by Mrs. Cuaycong, a first cousin of Danthea's husband who lived in Bacolod City.

Romeo Bilbao, a 43-year old seaman, testified that he had worked for FRANCISCO from 1969 up to 1980 at Nelly Garden in various capacities: as a procurement officer, hacienda overseer and, later, as hacienda administrator. Sometime in May, 1971, Romeo saw and heard MONINA ask "her Daddy" (meaning FRANCISCO) for the money he promised to give her, but FRANCISCO answered that he did not have the money to give, then told MONINA to go see Mr. Jose Cruz in Bacolod City. Then in the middle of September that year, FRANCISCO told Romeo to pick up Mr. Cruz at the Iloilo pier and bring him to the office of Atty. Benjamin Tirol. At said office, Atty. Tirol, Mr. Cruz and MONINA entered a room while Romeo waited outside. When they came out, Atty. Tirol had papers for MONINA to sign, but she refused. Atty. Tirol said that a check would be released to MONINA if she signed the papers, so MONINA acceded, although Atty. Tirol intended not to give MONINA a copy of the document she signed. Thereafter, Mr. Cruz gave MONINA a check (Exh. Q), then MONINA grabbed a copy of the document she signed and ran outside. Romeo then brought Mr. Cruz to Nelly Garden. As to his motive for testifying, Romeo stated that he wanted to help MONINA be recognized as FRANCISCO'S daughter.

Rudy Tingson, a 45-year old antique dealer, testified that in 1963-1964, he was employed by FRANCISCO's wife at the Baguio Military Institute in Baguio City; then in 1965, Rudy worked at FRANCISCO's office at Nelly Garden recording hacienda expenses, typing vouchers and office papers, and, at times, acting as paymaster for the

haciendas. From the nature of his work, Rudy knew the persons receiving money from FRANCISCO's office, and clearly remembered that in 1965, as part of his job, Rudy gave MONINA her allowance from FRANCISCO four (4) times, upon instructions of a certain Mr. Lagarto to give MONINA P15.00 a month. Rudy likewise recalled that he first met MONINA in 1965, and that she would go to Nelly Garden whenever FRANCISCO's wife was not around. On some of these occasions, MONINA would speak with and address FRANCISCO as "Daddy," without objection from FRANCISCO. In fact, in 1965, Rudy saw FRANCISCO give MONINA money thrice. Rudy further declared that in April 1965, FRANCISCO's office paid P250.00 to Funeraria Bernal for the funeral expenses of MONINA's mother. Finally, as to Rudy's motives for testifying, he told the court that he simply wanted to help bring out the truth "and nothing but the truth," and that MONINA's filiation was common knowledge among the people in the office at Nelly Garden.

On re-direct, Rudy declared that the moneys given by FRANCISCO's office to MONINA were not reflected in the books of the office, but were kept in a separate book, as Mr. Lagarto explained that FRANCISCO's wife and children "should not know [of] this." Rudy further revealed that as to the garden "meetings" between FRANCISCO and MONINA, Rudy saw MONINA kiss FRANCISCO on the cheek both upon arriving and before leaving, and FRANCISCO's reaction upon seeing her was to smile and say in the Visayan dialect: "Kamusta ka iha?" ("How are you, daughter?"); and that MONINA was free to go inside the house as the household staff knew of her filiation, and that, sometimes, MONINA would join them for lunch.

Alfredo Baylosis, a 62-year old retired accountant, testified that he worked for FRANCISCO at Central Santos-Lopez in Iloilo from 1951 up to 1961, then at Nelly Garden from 1961 until 1972. Alfredo first served FRANCISCO as a bookkeeper, then when Mr. Lagarto died in 1967 or 1969, Alfredo replaced Mr. Lagarto as office manager.

Alfredo knew MONINA since 1961 as she used to go to Nelly Garden to claim her P15.00 monthly allowance given upon FRANCISCO's standing order. Alfredo further declared that MONINA's filiation was pretty well-known in the office; that he had seen MONINA and FRANCISCO go from the main building to the office, with FRANCISCO's arm on MONINA's shoulder; and that the office paid for the burial expenses of Pansay, but this was not recorded in the books in order to hide it from FRANCISCO's wife. Alfredo also disclosed that the disbursements for MONINA's allowance started in 1961 and were recorded in a separate cash book. In 1967, the allowances ceased when MONINA stopped schooling and was employed in Bacolod City with Miller, Cruz & Co., which served as FRANCISCO's accountant-auditor. Once, when Alfredo went to the offices of Miller, Cruz & Co. to see the manager, Mr. Atienza, and arrange for the preparation of FRANCISCO's income tax return, Alfredo chanced upon MONINA. When Alfredo asked her how she came to work there, she answered that "her Daddy," FRANCISCO, recommended her, a fact confirmed by Mr. Atienza. Alfredo then claimed that Mr. Jose Cruz, a partner at Miller, Cruz & Co., was the most trusted man of FRANCISCO.

Dominador Savariz, a 55-year old caretaker, testified that he worked as FRANCISCO's houseboy at Nelly Garden from November 1953 up to 1965. One morning in April 1954, MONINA and her mother Pansay went to Nelly Garden and spoke with FRANCISCO for about an hour, during which time, Dominador was vacuuming the carpet about six (6) to seven (7) meters away. Due to the noise of the vacuum cleaner, FRANCISCO and MONINA spoke in loud voices, thus Dominador overheard their conversation. As FRANCISCO asked Pansay why they came, Pansay answered that they came to ask for the "sustenance" of his child MONINA. FRANCISCO then touched MONINA's head and asked: "How are you Hija?," to which MONINA answered: "Good morning, Daddy." After FRANCISCO told Pansay and MONINA to wait, he pulled something from his wallet and said to Pansay: "I am giving this for the child."

In May 1954, Dominador saw MONINA at Mr. Lagarto's office where Dominador was to get "the day's

expenses,” while MONINA was claiming her allowance from Mr. Diasnes. The next month, Dominador saw MONINA at Nelly Garden and heard in the office that MONINA was there to get her allowance “from her Daddy.” In December 1960, Dominador saw MONINA at Nelly Garden, in the room of Don Vicente (father of FRANCISCO’s wife), where she asked for a Christmas gift “and she was calling Don Vicente, Lolo (grandfather).” At that time, FRANCISCO and his wife were not around. Then sometime in 1961, when Dominador went to Mr. Lagarto’s office to get the marketing expenses, Dominador saw MONINA once more claiming her allowance.

Dominador further testified that in February 1966, after he had stopped working for FRANCISCO, Dominador was at Mrs. Franco’s residence as she recommended him for employment with her sister, Mrs. Concha Cuaycong. There, he saw MONINA, who was then about 15 years old, together with Mrs. Franco’s daughter and son. Mrs. Franco pointed at MONINA and asked Dominador if he knew who MONINA was. Dominador answered that MONINA was FRANCISCO’s daughter with Pansay, and then Mrs. Franco remarked that MONINA was staying with her (Mrs. Franco) and that she was sending MONINA to school at the University of San Agustin.

Lope Amolar, a 50-year old resident of Dingle, Iloilo, and the younger brother of Esperanza Amolar (Pansay), testified that he worked for FRANCISCO as a houseboy from March to November 1945 at Nelly Garden. Thereafter, FRANCISCO sent Lope to work at Elena Apartments in Manila. By November 1945, Pansay was also working at Elena Apartments, where she revealed to Lope that FRANCISCO impregnated her. Lope then confronted FRANCISCO, who told Lope “don’t get hurt and don’t cause any trouble, because I am willing to support your Inday Pansay and my child.” Three (3) days after this confrontation, Lope asked for and received permission from FRANCISCO to resign because he (Lope) was hurt.

On 21 October 1986, MONINA herself took the witness stand. At that time, she was 40 years old and a Central Bank Examiner. She affirmed that as evidenced by certifications from the Office of the Local Civil Registrar (Exhs. E and F) and baptismal certificates (Exhs. C and D), she was born on 6 August 1946 in Barangay Tabugon, Dingle, Iloilo, to Esperanza Amolar (who passed away on 20 April 1965) and FRANCISCO.[9] MONINA first studied at Sagrado where she stayed as a boarder. While at Sagrado from 1952 until 1955 (up to Grade 4), her father, FRANCISCO, paid for her tuition fees and other school expenses. She either received the money from FRANCISCO or from Mr. Lagarto, or saw FRANCISCO give money to her mother, or Mr. Lagarto would pay Sagrado directly. After Sagrado, MONINA studied in different schools,[10] but FRANCISCO continuously answered for her schooling.

For her college education, MONINA enrolled at the University of Iloilo, but she later dropped due to an accident which required a week’s hospitalization. Although FRANCISCO paid for part of the hospitalization expenses, her mother shouldered most of them. In 1963, she enrolled at the University of San Agustin, where she stayed with Mrs. Franco who paid for MONINA’s tuition fees. However, expenses for books, school supplies, uniforms and the like were shouldered by FRANCISCO. At the start of each semester, MONINA would show FRANCISCO that she was enrolled, then he would ask her to canvass prices, then give her the money she needed. After finishing two (2) semesters at University of San Agustin, as evidenced by her transcript of records (Exh. Z showing that FRANCISCO was listed as Parent/Guardian [Exh. Z-1]), she transferred to “De Paul College,” just in front of Mrs. Franco’s house, and studied there for a year. Thereafter, MONINA enrolled at Western Institute of Technology (WIT), where she obtained a bachelor’s degree in Commerce in April 1967. During her senior year, she stayed with Eusebio and Danthea Lopez at Hotel Kahirup, owned by said couple. She passed the CPA board exams in 1974, and took up an M.B.A. at De La Salle University as evidenced by her transcript (Exh. AA), wherein FRANCISCO was likewise listed as “Guardian” (Exhs. AA-1 and AA-2).

MONINA enumerated the different members of the household staff at Nelly Garden, to wit: Luz, the household

cook; the houseboys Silvestre and Doming; the housemaid Natang; the yaya of the adopted triplets, Deling; the yaya of Lolo Vicente, Adelina; and others. MONINA likewise enumerated the members of the office staff (Messrs. Baylosis, Lagarto, Tingson, Diasnes, Jalandoni, Supertisioso, Doroy, and others), and identified them from a photograph marked as Exhibit X-2. She then corroborated the prior testimony regarding her employment at Merchant Financing Co., and her having lived at Hotel Kahirup and at Mrs. Cuaycong's residence in Bacolod City, while working at the hospital owned by Mrs. Cuaycong.

MONINA further testified that in March 1968, she went to Manila and met FRANCISCO at Elena Apartments at the corner of Romero and Salas Streets, Ermita. She told FRANCISCO that she was going for a vacation in Baguio City with Mrs. Franco's mother, with whom she stayed up to June 1968. Upon her return from Baguio City, MONINA told FRANCISCO that she wanted to work, so the latter arranged for her employment at Miller & Cruz in Bacolod City. MONINA went to Bacolod City, was interviewed by Mr. Jose Cruz, a partner at Miller & Cruz, who told her she would start working first week of September, sans examination. She resigned from Miller & Cruz in 1971 and lived with Mrs. Cuaycong at her Forbes Park residence in Makati. MONINA went to see FRANCISCO, told him that she resigned and asked him for money to go to Spain, but FRANCISCO refused as she could not speak Spanish and would not be able find a job. The two quarreled and FRANCISCO ordered a helper to send MONINA out of the house. In the process, MONINA broke many glasses at the pantry and cut her hand, after which, FRANCISCO hugged her, gave her medicine, calmed her down, asked her to return to Bacolod City and promised that he would give her the money.

MONINA returned to Bacolod City by plane, using a Filipinas Orient Airways plane ticket (Exh. M) which FRANCISCO gave. She called Mr. Cruz, then Atty. Tirol, as instructed by Mr. Cruz. These calls were evidenced by PLDT long distance toll cards (Exhs. G to L), with annotations at the back reading: "charged and paid under the name of Frank L. Jison" and were signed by Arsenio Duatin (Exhs. G-1 to L-1). PLDT issued a certification as to the veracity of the contents of the toll cards (Exh. BB). Likewise introduced in evidence was a letter of introduction prepared by Mr. Cruz addressed to Atty. Tirol, on MONINA's behalf (Exh. N).

MONINA also declared that Atty. Tirol then told her that she would have to go to Iloilo and sign a certain affidavit, before Mr. Cruz would turn over the money promised by FRANCISCO. She went to Atty. Tirol's office in Iloilo, but after going over the draft of the affidavit, refused to sign it as it stated that she was not FRANCISCO's daughter. She explained that all she had agreed with FRANCISCO was that he would pay for her fare to go abroad, and that since she was a little girl, she knew about her illegitimacy. She started crying, begged Atty. Tirol to change the affidavit, to which Atty. Tirol responded that he was also a father and did not want this to happen to his children as they could not be blamed for being brought into the world. She then wrote a letter (Exh. O) to FRANCISCO and sent it to the latter's Forbes Park residence (Bauhinia Place) by JRS courier service (Exhs. O-5 to O-7). MONINA subsequently met FRANCISCO in Bacolod City where they discussed the affidavit which she refused to sign. FRANCISCO told her that the affidavit was for his wife, that in case she heard about MONINA going abroad, the affidavit would "keep her peace."

MONINA then narrated that the first time she went to Atty. Tirol's office, she was accompanied by one Atty. Fernando Divinagracia, who advised her that the affidavit (Exh. P)[11] would "boomerang" against FRANCISCO "as it is contrary to law." MONINA returned to Bacolod City, then met with Atty. Tirol once more to reiterate her plea, but Atty. Tirol did not relent. Thus, on the morning of 20 or 21 September 1971, she signed the affidavit as she was jobless and needed the money to support herself and finish her studies. In exchange for signing the document, MONINA received a Bank of Asia check for P15,000.00 (Exh. Q), which was less than the P25,000.00 which FRANCISCO allegedly promised to give. As Atty. Tirol seemed hesitant to give her a copy of the affidavit after notarizing it, MONINA merely grabbed a copy and immediately left.

MONINA then prepared to travel abroad, for which purpose, she procured letters of introduction (Exhs. S and T) from a cousin, Mike Alano (son of FRANCISCO's elder sister Luisa); and an uncle, Emilio Jison (FRANCISCO's elder brother), addressed to another cousin, Beth Jison (Emilio's daughter), for Beth to assist MONINA. Exhibit S contained a statement (Exh. S-1) expressly recognizing that MONINA was FRANCISCO's daughter. Ultimately though, MONINA decided not to go abroad, opting instead to spend the proceeds of the P15,000.00 check for her CPA review, board exam and graduate studies. After finishing her graduate studies, she again planned to travel abroad, for which reason, she obtained a letter of introduction from former Vice President Fernando Lopez addressed to then United States Consul Vernon McAnich (Exh. V).

As to other acts tending to show her filiation, MONINA related that on one occasion, as FRANCISCO's wife was going to arrive at the latter's Bacolod City residence, FRANCISCO called Arsenio Duatin and instructed Arsenio to hide MONINA. Thus, MONINA stayed with Mrs. Luisa Jison for the duration of the stay of FRANCISCO's wife. MONINA also claimed that she knew Vice President Fernando Lopez and his wife, Mariquit, even before starting to go to school. Thus, MONINA asked for a recommendation letter (Exh. U) from Mrs. Mariquit Lopez for possible employment with Mrs. Rosario Lopez Cooper, another second cousin of FRANCISCO. In Exhibit U, Mrs. Lopez expressly recognized MONINA as FRANCISCO's daughter. As additional proof of her close relationship with the family of Vice President Lopez, MONINA identified photographs taken at a birthday celebration on 14 April 1985.

MONINA finally claimed that she knew the three (3) children of FRANCISCO by wife, namely, Lourdes, Francisco, Jr. (Junior) and Elena, but MONINA had met only Lourdes and Junior. MONINA's testimony dealt lengthily on her dealings with Junior and the two (2) occasions when she met with Lourdes. The last time MONINA saw FRANCISCO was in March 1979, when she sought his blessings to get married.

In his defense, FRANCISCO offered his deposition taken before then Judge Romeo Callejo of the Regional Trial Court of Manila, Branch 48. As additional witnesses, FRANCISCO presented Nonito Jalandoni, Teodoro Zulla, Iñigo Supertisioso, Lourdes Ledesma, Jose Cruz and Dolores Argenal.

FRANCISCO declared that Pansay's employment ceased as of October, 1944, and that while employed by him, Pansay would sleep with the other female helpers on the first floor of his residence, while he, his wife and daughter slept in a room on the second floor. At that time, his household staff was composed of three (3) female workers and two (2) male workers. After Pansay left in October 1944, she never communicated with him again, neither did he know of her whereabouts. FRANCISCO staunchly denied having had sexual relations with Pansay and disavowed any knowledge about MONINA's birth. In the same vein, he denied having paid for MONINA's tuition fees, in person or otherwise, and asserted that he never knew that Mr. Lagarto paid for these fees. Moreover, FRANCISCO could not believe that Lagarto would pay for these fees despite absence of instructions or approval from FRANCISCO. He likewise categorically denied that he told anyone, be it Danthea Lopez, Zafiro Ledesma, Concha Cuaycong or Remedios Franco, that MONINA was his daughter.

FRANCISCO also disclosed that upon his return from the United States in 1971, he fired Alfredo Baylosis upon discovering that Alfredo had taken advantage of his position during the former's absence. FRANCISCO likewise fired Rudy Tingson and Romeo Bilbao, but did not give the reasons therefor.

Finally, FRANCISCO denied knowledge of MONINA's long distance calls from his Bacolod residence; nevertheless, when he subsequently discovered this, he fired certain people in his office for their failure to report this anomaly. As regards the caretaker of his Bacolod residence, FRANCISCO explained that since MONINA lived at Mrs. Cuaycong's residence, the caretaker thought that he could allow people who lived at the Cuaycong residence to use the facilities at his (FRANCISCO's) house.

Nonito Jalandoni, bookkeeper and paymaster at Nelly's Garden from 1963 up to 1974, then from 1980 up to 1986, the assistant overseer of Hacienda Lopez, testified that he did not know MONINA; that he learned of her only in June 1988, when he was informed by FRANCISCO that MONINA had sued him; and that he never saw MONINA at Nelly's Garden, neither did he know of any instructions for anyone at Nelly's Garden to give money to MONINA.

Teodoro Zulla, FRANCISCO's bookkeeper and paymaster from 1951 up to 1986, testified that FRANCISCO dismissed Alfredo Baylosis due to certain unspecified discrepancies; and that he never saw MONINA receive funds from either Mr. Lagarto or Mr. Baylosis. Upon questions from the trial court, however, Teodoro admitted that he prepared vouchers for only one of FRANCISCO's haciendas, and not vouchers pertaining to the latter's personal expenses.

Iñigo Supertisioso testified that he worked for FRANCISCO at Nelly's Garden from 1964 up to 1984 as a field inspector, paymaster, cashier and, eventually, officer-in-charge (OIC). He confirmed Alfredo Baylosis' dismissal due to these unspecified irregularities, then denied that FRANCISCO ever ordered that MONINA be given her allowance. Likewise, Iñigo never heard FRANCISCO mention that MONINA was his (FRANCISCO's) daughter.

Lourdes Ledesma, FRANCISCO's daughter, testified that she saw (but did not know) MONINA at the Our Lady of Mercy Hospital, on the occasion of the birth of Lourdes' first son, Mark. Over lunch one day, Lourdes' aunt casually introduced Lourdes and MONINA to each other, but they were referred to only by their first names. Then sometime in 1983 or 1984, MONINA allegedly went to Lourdes' house in Sta. Clara Subdivision requesting for a letter of introduction or referral as MONINA was then job-hunting. However, Lourdes did not comply with the request.

Jose Cruz, a partner at Miller, Cruz & Co., testified that MONINA worked at Miller & Cruz from 1968 up to 1971, however, he did not personally interview her before she was accepted for employment. Moreover, MONINA underwent the usual screening procedure before being hired. Jose recalled that one of the accountants, a certain Mr. Atienza, reported that MONINA claimed to be FRANCISCO's daughter. Jose then told Mr. Atienza to speak with MONINA and see if he (Mr. Atienza) could stop her from spreading this rumor. Mr. Atienza reported that he spoke with MONINA, who told him that she planned to leave for the United States and needed P20,000.00 for that purpose, and in exchange, she would sign a document disclaiming filiation with FRANCISCO. Thus, Jose instructed Mr. Atienza to request that MONINA meet with Jose, and at that meeting, MONINA confirmed Mr. Atienza's report. Jose then informed Atty. Tirol, FRANCISCO's personal lawyer, about the matter.

Atty. Tirol told Jose to send MONINA and her lawyer to his (Atty. Tirol's) office in Iloilo. Jose then wrote out a letter of introduction for MONINA addressed to Atty. Tirol. Jose relayed Atty. Tirol's message to MONINA through Mr. Atienza, then later, Atty. Tirol told Jose to go to Iloilo with a check for P15,000.00. Jose complied, and at Atty. Tirol's office, Jose saw MONINA, Atty. Tirol and his secretary reading some documents. MONINA then expressed her willingness to sign the document, sans revisions. Jose alleged that he drew the P15,000.00 from his personal funds, subject to reimbursement from and due to an understanding with FRANCISCO.

Dolores Argenal, a househelper at Nelly Garden from May 1944 up to May 1946, testified that she knew that Pansay was Lourdes' nanny; that Lourdes slept in her parents' room; that she had not seen FRANCISCO give special treatment to Pansay; that there was no "unusual relationship" between FRANCISCO and Pansay, and if there was any, Dolores would have easily detected it since she slept in the same room as Pansay. Dolores further declared that whenever FRANCISCO's wife was out of town, Pansay would bring Lourdes downstairs at

nighttime, and that Pansay would not sleep in the room where FRANCISCO slept. Finally, Dolores declared that Pansay stopped working for FRANCISCO and his wife in October, 1944.

The reception of evidence having been concluded, the parties filed their respective memoranda.

It need be recalled that Judge Catalino Castañeda, Jr. presided over trial up to 21 October 1986, thereby hearing only the testimonies of MONINA's witnesses and about half of MONINA's testimony on direct examination. Judge Norberto E. Devera, Jr. heard the rest of MONINA's testimony and those of FRANCISCO's witnesses.

In its decision of 12 November 1990[12] the trial court, through Judge Devera, dismissed the complaint with costs against MONINA. In the opening paragraph thereof, it observed:

This is a complaint for recognition of an illegitimate child instituted by plaintiff Monina Jison against defendant Francisco Jison. This complaint was filed on March 13, 1985 at the time when plaintiff, reckoned from her death of birth, was already thirty-nine years old. Noteworthy also is the fact that it was instituted twenty years after the death of plaintiff's mother, Esperanza Amolar. For the years between plaintiff's birth and Esperanza's death, no action of any kind was instituted against defendant either by plaintiff, her mother Esperanza or the latter's parents. Neither had plaintiff brought such an action against defendant immediately upon her mother's death on April 20, 1965, considering that she was then already nineteen years old or, within a reasonable time thereafter. Twenty years more had to supervene before this complaint was eventually instituted.

The trial court then proceeded to discuss the four issues stipulated at pre-trial, without, however, summarizing the testimonies of the witnesses nor referring to the testimonies of the witnesses other than those mentioned in the discussion of the issues.

The trial court resolved the first issue in the negative, holding that it was improbable for witness Lope Amolar to have noticed that Pansay was pregnant upon seeing her at the Elena Apartments in November 1945, since Pansay was then only in her first month of pregnancy; that there was no positive assertion that "copulation did indeed take place between Francisco and Esperanza;" and that MONINA's attempt to show opportunity on the part of FRANCISCO failed to consider "that there was also the opportunity for copulation between Esperanza and one of the several domestic helpers admittedly also residing at Nelly's Garden at that time." The RTC also ruled that the probative value of the birth and baptismal certificates of MONINA paled in light of jurisprudence, especially when the misspellings therein were considered.

The trial court likewise resolved the second issue in the negative, finding that MONINA's evidence thereon "may either be one of three categories, namely: hearsay evidence, incredulous evidence, or self-serving evidence." To the first category belonged the testimonies of Adela Casabuena and Alfredo Baylosis, whose knowledge of MONINA's filiation was based, as to the former, on "utterances of defendant's wife Lilia and Esperanza allegedly during the heat of their quarrel," while as to the latter, Alfredo's conclusion was based "from the rumors going [around] that plaintiff is defendant's daughter, from his personal observation of plaintiff's facial appearance which he compared with that of defendant's and from the way the two (plaintiff and defendant) acted and treated each other on one occasion that he had then opportunity to closely observe them together." To the second category belonged that of Dominador Savariz, as:

At each precise time that Esperanza allegedly visited Nelly's Garden and allegedly on those occasions when defendant's wife, Lilia was in Manila, this witness was there and allegedly heard pieces of conversation between defendant and Esperanza related to the paternity of the latter's child. xxx

The RTC then placed MONINA's testimony regarding the acts of recognition accorded her by FRANCISCO's relatives under the third category, since the latter were never presented as witnesses, for which reason the trial

court excluded the letters from FRANCISCO's relatives (Exhs. S to V).

As to the third issue, the trial court held that MONINA was not barred by prescription for it was of "the perception ... that the benefits of Article 268 accorded to legitimate children may be availed of or extended to illegitimate children in the same manner as the Family Code has so provided;" or by laches, "which is [a] creation of equity applied only to bring equitable results, and ... addressed to the sound discretion of the court [and] the circumstances [here] would show that whether plaintiff filed this case immediately upon the death of her mother Esperanza in 1965 or twenty years thereafter in 1985, xxx there seems to be no inequitable result to defendant as related to the situation of plaintiff."

The RTC ruled, however, that MONINA was barred by estoppel by deed because of the affidavit (Exh. P/Exh. 2) which she signed "when she was already twenty-five years, a professional and ... under the able guidance of counsel."

Finally, the RTC denied FRANCISCO's claim for damages, finding that MONINA did not file the complaint with malice, she having been "propelled by an honest belief, founded on probable cause."

MONINA seasonably appealed to the Court of Appeals (CA-G.R. CV No. 32860) and sought reversal of the trial court's decision on the grounds that:

I

THE TRIAL COURT WAS ERRONEOUSLY PREDISPOSED TO ADJUDGE THIS CASE AGAINST APPELLANT DUE TO ITS MISPERCEPTION THAT APPELLANT'S DELAY IN FILING HER COMPLAINT WAS FATAL TO HER CASE.

II

THE TRIAL COURT ERRED IN ITS REJECTION OF THE TESTIMONIES OF APPELLANT'S WITNESSES AS TAILOR-MADE, INADEQUATE AND INCREDIBLE.

III

THE TRIAL COURT ERRED IN ITS REJECTION OF THE ADMISSIBILITY OF THE CERTIFIED COPIES OF PUBLIC DOCUMENTS PRESENTED BY APPELLANT AS PART OF HER EVIDENCE.

IV

THE TRIAL COURT ERRED IN ITS REQUIREMENT THAT A WITNESS TO THE ACTUAL ACT OF COUPULATION BETWEEN THE APPELLEE AND APPELLANT'S MOTHER SHOULD HAVE POSITIVELY TESTIFIED TO SAID EFFECT.

V

THE TRIAL COURT ERRED IN REJECTING THE ADMISSIBILITY OF THE DULY IDENTIFIED NOTES AND LETTER OF THE RELATIVES OF THE APPELLEE AS HEARSAY.

VI

THE TRIAL COURT ERRED IN CONCLUDING THAT APPELLANT'S AFFIDAVIT (EXH. P) SERVED AS A BAR AGAINST HER CLAIM FOR RECOGNITION INSTEAD OF REINFORCING SAID CLAIM.[13]

Expectedly, FRANCISCO refuted these alleged errors in his Appellee's Brief.[14]

In its decision of 27 April 1995,[15] the Court of Appeals initially declared that as no vested or acquired rights were affected, the instant case was governed by Article 175, in relation to Articles 172 and 173, of the Family Code.[16] While the Court of Appeals rejected the certifications issued by the Local Civil Registrar of Dingle, Iloilo (Exhs. E and F) as FRANCISCO did not sign them, said court focused its discussion on the other means by which illegitimate filiation could be proved, i.e., the open and continuous possession of the status of an illegitimate child or, by any other means allowed by the Rules of Court and special laws, such as "the baptismal certificate of the child, a judicial admission, a family bible wherein the name of the child is entered, common reputation respecting pedigree, admission by silence, testimonies of witnesses xxx." [17] To the Court of Appeals, the "bottom line issue" was whether or not MONINA established her filiation as FRANCISCO's illegitimate daughter by preponderance of evidence, as to which issue said court found:

[N]ot just preponderant but overwhelming evidence on record to prove that [MONINA] is the illegitimate daughter of [FRANCISCO] and that she had continuously enjoyed such status by direct acts of [FRANCISCO] and/or his relatives.

In so ruling, the Court of Appeals observed that the testimonies of Lope Amolar, Adela Casabuena and Dominador Savariz were already sufficient to establish MONINA's filiation:

As adverted to earlier, the trial court discredited Lope Amolar's testimony by saying that Lope could not have detected Esperanza's pregnant state in November, 1945 since at that point in time [sic] she was still in the initial stage of pregnancy. Apparently, the trial court paid more emphasis on the date mentioned by Lope Amolar than on the tenor and import of his testimony. As xxx Lope xxx was asked about an incident that transpired more than 41 years back, [u]nder the circumstances, it is unreasonable to expect that Lope could still be dead right on the specific month in 1945 that [he] met and confronted his sister. At any rate, what is important is not the month that they met but the essence of his testimony that his sister pointed to their employer [FRANCISCO] as the one responsible for her pregnancy, and that upon being confronted, [FRANCISCO] assured him of support for Esperanza and their child. It would appear then that in an attempt to find fault with Lope's testimony, the trial court has fallen oblivious to the fact that even [FRANCISCO], in his deposition, did not deny that he was confronted by Lope about what he had done to Esperanza, during which he unequivocally acknowledged paternity by assuring Lope of support for both Esperanza and their child.

The Court of Appelas further noted that Casabuena and Savariz "testified on something that they personally observed or witnessed," which matters FRANCISCO "did not deny or refute." Finally, said court aptly held:

Taking into account all the foregoing uncontroverted testimonies xxx let alone such circumstantial evidence as [MONINA's] Birth Certificates xxx and Baptismal Certificates which invariably bear the name of [FRANCISCO] as her father, We cannot go along with the trial court's theory that [MONINA's] illegitimate filiation has not been satisfactorily established.

xxx

Significantly, [MONINA's] testimony finds ample corroboration from [FRANCISCO's] former employees, Arsenio Duatin, Rudy Tingson and Alfredo Baylosis. xxx

xxx

Carefully evaluating appellant's evidence on her enjoyment of the status of an illegitimate daughter of [FRANCISCO] vis-a-vis [FRANCISCO's] controversion thereof, We find more weight in the former. The positive testimonies of [MONINA] and [her] witnesses xxx all bearing on [FRANCISCO's] acts and/or conduct indubitably showing that he had continuously acknowledged [MONINA] as his illegitimate daughter have not been successfully [sic] refuted. In fact, [FRANCISCO] himself, in his deposition, only casually

dismissed [MONINA's] exhaustive and detailed testimony as untrue, and with respect to those given by [MONINA's] witnesses, he merely explained that he had fired [them] from their employment. Needless to state, [FRANCISCO's] vague denial is grossly inadequate to overcome the probative weight of [MONINA's] testimonial evidence.

Even the affidavit (Exh 2) which [FRANCISCO] had foisted on the trial court xxx does not hold sway in the face of [MONINA's] logical explanation that she at first did agree to sign the affidavit which contained untruthful statements. In fact, she promptly complained to [FRANCISCO] who, however explained to her that the affidavit was only for the consumption of his spouse xxx. Further, the testimony of Jose Cruz concerning the events that led to the execution of the affidavit xxx could not have been true, for as pointed out by [MONINA], she signed the affidavit xxx almost five months after she had resigned from the Miller, Cruz & Co. xxx

At any rate, if [MONINA] were not his illegitimate daughter, it would have been uncalled for, if not absurd, for [FRANCISCO] or his lawyer to have secured [MONINA's] sworn statement xxx On the contrary, in asking [MONINA] to sign the said affidavit at the cost of P15,000, [FRANCISCO] clearly betrayed his intention to conceal or suppress his paternity of [MONINA]. xxx

In fine, We hold that [MONINA's] filiation as [FRANCISCO's] illegitimate daughter has been conclusively established by the uncontroverted testimonies of Lope Amolar, Adela Casabuena and Dominador Savariz to the effect that appellee himself had admitted his paternity of the appellee, and also by the testimonies of appellant, Arsenio Duatin, Romeo Bilbao, Rudy Tingson and Alfredo Baylosis unerringly demonstrating that by his own conduct or overt acts like sending appellant to school, paying for her tuition fees, school uniforms, books, board and lodging at the Colegio del Sagrado Corazon de Jesus, defraying appellant's hospitalization expenses, providing her with [a] monthly allowance, paying for the funeral expenses of appellant's mother, acknowledging appellant's paternal greetings and calling appellant his "Hija" or child, instructing his office personnel to give appellant's monthly allowance, recommending appellant for employment at the Miller, Cruz & Co., allowing appellant to use his house in Bacolod and paying for her long distance telephone calls, having appellant spend her vacation in his apartment in Manila and also at his Forbes residence, allowing appellant to use his surname in her scholastic and other records (Exhs Z, AA, AA-1 to AA-5, W & W-5), appellee had continuously recognized appellant as his illegitimate daughter. Added to these are the acts of [FRANCISCO's] relatives acknowledging or treating [MONINA] as [FRANCISCO's] daughter (Exh U) or as their relative (Exhs T & V). On this point, witness Zafiro Ledesma, former Mayor of Iloilo City, whose spouse belongs to the Lopez clan just like [FRANCISCO], testified that [MONINA] has been considered by the Lopezes as a relative. He identified pictures of the appellee in the company of the Lopezes (Exhs X-16 & X-17). Another witness, Danthea H. Lopez, whose husband Eusebio Lopez is appellee's first cousin, testified that appellant was introduced to her by appellee's cousin, Remedios Lopez Franco, as the daughter of appellee Francisco Jison, for which reason, she took her in as [a] secretary in the Merchant's Financing Corporation of which she was the manager, and further allowed her to stay with her family free of board and lodging. Still on this aspect, Dominador Savariz declared that sometime in February, 1966 appellee's relative, Ms. Remedios Lopez Franco pointed to appellant as the daughter of appellee Francisco Jison.

Finally, the Certifications of the Local Civil Registrar of Dingle (Exhs E and F) as well as [MONINA's] Baptismal Certificates (Exhs C & D) which the trial court admitted in evidence as part of [MONINA's] testimony, may serve as circumstantial evidence to further reinforce [MONINA's] claim that she is [FRANCISCO's] illegitimate daughter by Esperanza Amolar.

True it is that a trial judge's assessment of the credibility of witnesses is accorded great respect on appeal. But the rule admits of certain exceptions. One such exception is where the judge who rendered the judgment was not the one who heard the witnesses testify. [citations omitted] The other is where the trial court had overlooked, misunderstood or misappreciated some facts or circumstances of weight and substance which, if properly considered, might affect the result of the case. [citations omitted] In the present case, both exceptions

obtain. All of [MONINA's] witnesses xxx whose testimonies were not given credence did not testify before the judge who rendered the disputed judgment. xxx

The Court of Appeals then decreed:

WHEREFORE, premises considered, the judgment of the trial court is SET ASIDE and another one is hereby entered for appellant Monina Jison, declaring her as the illegitimate daughter of appellee Francisco Jison, and entitled to all rights and privileges granted by law.

Costs against appellee.

SO ORDERED.

His motion for reconsideration having been denied by the Court of Appeals in its resolution of 29 March 1996,[18] FRANCISCO filed the instant petition. He urges us to reverse the judgment of the Court of Appeals, alleging that said court committed errors of law:

I.

... IN REVERSING THE DECISION OF THE TRIAL COURT AND DECLARING PRIVATE RESPONDENT AS THE ILLEGITIMATE CHILD OF PETITIONER, CONSIDERING [THE] IMPOSSIBILITY OF SEXUAL CONTACT BETWEEN THE PETITIONER AND THE PRIVATE RESPONDENT'S MOTHER AT THE TIME CONCEPTION WAS SUPPOSED TO HAVE OCCURRED.

II.

... IN REVERSING THE TRIAL COURT'S FINDING CONSIDERING THAT PRIVATE RESPONDENT'S TESTIMONIAL EVIDENCE OF PATERNITY AND FILIATION IS NOT CLEAR AND CONVINCING.

III.

... IN GIVING CREDENCE TO DOCUMENTARY EVIDENCE PRESENTED BY THE PRIVATE RESPONDENT AS EVIDENCE OF FILIATION CONSIDERING THAT THE SAME ARE HEARSAY, SELF-SERVING AND CANNOT BIND THE PETITIONER UNDER THE BASIC RULES OF EVIDENCE.

IV.

... IN INTERPRETING THE PRIVATE RESPONDENT'S SWORN STATEMENT (EXH. "P"/EXH. "2") IN A MANNER NOT IN CONSONANCE WITH THE RULINGS OF THE HONORABLE SUPREME COURT.

V.

... IN NOT CONSIDERING THE LONG AND UNEXPLAINED DELAY IN THE FILING OF THE PRESENT PATERNITY SUIT AS EQUIVALENT TO LACHES.

As regards the first error, FRANCISCO insists that taking into account the second paragraph of MONINA's complaint wherein she claimed that he and Pansay had sexual relations "by about the end of 1945 or the start of 1946," it was physically impossible for him and Pansay to have had sexual contact which resulted in MONINA's birth, considering that:

The normal period of human pregnancy is nine (9) months. If as claimed by private respondent in her complaint that her mother was impregnated by FRANCISCO "at the end of 1945 or the start of 1946", she would have been born sometime in late September or early October and not August 6, 1946 xxx. The instant

case finds factual and legal parallels in *Constantino vs. Mendez*,^[19] thus: xxx

FRANCISCO further claims that his testimony that Pansay was no longer employed by him at the time in question was un rebutted, moreover, other men had access to Pansay during the time of or even after her employment by him.

As to the second error, FRANCISCO submits that MONINA's testimonial evidence is "shaky, contradictory and unreliable," and proceeds to attack the credibility of her witnesses by claiming, in the main, that: (a) Lope Amolar could not have detected Pansay's pregnancy in November 1945 when they met since she would have been only one (1) month pregnant then; (b) Dominador Savariz did not in fact witness the meeting between FRANCISCO, Pansay and MONINA; (c) Zafiro Ledesma had an ulterior motive in testifying for MONINA as he owned a bank in Iloilo which was then under Central Bank supervision and MONINA was the Bank Examiner assigned to Iloilo; and (d) Danthea Lopez was not related to him by blood and whatever favorable treatment MONINA received from Danthea was due to the former's employment at Merchants' Financing Company and additional services rendered at Kahirup Hotel; besides, Danthea admitted that she had no personal knowledge as to the issue of paternity and filiation of the contending parties, hence Sections 39 and 40^[20] of Rule 130 of the Rules of Court did not come into play. FRANCISCO likewise re-echoes the view of the trial court as regards the testimonies of Adela Casabuena and Alfredo Baylosis.

FRANCISCO further asserts that MONINA's testimony that he answered for her schooling was self-serving and uncorroborated by any receipt or other documentary evidence; and assuming he did, such should be interpreted as a manifestation of kindness shown towards the family of a former household helper.

Anent the treatment given by his relatives to MONINA as his daughter, FRANCISCO points to the fact that Pansay was the former laundrywoman of Mrs. Franco; MONINA resided with the families of Eusebio Lopez and Concha Cuaycong because she was in their employ at Kahirup Hotel and Our Lady of Mercy Hospital, respectively; MONINA failed to present Mrs. Franco, Eusebio Lopez and Mrs. Cuaycong; and MONINA's employment at the accounting firm of Miller, Cruz & Co. was attributable to her educational attainment, there being absolutely no evidence to prove that FRANCISCO ever facilitated her employment thereat. Hence, in light of *Baluyot v. Baluyot*,^[21] the quantum of evidence to prove paternity by clear and convincing evidence, not merely a preponderance thereof, was not met.

With respect to the third assigned error, FRANCISCO argues that the Court of Appeals' reliance on the certifications of the Local Civil Registrar (Exhs. E and F) and Baptismal Certificates (Exhs. C and D) as circumstantial evidence is misplaced. First, their genuineness could not be ascertained as the persons who issued them did not testify. Second, in light of *Reyes v. Court of Appeals*,^[22] the contents of the baptismal certificates were hearsay, as the data was based only on what was told to the priest who solemnized the baptism, who likewise was not presented as a witness. Additionally, the name of the father appearing therein was "Franque Jison," which was not FRANCISCO's name. Third, in both Exhibits E and F, the names of the child's parents were listed as "Frank Heson" and "Esperanza Amador" (not Amolar). FRANCISCO further points out that in Exhibit F, the status of the child is listed as "legitimate," while the father's occupation as "laborer." Most importantly, there was no showing that FRANCISCO signed Exhibits E and F or that he was the one who reported the child's birth to the Office of the Local Civil Registrar. As to MONINA's educational records, FRANCISCO invokes *Baños v. Baños*^[23] which recognized that school records are prepared by school authorities, not by putative parents, thus incompetent to prove paternity. And, as to the photographs presented by MONINA, FRANCISCO cites *Colorado v. Court of Appeals*,^[24] and further asserts that MONINA did not present any of the persons with whom she is seen in the pictures to testify thereon; besides these persons were, at best, mere second cousins of FRANCISCO. He likewise assails the various notes and letters written by his relatives (Exhs. S to V) as they were not identified

by the authors. Finally, he stresses that MONINA did not testify as to the telephone cards (Exhs. G to L) nor did these reveal the circumstances surrounding the calls she made from his residence.

Anent the fourth assigned error, FRANCISCO contends that the Court of Appeals' interpretation of MONINA's affidavit of 21 September 1971 ran counter to *Dequito v. Llamas*,^[25] and overlooked that at the time of execution, MONINA was more than 25 years old and assisted by counsel.

As to the last assigned error, FRANCISCO bewails the Court of Appeals' failure to consider the long and unexplained delay in the filing of the case.

In her comment, MONINA forcefully refuted FRANCISCO's arguments, leading FRANCISCO to file his reply thereto.

On 20 November 1996, we gave due course to this petition and required the parties to submit their respective memoranda, which they subsequently did.

A painstaking review of the evidence and arguments fails to support petitioner.

Before addressing the merits of the controversy, we first dispose of preliminary matters relating to the applicable law and the guiding principles in paternity suits. As to the former, plainly, the Family Code of the Philippines (Executive Order No. 209) governs the present controversy. As correctly cited by the Court of Appeals, *Uyguangco*^[26] served as a judicial confirmation of Article 256 of the Family Code^[27] regarding its retroactive effect unless there be impairment of vested rights, which does not hold true here, it appearing that neither the putative parent nor the child has passed away and the former having actually resisted the latter's claim below.

Under Article 175 of the Family Code, illegitimate filiation, such as MONINA's, may be established in the same way and on the same evidence as that of legitimate children. Article 172 thereof provides the various forms of evidence by which legitimate filiation is established, thus:

ART. 172. The filiation of legitimate children is established by any of the following:

- (1) The record of birth appearing in the civil register or a final judgment; or
- (2) An admission of legitimate filiation in a public document or a private handwritten instrument signed by the parent concerned.

In the absence of the foregoing evidence, the legitimate filiation shall be proved by:

- (1) The open and continuous possession of the status of a legitimate child; or
- (2) Any other means allowed by the Rules of Court and special laws.

This Article reproduces, with amendments, Articles 265, 266 and 267 of the Civil Code.

For the success of an action to establish illegitimate filiation under the second paragraph, which MONINA relies upon given that she has none of the evidence mentioned in the first paragraph, a "high standard of proof"^[28] is required. Specifically, to prove open and continuous possession of the status of an illegitimate child, there must be evidence of the manifestation of the permanent intention of the supposed father to consider the child as his, by continuous and clear manifestations of parental affection and care, which cannot be attributed to pure charity. Such acts must be of such a nature that they reveal not only the conviction of paternity, but also the apparent desire to have and treat the child as such in all relations in society and in life, not accidentally, but continuously.^[29]

By "continuous" is meant uninterrupted and consistent, but does not require any particular length of time.^[30]

The foregoing standard of proof required to establish one's filiation is founded on the principle that an order for recognition and support may create an unwholesome atmosphere or may be an irritant in the family or lives of the parties, so that it must be issued only if paternity or filiation is established by clear and convincing evidence.[31]

The foregoing discussion, however, must be situated within the general rules on evidence, in light of the burden of proof in civil cases, i.e., preponderance of evidence, and the shifting of the burden of evidence in such cases. Simply put, he who alleges the affirmative of the issue has the burden of proof, and upon the plaintiff in a civil case, the burden of proof never parts. However, in the course of trial in a civil case, once plaintiff makes out a prima facie case in his favor, the duty or the burden of evidence shifts to defendant to controvert plaintiff's prima facie case, otherwise, a verdict must be returned in favor of plaintiff. Moreover, in civil cases, the party having the burden of proof must produce a preponderance of evidence thereon, with plaintiff having to rely on the strength of his own evidence and not upon the weakness of the defendant's. The concept of "preponderance of evidence" refers to evidence which is of greater weight, or more convincing, than that which is offered in opposition to it; at bottom, it means probability of truth.[32]

With these in mind, we now proceed to resolve the merits of the instant controversy.

FRANCISCO's arguments in support of his first assigned error deserve scant consideration. While it has been observed that unlawful intercourse will not be presumed merely from proof of an opportunity for such indulgence,[33] this does not favor FRANCISCO. Akin to the crime of rape where, in most instances, the only witnesses to the felony are the participants in the sexual act themselves, in deciding paternity suits, the issue of whether sexual intercourse actually occurred inevitably redounds to the victim's or mother's word, as against the accused's or putative father's protestations. In the instant case, MONINA's mother could no longer testify as to the fact of intercourse, as she had, unfortunately, passed away long before the institution of the complaint for recognition. But this did not mean that MONINA could no longer prove her filiation. The fact of her birth and her parentage may be established by evidence other than the testimony of her mother. The paramount question then is whether MONINA's evidence is coherent, logical and natural.[34]

The complaint stated that FRANCISCO had carnal knowledge of Pansay "by about the end of 1945." We agree with MONINA that this was broad enough to cover the fourth quarter of said year, hence her birth on 6 August 1946 could still be attributed to sexual relations between FRANCISCO and MONINA's mother. In any event, since it was established that her mother was still in the employ of FRANCISCO at the time MONINA was conceived as determined by the date of her birth, sexual contact between FRANCISCO and MONINA's mother was not at all impossible, especially in light of the overwhelming evidence, as hereafter shown, that FRANCISCO fathered MONINA, has recognized her as his daughter and that MONINA has been enjoying the open and continuous possession of the status as FRANCISCO's illegitimate daughter.

We readily conclude that the testimonial evidence offered by MONINA, woven by her narration of circumstances and events that occurred through the years, concerning her relationship with FRANCISCO, coupled with the testimonies of her witnesses, overwhelmingly established the following facts:

- 1) FRANCISCO is MONINA's father and she was conceived at the time when her mother was in the employ of the former;
- 2) FRANCISCO recognized MONINA as his child through his overt acts and conduct which the Court of Appeals took pains to enumerate, thus:

[L]ike sending appellant to school, paying for her tuition fees, school uniforms, books, board and lodging at the Colegio del Sagrado de Jesus, defraying appellant's hospitalization expenses, providing her with [a] monthly allowance, paying for the funeral expenses of appellant's mother, acknowledging appellant's paternal greetings

and calling appellant his “Hija” or child, instructing his office personnel to give appellant’s monthly allowance, recommending appellant for employment at the Miller, Cruz & Co., allowing appellant to use his house in Bacolod and paying for her long distance telephone calls, having appellant spend her vacation in his apartment in Manila and also at his Forbes residence, allowing appellant to use his surname in her scholastic and other records (Exhs Z, AA, AA-1 to AA-5, W & W-5)...

3) Such recognition has been consistently shown and manifested throughout the years publicly,[35] spontaneously, continuously and in an uninterrupted manner.[36]

Accordingly, in light of the totality of the evidence on record, the second assigned error must fail.

There is some merit, however, in the third assigned error against the probative value of some of MONINA’s documentary evidence.

MONINA’s reliance on the certification issued by the Local Civil Registrar concerning her birth (Exhs. E and F) is clearly misplaced. It is settled that a certificate of live birth purportedly identifying the putative father is not competent evidence as to the issue of paternity, when there is no showing that the putative father had a hand in the preparation of said certificates, and the Local Civil Registrar is devoid of authority to record the paternity of an illegitimate child upon the information of a third person.[37] Simply put, if the alleged father did not intervene in the birth certificate, e.g., supplying the information himself, the inscription of his name by the mother or doctor or registrar is null and void; the mere certificate by the registrar without the signature of the father is not proof of voluntary acknowledgment on the latter’s part.[38] In like manner, FRANCISCO’s lack of participation in the preparation of the baptismal certificates (Exhs. C and D) and school records (Exhs. Z and AA) renders these documents incompetent to prove paternity, the former being competent merely to prove the administration of the sacrament of baptism on the date so specified.[39] However, despite the inadmissibility of the school records per se to prove paternity, they may be admitted as part of MONINA’s testimony to corroborate her claim that FRANCISCO spent for her education.

We likewise disagree with the ruling of the Court of Appeals that the certificates issued by the Local Civil Registrar and the baptismal certificates may be taken as circumstantial evidence to prove MONINA’s filiation. Since they are per se inadmissible in evidence as proof of such filiation, they cannot be admitted indirectly as circumstantial evidence to prove the same.

As to Exhibits “S,” “T,” “U” and “V,” the various notes and letters written by FRANCISCO’s relatives, namely Mike Alano, Emilio Jison, Mariquit Lopez and Fernando Lopez, respectively, allegedly attesting to MONINA’s filiation, while their due execution and authenticity are not in issue,[40] as MONINA witnessed the authors signing the documents, nevertheless, under Rule 130, Section 39, the contents of these documents may not be admitted, there being no showing that the declarants-authors were dead or unable to testify, neither was the relationship between the declarants and MONINA shown by evidence other than the documents in question.[41] As to the admissibility of these documents under Rule 130, Section 40, however, this requires further elaboration.

Rule 130, Section 40, provides:

Section 40. Family reputation or tradition regarding pedigree. -- The reputation or tradition existing in a family previous to the controversy, in respect to the pedigree of any one of its members, may be received in evidence if the witness testifying thereon be also a member of the family, either by consanguinity or affinity. Entries in family bibles or other family books or charts, engravings on rings, family portraits and the like, may be received as evidence of pedigree. (underscoring supplied)

It is evident that this provision may be divided into two (2) parts: the portion containing the first underscored

clause which pertains to testimonial evidence, under which the documents in question may not be admitted as the authors thereof did not take the witness stand; and the section containing the second underscored phrase. What must then be ascertained is whether Exhibits S to V, as private documents, fall within the scope of the clause “and the like” as qualified by the preceding phrase “[e]ntries in family bibles or other family books or charts, engravings on rights [and] family portraits.”

We hold that the scope of the enumeration contained in the second portion of this provision, in light of the rule of ejusdem generis, is limited to objects which are commonly known as “family possessions,” or those articles which represent, in effect, a family’s joint statement of its belief as to the pedigree of a person.[42] These have been described as objects “openly exhibited and well known to the family,”[43] or those “which, if preserved in a family, may be regarded as giving a family tradition.”[44] Other examples of these objects which are regarded as reflective of a family’s reputation or tradition regarding pedigree are inscriptions on tombstones,[45] monuments or coffin plates.[46]

Plainly then, Exhibits S to V, as private documents not constituting “family possessions” as discussed above, may not be admitted on the basis of Rule 130, Section 40. Neither may these exhibits be admitted on the basis of Rule 130, Section 41 regarding common reputation,[47] it having been observed that:

[T]he weight of authority appears to be in favor of the theory that it is the general repute, the common reputation in the family, and not the common reputation in community, that is a material element of evidence going to establish pedigree. xxx [Thus] matters of pedigree may be proved by reputation in the family, and not by reputation in the neighborhood or vicinity, except where the pedigree in question is marriage which may be proved by common reputation in the community.[48]

Their inadmissibility notwithstanding, Exhibits “S” to “V,” inclusive, may, in like manner as MONINA’s school records, properly be admitted as part of her testimony to strengthen her claim that, indeed, relatives of FRANCISCO recognized her as his daughter.

We now direct our attention to MONINA’s 21 September 1971 affidavit (Exh. P/Exh. 2), subject of the fourth assigned error, where she attests that FRANCISCO is not her father. MONINA contends that she signed it under duress, i.e., she was jobless, had no savings and needed the money to support herself and finish her studies. Moreover, she signed Exhibit P upon the advice of Atty. Divinagracia that filiation could not be waived and that FRANCISCO’s ploy would “boomerang” upon him. On the other hand, FRANCISCO asserts that full credence should be afforded Exhibit P as MONINA was already 25 years old at the time of its execution and was advised by counsel; further, being a notarized document, its genuineness and due execution could not be questioned. He relies on the testimony of Jose Cruz, a partner at the accounting firm of Miller & Cruz, who declared that he intervened in the matter as MONINA was spreading rumors about her filiation within the firm, which might have had deleterious effects upon the relationship between the firm and FRANCISCO.

On this issue, we find for MONINA and agree with the following observations of the Court of Appeals:

Even the affidavit (Exh 2) which [FRANCISCO] had foisted on the trial court xxx does not hold sway in the face of [MONINA’s] logical explanation that she at first did agree to sign the affidavit which contained untruthful statements. In fact, she promptly complained to [FRANCISCO] who, however explained to her that the affidavit was only for the consumption of his spouse xxx.

At any rate, if [MONINA] were not his illegitimate daughter, it would have been uncalled for, if not absurd, for [FRANCISCO] or his lawyer to have secured [MONINA’s] sworn statement xxx On the contrary, in asking [MONINA] to sign the said affidavit at the cost of P15,000, [FRANCISCO] clearly betrayed his intention to conceal or suppress his paternity of [MONINA]. xxx

Indeed, if MONINA were truly not FRANCISCO's illegitimate daughter, it would have been unnecessary for him to have gone to such great lengths in order that MONINA denounce her filiation. For as clearly established before the trial court and properly appreciated by the Court of Appeals, MONINA had resigned from Miller & Cruz five (5) months prior to the execution of the sworn statement in question, hence negating FRANCISCO's theory of the need to quash rumors circulating within Miller & Cruz regarding the identity of MONINA's father. Hence, coupled with the assessment of the credibility of the testimonial evidence of the parties discussed above, it is evident that the standard to contradict a notarial document, i.e., clear and convincing evidence and more than merely preponderant,[49] has been met by MONINA.

Plainly then, the burden of evidence fully shifted to FRANCISCO.

Two (2) glaring points in FRANCISCO's defense beg to be addressed: First, that his testimony was comprised of mere denials, rife with bare, unsubstantiated responses such as "That is not true," "I do not believe that," or "None that I know." In declining then to lend credence to FRANCISCO's testimony, we resort to a guiding principle in adjudging the credibility of a witness and the truthfulness of his statements, laid down as early as 1921:

The experience of courts and the general observation of humanity teach us that the natural limitations of our inventive faculties are such that if a witness undertakes to fabricate and deliver in court a false narrative containing numerous details, he is almost certain to fall into fatal inconsistencies, to make statements which can be readily refuted, or to expose in his demeanor the falsity of his message.

For this reason it will be found that perjurers usually confine themselves to the incidents immediately related to the principal fact about which they testify, and when asked about collateral facts by which their truthfulness could be tested, their answers not infrequently take the stereotyped form of such expressions as "I don't know" or "I don't remember." xxx[50]

Second, the reasons for the dismissals of Tingson, Baylosis and Savariz were unspecified or likewise unsubstantiated, hence FRANCISCO's attempt to prove ill-motive on their part to falsely testify in MONINA's favor may not succeed. As may be gleaned, the only detail which FRANCISCO could furnish as to the circumstances surrounding the dismissals of his former employees was that Baylosis allegedly "took advantage of his position" while FRANCISCO was in the United States. But aside from this bare claim, FRANCISCO's account is barren, hence unable to provide the basis for a finding of bias against FRANCISCO on the part of his former employees.

As to FRANCISCO's other witnesses, nothing substantial could be obtained either. Nonito Jalandoni avowed that he only came to know of MONINA in June 1988;[51] that during his employment at Nelly Garden from 1963 up to 1974, he did not recall ever having seen MONINA there, neither did he know of any instructions from FRANCISCO nor Mr. Lagarto (FRANCISCO's office manager before passing away) regarding the disbursement of MONINA's allowance.[52] Teodoro Zulla corroborated Jalandoni's testimony regarding not having seen MONINA at Nelly Garden and MONINA's allowance; declared that Alfredo Baylosis was dismissed due to discrepancies discovered after an audit, without any further elaboration, however; but admitted that he never prepared the vouchers pertaining to FRANCISCO's personal expenses, merely those intended for one of FRANCISCO's haciendas.[53] Then, Iñigo Superticioso confirmed that according to the report of a certain Mr. Atienza, Baylosis "was dismissed by Mr. Jison for irregularities," while Superticioso was informed by FRANCISCO that Tingson was dismissed for loss of confidence. Superticioso likewise denied that MONINA received money from FRANCISCO's office, neither was there a standing order from FRANCISCO to release funds to her.[54]

It is at once obvious that the testimonies of these witnesses for FRANCISCO are likewise insufficient to

overcome MONINA's evidence. The former merely consist of denials as regards the latter's having gone to Nelly Garden or having received her allowance from FRANCISCO's office, which, being in the form of negative testimony, necessarily stand infirm as against positive testimony;[55] bare assertions as regards the dismissal of Baylosis; ignorance of FRANCISCO's personal expenses incapable of evincing that FRANCISCO did not provide MONINA with an allowance; or hearsay evidence as regards the cause for the dismissals of Baylosis and Tingson. But what then serves as the coup de grâce is that despite Superticioso's claim that he did not know MONINA,[56] when confronted with Exhibit H, a telephone toll ticket indicating that on 18 May 1971, MONINA called a certain "Eñing" at FRANCISCO's office, Superticioso admitted that his nickname was "Iñing" and that there was no other person named "Iñing" in FRANCISCO's office.[57]

All told, MONINA's evidence hurdled "the high standard of proof" required for the success of an action to establish one's illegitimate filiation when relying upon the provisions regarding "open and continuous possession" or "any other means allowed by the Rules of Court and special laws;" moreover, MONINA proved her filiation by more than mere preponderance of evidence.

The last assigned error concerning laches likewise fails to convince. The essential elements of laches are: (1) conduct on the part of the defendant, or of one under whom he claims, giving rise to the situation of which the complaint seeks a remedy; (2) delay in asserting the complainant's rights, the complainant having had knowledge or notice of the defendant's conduct as having been afforded an opportunity to institute a suit; (3) lack of knowledge or notice on the part of the defendant that the complaint would assert the right in which he bases his suit; and (4) injury or prejudice to the defendant in the event relief is accorded to the complainant, or the suit is not held barred.[58] The last element is the origin of the doctrine that stale demands apply only where by reason of the lapse of time it would be inequitable to allow a party to enforce his legal rights.[59]

As FRANCISCO set up laches as an affirmative defense, it was incumbent upon him to prove the existence of its elements. However, he only succeeded in showing MONINA's delay in asserting her claim, but miserably failed to prove the last element. In any event, it must be stressed that laches is based upon grounds of public policy which requires, for the peace of society, the discouragement of stale claims, and is principally a question of the inequity or unfairness of permitting a right or claim to be enforced or asserted. There is no absolute rule as to what constitutes laches; each case is to be determined according to its particular circumstances. The question of laches is addressed to the sound discretion of the court, and since it is an equitable doctrine, its application is controlled by equitable considerations. It cannot be worked to defeat justice or to perpetuate fraud and injustice.[60] Since the instant case involves paternity and filiation, even if illegitimate, MONINA filed her action well within the period granted her by a positive provision of law. A denial then of her action on ground of laches would clearly be inequitable and unjust.

WHEREFORE, IN VIEW OF THE FOREGOING, the petition is hereby DENIED and the challenged decision of the Court of Appeals of 27 April 1995 in CA-G.R. CV No. 32860 is AFFIRMED.

Costs against petitioner.

SO ORDERED.

Bellosillo, Vitug, Panganiban, and Quisumbing, JJ., concur.

[1] Rollo, 65-80, per Jacinto, G.A., J., with Purisima, F.P. and Montoya, S.A., JJ., concurring.

[2] Rollo, 84-91, per Judge Norberto E. Devera, Jr.

[3] See *Geagonia v. Court of Appeals*, 241 SCRA 152, 160 [1995]; *Consolidated Bank and Trust Corporation (Solidbank) v. CA*, 246 SCRA 193, 198 [1995]; and *Suntay v. Court of Appeals*, 251 SCRA 430, 446 [1995].

[4] Original Record (OR), vol. 1, 1-3.

[5] *Id.*, 10-13.

[6] *Id.*, 14-16.

[7] OR, vol. 1, 39.

[8] Exhibit X-5 showed MONINA standing at the main entrance of FRANCISCO's house; Exhibit X-9 showed MONINA's bedroom in FRANCISCO's house; and Exhibit X-11 showed MONINA standing on the lawn of FRANCISCO's house. These exhibits were offered to prove that MONINA had free use of FRANCISCO's house in Bacolod City and phone thereat..

[9] Spelled "Esperanza Amador" and "Frank Heson" on Exhibits E and F, and "Franque Jison" on Exhibit D.

[10] Iloilo Central Elementary for Grade 5; Rizal Elementary School for Grade 6; Negros Occidental Provincial High School up to her junior year in high school; and Iloilo Provincial High School for her senior year in high school.

[11] Also marked as Exhibit 2 for FRANCISCO.

[12] *Supra* note 2.

[13] OR, vol. 2, Annex "C," Brief for Plaintiff-Appellant, 1-2.

[14] OR, vol. 2, 192 et seq.

[15] *Supra* note 1.

[16] Citing *Uyguangco v. Court of Appeals*, 178 SCRA 684 [1989].

[17] Citing Alicia Sempio-Diy, *Handbook on the Family Code* 246 (1988 ed.) (hereafter *Sempio Diy*).

[18] OR, vol. 2, 192 et seq.

[19] 209 SCRA 18, 23 [1992].

[20] Act or declaration about pedigree and family reputation or tradition regarding pedigree, respectively.

[21] 186 SCRA 506 [1990].

[22] 135 SCRA 439 [1985].

[23] 134 SCRA 260 [1985].

[24] 135 SCRA 47 [1985].

[25] 66 SCRA 504 [1975].

[26] *Supra* note 16.

[27] This article provides:

This Code shall have retroactive effect insofar as it does not prejudice or impair vested or acquired rights in accordance with the Civil Code or other laws.

[28] See *Baluyut v. Baluyut*, supra note 21, at 513.

[29] Arturo M. Tolentino, 1 *Civil Code of the Philippines: Commentaries and Jurisprudence* 602 - 605 (1985); see *Mendoza v. Court of Appeals*, 201 SCRA 675, 683 [1991].

[30] *Sempio-Diy*, at 245-246.

[31] *Constantino v. Mendez*, 209 SCRA 18, 23-24 [1992].

[32] See 7 Vicente J. Francisco, *The Revised Rules of Court in the Philippines, Evidence (Part II, Rules 131-134)*, at 2-4, 542-543 [1973] (citations omitted) (hereafter *Francisco*).

[33] 10 C.J.S., *Bastards* §81 and 10 Am. Jur. 2d *Bastards* §105, citing *Walker v. State*, 74 NE 614 [1905], 86 NE 502 (1908) and *State v. Breeden*, 83 NE 1020 [1908].

[34] See *Ilano v. Court of Appeals*, 230 SCRA 242, 256-257 [1994].

[35] See *Baluyot v. Baluyot*, supra note 21; *Alberto v. Court of Appeals*, 232 SCRA 745, 757 [1994].

[36] See *Ong v. Court of Appeals*, G.R. No. 95386, 29 May 1997, at 11.

[37] See *Fernandez v. Court of Appeals*, 230 SCRA 130, 136-137 [1994], citing *Roces v. Local Civil Registrar*, 102 Phil. 1050 (1958).

[38] See *Berciles v. GSIS*, 128 SCRA 53, 77-78 [1984] (citations omitted).

[39] See *Fernandez v. CA*, supra note 37; and *Reyes v. Court of Appeals*, supra note 22, at 450.

[40] Rule 132, Section 20(a), Rules of Court.

[41] See *Mendoza v. Court of Appeals*, supra note 29, at 685 for requisites of admissibility of an act or declaration regarding pedigree.

[42] See *Francisco*, at 498.

[43] 5 Manuel V. Moran, *Comments on the Rules of Court* 329 [1980] (hereafter *Moran*).

[44] 5 Ruperto G. Martin, *Rules of Court in the Philippines with Notes and Comments* 325 (3rd ed. 1974) (hereafter *Martin*).

[45] *Id.*

[46] *Moran*, supra note 43.

[47] The provision reads:

Section 41. Common reputation. -- Common reputation existing previous to the controversy, respecting facts of public or general interest more than thirty years old, or respecting marriage or moral character, may be given in evidence. Monuments and inscriptions in public places may be received as evidence of common reputation.

[48] *Moran*, supra note 43, at 328 and 336.

[49] See *Yturalde v. Azurin*, 28 SCRA 407, 417 [1969], citing *Mendezona v. Philippine Sugar Estates Development Co.*, 41 Phil. 475, 493 [1921], in turn, citing *Camacho v. Municipality of Baliuag*, 28 Phil. 466

[1914] and *Centenera v. Garcia Palicio*, 29 Phil. 470 [1915]; and *Salame v. Court of Appeals*, 239 SCRA 356, 359 [1994].

[50] *United States v. Burns*, 41 Phil. 418, 428-429 [1921]; *People v. Nemesio V. Ganan, Jr., Harley S. Fabicon*, G.R. No. 119722, 2 December 1996, at 25.

[51] TSN, 15 November 1988, 10-11.

[52] TSN, 15 November 1988, 14-17.

[53] TSN, 16 January 1989, 8; 24-25.

[54] TSN, 17 April 1989, 6, 8, 10-12, 29.

[55] *People v. Antonio*, 233 SCRA 283, 299 [1994]; *Batiquin v. Court of Appeals*, 258 SCRA 334, 343 [1996].

[56] TSN, 17 April 1989, 13.

[57] TSN, 17 April 1989, 29-31.

[58] *Maneclang v. Baun*, 208 SCRA 179, 193 [1992], citing *Go Chi Gun v. Go Cho*, 96 Phil. 622 [1955]; *Abraham v. Recto-Kasten*, 4 SCRA 298 [1962]; *Vergara v. Vergara*, 5 SCRA 53 [1962]; *Yusingco v. Ing Hing Lian*, 42 SCRA 589 [1971]. See also *Z.E. Lotho, Inc. v. Ice and Cold Storage Industries of the Phils. Inc.*, 3 SCRA 744, 748 [1961].

[59] *Z.E. lotho v. Ice and Cold Storage Industries of the Phils. Inc.*, *supra* note 58, citing 19 Am. Jur. 352.

[60] *Chavez v. Bonto-Perez*, 242 SCRA 73, 80 [1995], citing *Jimenez v. Fernandez*, 184 SCRA 190 [1990].

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