

**BELEN SAGAD ANGELES, PETITIONER, VS. ALELI
“CORAZON” ANGELES MAGLAYA, RESPONDENT.**

G.R. NO. 153798. September 02, 2005

Ponente: GARCIA, J.

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GARCIA, J.

In this petition for review on certiorari under Rule 45 of the Rules of Court, petitioner Belen Sagad Angeles seeks to set aside the Decision dated May 29, 2002[1] of the Court of Appeals in CA G.R. CV No. 66037, reversing an earlier Order of the Regional Trial Court at Caloocan City which dismissed the petition for the settlement of the intestate estate of Francisco Angeles, thereat commenced by the herein respondent Aleli "Corazon" Angeles-Maglaya.

The legal dispute between the parties started when, on March 25, 1998, in the Regional Trial Court (RTC) at Caloocan City, respondent filed a petition[2] for letters of administration and her appointment as administratrix of the intestate estate of Francisco M. Angeles (Francisco, hereinafter). In the petition, docketed as Special Proceedings No. C-2140 and raffled to Branch 120 of the court, respondent alleged, among other things, the following:

- That Francisco, a resident of 71 B. Serrano St., Grace Park, Caloocan, died intestate on January 21, 1998 in the City of Manila, leaving behind four (4) parcels of land and a building, among other valuable properties;
- That there is a need to appoint an administrator of Francisco's estate;
- That she (respondent) is the sole legitimate child of the deceased and Genoveva Mercado, and, together with petitioner, Belen S. Angeles, decedent's wife by his second marriage, are the surviving heirs of the decedent; and
- That she has all the qualifications and none of the disqualifications required of an administrator.

Petitioner opposed the basic petition and prayed that she, instead of respondent, be made the administratrix of Francisco's estate.[3] In support of her opposition and plea, petitioner alleged having married Francisco on August 7, 1948 before Judge Lucio M. Tianco of the Municipal Court of Rizal, a union which was ratified two (2) months later in religious rites at the Our Lady of Grace Parish in Caloocan City, and that Francisco represented in their marriage contract that he was single at that time. Petitioner also averred that respondent could not be the daughter of Francisco for, although she was recorded as Francisco's legitimate daughter, the corresponding birth certificate was not signed by him. Pressing on, petitioner further alleged that respondent, despite her claim of being the legitimate child of Francisco and Genoveva Mercado, has not presented the marriage contract between her supposed parents or produced any acceptable document to prove such union. And evidently to debunk respondent's claim of being the only child of Francisco, petitioner likewise averred that she and Francisco had, during their marriage, legally adopted Concesa A. Yamat, et al. Petitioner thus urged that she, being the surviving spouse of Francisco, be declared as possessed of the superior right to the administration of his estate.

In her reply to opposition, respondent alleged, inter alia, that per certification of the appropriate offices, the

January to December 1938 records of marriages of the Civil Registrar of Bacolor, Pampanga where the alleged 1938 Francisco-Genoveva wedding took place, were destroyed. In the same reply, respondent dismissed as of little consequence the adoption adverted to owing to her having interposed with the Court of Appeals a petition to nullify the decree of adoption entered by the RTC at Caloocan.[4]

Issues having been joined, trial ensued. Respondent, as petitioner a quo, commenced the presentation of her evidence by taking the witness stand. She testified having been born on November 20, 1939 as the legitimate child of Francisco M. Angeles and Genoveva Mercado, who died in January 1988.[5] She also testified having been in open and continuous possession of the status of a legitimate child. Four (4) other witnesses testified on her behalf, namely: Tomas Angeles,[6] Francisco Yaya,[7] Jose O. Carreon[8] and Paulita Angeles de la Cruz.[9] Respondent also offered in evidence her birth certificate which contained an entry stating that she was born at the Mary Johnston Hospital, Tondo, Manila, to Francisco Angeles and Genoveva Mercado and whereon the handwritten word "Yes" appears on the space below the question "Legitimate? (Legitimo?)"; pictures taken during respondent's wedding as bride to Atty. Guillermo T. Maglaya; and a copy of her marriage contract. Likewise offered were her scholastic and government service records.

After respondent rested her case following her formal offer of exhibits, petitioner filed a "Motion to Dismiss" under Section 1(g), Rule 16 of the Rules of Court. In it, she prayed for the dismissal of the petition for letters of administration on the ground that the petition failed "to state or prove a cause of action", it being her stated position that "[P]etitioner [Corzaon], by her evidence, failed to establish her filiation vis-à-vis the decedent, i.e., that she is in fact a legitimate child of Francisco M. Angeles." [10]

To the motion to dismiss, respondent interposed an opposition, followed by petitioner's reply, to which respondent countered with a rejoinder.

Eventually, in an Order dated July 12, 1999,[11] the trial court, on its finding that respondent failed to prove her filiation as legitimate child of Francisco, dismissed the petition, thus:

WHEREFORE, the instant petition is hereby ordered DISMISSED for failure of the [respondent] to state a cause of action in accordance with Section 1(g) of Rule 16 of the 1997 Rules of Civil Procedure. (Word in bracket added)

Respondent then moved for reconsideration, which motion was denied by the trial court in its Order of December 17, 1999.[12] Therefrom, respondent went on appeal to the Court of Appeals where her recourse was docketed as CA-G.R. CV No. 66037.

As stated at the threshold hereof, the Court of Appeals, in its assailed Decision dated May 29, 2002,[13] reversed and set aside the trial court's order of dismissal and directed it to appoint respondent as administratrix of the

WHEREFORE, the appealed order of dismissal is REVERSED. The Trial Court is hereby ordered to appoint petitioner-appellant Aleli "Corazon" Angeles as administratrix of the intestate estate of Francisco Angeles.

SO ORDERED.

The appellate court predicated its ruling on the interplay of the following main premises:

- Petitioner's Motion to Dismiss filed with the trial court, albeit premised on the alleged failure of the underlying petition for letter of administration to state or prove a cause of action, actually partakes of a demurrer to evidence under Section 1 of Rule 33;[14]
- Petitioner's motion being a demurrer, it follows that she thereby waived her right to present opposing evidence to rebut respondent's testimonial and documentary evidence; and

- Respondent has sufficiently established her legitimate filiation with the deceased Francisco.

Hence, petitioner's instant petition for review on certiorari, on the submission that the Court of Appeals erred: (1) in reversing the trial court's order of dismissal;^[15] (2) in treating her motion to dismiss as a demurrer to evidence; (3) in holding that respondent is a legitimate daughter of Francisco; and (4) in decreeing respondent's appointment as administratrix of Francisco's intestate estate.

We resolve to grant the petition.

The principal issue tendered in this case boils down to the question of whether or not respondent is the legitimate child of decedent Francisco M. Angeles and Genoveva Mercado. The Court of Appeals resolved the issue in the affirmative and, on the basis of such determination, ordered the trial court to appoint respondent as administratrix of Francisco's estate.

We are unable to lend concurrence to the appellate court's conclusion on the legitimate status of respondent, or, to be precise, on her legitimate filiation to the decedent. A legitimate child is a product of, and, therefore, implies a valid and lawful marriage. Remove the element of lawful union and there is strictly no legitimate filiation between parents and child. Article 164 of the Family Code cannot be more emphatic on the matter: "Children conceived or born during the marriage of the parents are legitimate."

In finding for respondent, the Court of Appeals, citing and extensibly quoting from *Tison vs. Court of Appeals*,^[16] stated that since petitioner "opted not to present any contrary evidence", the presumption on respondent's legitimacy stands "unrebutted."^[17] Following is an excerpt from *Tison*:

It seems that both the court a quo and respondent appellate court have regrettably overlooked the universally recognized presumption on legitimacy. There is no presumption of the law more firmly established and founded on sounder morality and more convincing than the presumption that children born in wedlock are legitimate. And well-settled is the rule that the issue of legitimacy cannot be attacked collaterally.

The rationale for this rule has been explained in this wise:

'The presumption of legitimacy in the Family Code . . . actually fixes a status for the child born in wedlock, and that civil status cannot be attacked collaterally. xxx

xxx xxx xxx

'Upon the expiration of the periods provided in Article 170 [of the Family Code], the action to impugn the legitimacy of a child can no longer be brought. The status conferred by the presumption, therefore, becomes fixed, and can no longer be questioned. The obvious intention of the law is to prevent the status of a child born in wedlock from being in a state of uncertainty. It also aims to force early action to settle any doubt as to the paternity of such child so that the evidence material to the matter . . . may still be easily available.'

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'Only the husband can contest the legitimacy of a child born to his wife' (Words in bracket added; Emphasis ours)

Contextually, the correct lesson of *Tison*, which the appellate court evidently misapplied, is that: (a) a child is presumed legitimate only if conceived or born in wedlock; and (b) the presumptive legitimacy of such child cannot be attacked collaterally.

A party in whose favor the legal presumption exists may rely on and invoke such legal presumption to establish a fact in issue. He need not introduce evidence to prove that fact.^[18] For, a presumption is *prima facie* proof of the fact presumed. However, it cannot be over-emphasized, that while a fact thus *prima facie* established by legal

presumption shall, unless overthrown, stand as proved,[19] the presumption of legitimacy under Article 164 of the Family Code[20] may be availed only upon convincing proof of the factual basis therefor, i.e., that the child's parents were legally married and that his/her conception or birth occurred during the subsistence of that marriage. Else, the presumption of law that a child is legitimate does not arise.

In the case at bench, the Court of Appeals, in its decision under review, did not categorically state from what facts established during the trial was the presumption of respondent's supposed legitimacy arose. But even if perhaps it wanted to, it could not have possibly done so. For, save for respondent's gratuitous assertion and an entry in her certificate of birth, there is absolutely no proof of the decedent's marriage to respondent's mother, Genoveva Mercado. To stress, no marriage certificate or marriage contract – doubtless the best evidence of Francisco's and Genoveva's marriage, if one had been solemnized[21] – was offered in evidence. No priest, judge, mayor, or other solemnizing authority was called to the witness box to declare that he solemnized the marriage between the two. None of the four (4) witnesses respondent presented could say anything about, let alone affirm, that supposed marriage. At best, their testimonies proved that respondent was Francisco's daughter. For example, Tomas Angeles and Paulita Angeles de la Cruz testified that they know respondent to be their cousin because his (Tomas') father and her (Paulita's) mother, who are both Francisco's siblings, told them so.[22] And one Jose Carreon would testify seeing respondent in 1948 in Francisco's house in Caloocan, the same Francisco who used to court Genoveva before the war.[23] In all, no evidence whatsoever was presented of the execution of the Francisco Angeles-Genoveva Mercado marriage contract; when and where their marriage was solemnized; the identity of the solemnizing officer; the persons present, and like significant details.

While perhaps not determinative of the issue of the existence of marriage between Francisco and Genoveva, we can even go to the extent of saying that respondent has not even presented a witness to testify that her putative parents really held themselves out to the public as man-and-wife. Clearly, therefore, the Court of Appeals erred in crediting respondent with the legal presumption of legitimacy which, as above explained, should flow from a lawful marriage between Francisco and Genevova. To reiterate, absent such a marriage, as here, there is no presumption of legitimacy and, therefore, there was really nothing for petitioner to rebut.

Parenthetically, for all her unyielding stance that her mother and Francisco Angeles were married in 1938, respondent never, thru the years, even question what would necessarily be a bigamous Francisco-Belen Sagad marriage. Ironical as it may seem, respondent herself undermined her very own case. As it were, she made certain judicial admission negating her own assertion – as well as the appellate court's conclusion - that Francisco was legally married to Genoveva. As may be recalled, respondent had declared that her mother Genoveva died in 1988, implying, quite clearly, that when Francisco contracted marriage with petitioner Belen S. Angeles in 1948, Genoveva and Francisco were already "spouses". Now, then, if, as respondent maintained despite utter lack of evidence, that Genoveva Mercado and Francisco were married in 1938, it follows that the marriage of Francisco to petitioner Belen Angeles in 1948, or prior to Genoveva's death, would necessarily have to be bigamous, hence void,[24] in which case petitioner could not be, as respondent alleged in her petition for letters of administration, a "surviving spouse" of the decedent. We quote the pertinent allegation:

- The surviving heirs of decedent are the petitioner [Corazon] herself who is 58 years old, and BELEN S. Angeles, the surviving spouse of deceased Francisco M. Angeles by his second marriage, who is about 77 years old . . . YEARS OLD . . ." (Emphasis and word in bracket added)

We can concede, because Article 172 of the Family Code appears to say so, that the legitimate filiation of a child can be established by any of the modes therein defined even without direct evidence of the marriage of his/her supposed parents. Said article 172 reads:

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

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

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

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

Here, respondent presented, in support of her claim of legitimacy, a copy of her Birth Certificate dated November 23, 1939 issued by the Civil Registrar of the City of Manila (Exh. "E"). In it, her birth was recorded as the legitimate child of Francisco Angeles and Genoveva Mercado. And the word "married" is written in the certificate to indicate the union of Francisco and Genoveva.

Petitioner, however, contends, citing jurisprudence, that "[I]t was error for the Court of Appeals to have ruled . . . that [respondent's] Birth Certificate indubitably establishes that she is the legitimate daughter of Francisco and Genoveva who are legally married".

The contention commends itself for concurrence. The reason is as simple as it is elementary: the Birth Certificate presented was not signed by Francisco against whom legitimate filiation is asserted. Not even by Genoveva. It was signed by the attending physician, one Rebecca De Guzman, who certified to having attended the birth of a child. Such certificate, albeit considered a public record of a private document is, under Section 23, Rule 132 of the Rules of Court, evidence only of the fact which gave rise to its execution: the fact of birth of a child.[25] Jurisprudence teaches that a birth certificate, to be considered as validating proof of paternity and as an instrument of recognition, must be signed by the father and mother jointly, or by the mother alone if the father refuses.[26] Dr. Arturo Tolentino, commenting on the probative value of the entries in a certificate of birth, wrote:

xxx if the alleged father did not intervene in the making of the birth certificate, the putting of his name by the mother or doctor or registrar is void; the signature of the alleged father is necessary.[27]

The conclusion reached by the Court of Appeals that the Birth Certificate of respondent, unsigned as it were by Francisco and Genoveva, establishes – and "indubitably" at that - not only respondent's filiation to Francisco but even her being a legitimate daughter of Francisco and Genoveva, taxes credulity to the limit. In a very real sense, the appellate court regarded such certificate as defining proof of filiation, and not just filiation but of legitimate filiation, by inferring from it that Francisco and Genoveva are legally married. In the apt words of petitioner, the appellate court, out of a Birth Certificate signed by a physician who merely certified having attended "the birth of a child who was born alive at 3:50 P.M. ", created ' a marriage that of ' Francisco and Genoveva', and filiation (that said child) is the daughter of 'Francisco;½'"[28]

It cannot be over-emphasized that the legitimate filiation of a child is a matter fixed by law itself.[29] It cannot, as the decision under review seems to suggest, be made dependent on the declaration of the attending physician or midwife, or that of the mother of the newborn child. For then, an unwed mother, with or without the participation of a doctor or midwife, could veritably invest legitimate status to her offspring through the simple expedient of writing the putative father's name in the appropriate space in the birth certificate. A long time past, this Court cautioned against according a similar unsigned birth certificate prima facie evidentiary value of filiation:

Give this certificate evidential relevancy, and we thereby pave the way for any scheming unmarried mother to extort money for her child (and herself) from any eligible bachelor or affluent pater familias. How? She simply causes the midwife to state in the birth certificate that the newborn babe is her legitimate offspring with that

individual and the certificate will be accepted for registration . . . And any lawyer with sufficient imagination will realize the exciting possibilities from such mischief of such prima facie evidence – when and if the "father" dies in ignorance of the fraudulent design xxx[30]

Just like her Birth Certificate, respondent can hardly derive comfort from her marriage contract to Atty. Maglaya and from her student and government records which indicated or purported to show that Francisco Angeles is her father. The same holds true for her wedding pictures which showed Francisco giving respondent's hands in marriage. These papers or documents, unsigned as they are by Francisco or the execution of which he had no part, are not sufficient evidence of filiation or recognition.[31] And needless to stress, they cannot support a finding of the legitimate union of Francisco and Genoveva.

The argument may be advanced that the aforesaid wedding pictures, the school and service records and the testimony of respondent's witnesses lend support to her claim of enjoying open and continuous possession of the status of a child of Francisco. The Court can even concede that respondent may have been the natural child of Francisco with Genoveva. Unfortunately, however, that angle is not an, or at issue in the case before us. For, respondent peremptorily predicated her petition for letters of administration on her being a legitimate child of Francisco who was legally married to her mother, Genoveva, propositions which we have earlier refuted herein.

If on the foregoing score alone, this Court could very well end this disposition were it not for another compelling consideration which petitioner has raised and which we presently take judicially notice of.

As may be recalled, respondent, during the pendency of the proceedings at the trial court, filed with the Court of Appeals a petition for the annulment of the decision of the RTC Caloocan granting the petition of spouses Francisco Angeles and petitioner Belen S. Angeles for the adoption of Concesa A. Yamat and two others. In that petition, docketed with the appellate court as CA-G.R. SP No. 47832 and captioned "Aleli 'Corazon' Angeles Maglaya vs. Hon Jaime T. Hamoy, Consesa A. Yamat, Teodora A. Santos, Franco Angeles and Belen S. Angeles", respondent alleged that as legitimate daughter of Francisco, she should have been notified of the adoption proceedings.

Following a legal skirmish, the Court of Appeals referred the aforementioned annulment case to RTC, Caloocan for reception of evidence. Eventually, in a Decision[32] dated December 17, 2003, the Court of Appeals dismissed CA-G.R. SP No. 47832 on the ground, inter alia, that herein respondent is not, contrary to her claim, a "legitimate daughter" of Francisco, nor "a child of a lawful wedlock between Francisco M. Angeles and Genoveva Y. Mercado". Wrote the appellate court in that case:

Petitioner [Aleli "Corazon Maglaya] belabors with repetitious persistence the argument that she is a legitimate child or the only daughter of Francisco M. Angeles and Genoveva Y. Mercado . . .

In the case at bench, other than the self-serving declaration of the petitioner, there is nothing in the record to support petitioner's claim that she is indeed a legitimate child of the late Francisco M. Angeles and Genoveva Y. Mercado. xxx In other words, Francisco M. Angeles was never married before or at anytime prior to his marriage to Belen Sagad, contrary to the claim of petitioner that Francisco M. Angeles and Genoveva Y. Mercado were married in 1938

While petitioner may have submitted certifications to the effect that the records of marriages during the war years . . . were totally destroyed, no secondary evidence was presented by petitioner to prove the existence of the marriage between Francisco M. Angeles and Genoveva Y. Mercado, even as no witness was presented to confirm the celebration of such marriage . . .

Petitioner presented pictures. x x x However, it is already settled law that photographs are not sufficient evidence of filiation or acknowledgment.

To be sure, very little comfort is provided by petitioner's birth certificate and even her marriage contract. . . Reason: These documents were not signed by Francisco Equally inconsequential are petitioner's school records all these lacked the signatures of both Francisco and Genoveva

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Having failed to prove that she is the legitimate daughter or acknowledged natural child of the late Francisco M. Angeles, petitioner cannot be a real party in interest in the adoption proceedings, as her consent thereto is not essential or required. (Emphasis in the original; words in bracket added)

Significantly, the aforesaid December 17, 2003 Decision of the appellate court in CA-G.R. SP No.47832 was effectively affirmed by this Court via its Resolution dated August 9, 2004 in G.R. No. 163124, denying Aleli "Corazon" Maglaya's petition for Review on Certiorari,[33] and Resolution dated October 20, 2004,[34] denying with "FINALITY" her motion for reconsideration. Another Resolution dated January 24, 2005 resolved to "NOTE WITHOUT ACTION" Maglaya's second motion for reconsideration.

In the light of the ruling of the Court of Appeals in CA-G.R. SP No. 47832, as affirmed with finality by this Court in G.R. No. 163124, there can be no serious objection to applying in this case the rule on conclusiveness of judgment,[35] one of two (2) concepts embraced in the res judicata principle. Following the rule on conclusiveness of judgment, herein respondent is precluded from claiming that she is the legitimate daughter of Francisco and Genoveva Mercado. In fine, the issue of herein respondent's legitimate filiation to Francisco and the latter's marriage to Genoveva, having been judicially determined in a final judgment by a court of competent jurisdiction, has thereby become res judicata and may not again be resurrected or litigated between herein petitioner and respondent or their privies in a subsequent action, regardless of the form of the latter.[36]

Lest it be overlooked, the same ruling of the appellate court in CA-G.R. SP No. 47832, as sustained by this Court in G.R. No. 163124, virtually confirms the ratio of the trial court's order of dismissal in Special Proceedings (SP) No. C-2140, i.e, that respondent failed to establish that she is in fact a legitimate child of Francisco. Accordingly, the question of whether or not the Motion to Dismiss[37] interposed by herein petitioner, as respondent in SP No. C-2140, is in the nature of a demurer to evidence has become moot and academic. It need not detain us any minute further.

Finally, it should be noted that on the matter of appointment of administrator of the estate of the deceased, the surviving spouse is preferred over the next of kin of the decedent.[38] When the law speaks of "next of kin", the reference is to those who are entitled, under the statute of distribution, to the decedent's property;[39] one whose relationship is such that he is entitled to share in the estate as distributed,[40] or, in short, an heir. In resolving, therefore, the issue of whether an applicant for letters of administration is a next of kin or an heir of the decedent, the probate court perforce has to determine and pass upon the issue of filiation. A separate action will only result in a multiplicity of suits. Upon this consideration, the trial court acted within bounds when it looked into and pass upon the claimed relationship of respondent to the late Francisco Angeles.

WHEREFORE, the herein assailed decision of the Court of Appeals is hereby REVERSED and SET ASIDE, and the order of the trial court dismissing Special Proceedings No. C-2140 REINSTATED.

No costs.

SO ORDERED.

Panganiban (Chairman), Sandoval-Gutierrez, Corona, and Carpio Morales, JJ., concur.

- [1] Penned by Associate Justice Ruben T. Reyes, with Associate Justices Renato C. Dacudao and Amelita G. Tolentino, concurring; Annex "A", Petition; Rollo pp. 192-215.
- [2] Annex "B", Petition; Rollo, pp. 218-221.
- [3] Annex "C" Petition, Rollo, p. 232 et seq.
- [4] Rollo, pp. 243 et seq.
- [5] T.S.N, August 14, 1998, p. 34.
- [6] Son of Demetrio Angeles, Francisco's brother.
- [7] Employed as auto mechanic by Liberty Taxi Corporation where Francisco was President and General Manager.
- [8] A former town mate and employee of Francisco.
- [9] Niece of Francisco.
- [10] Rollo, pp. 421 et seq.
- [11] Rollo, pp. 458 et seq.
- [12] Rollo, p. 482.
- [13] See Note #1, supra.
- [14] Sec 1. Demurrer to evidence. – After the plaintiff has completed the presentation of his evidence, the defendant may move for dismissal on the ground that upon the facts and law the plaintiff has shown no right to relief. If his motion is denied, he shall have the right to present evidence. If the motion is granted but on appeal the order of dismissal is reversed he shall be deemed to have waived the right to present evidence.
- [15] See Note # 11, supra.

[16] 276 SCRA 582 [1997].

- [17] Page 15 of the CA Decision, Rollo, p. 206.
- [18] Tison vs. Court of Appeals, 276 SCRA 582 [1997].
- [19] Republic vs. Sandiganbayan, 406 SCRA 190, 268 [2003], citing Defensor-Santiago, RULES OF COURT ANNOTATED, 1999 ed., p. 857.
- [20] Art. 164. Children conceived or born during the marriage of the parents are legitimate.
- [21] Lim Tanhu vs. Ramolete, 66 SCRA 425 [1975].
- [22] TSN, Sept. 18, 1998, p. 8; TSN Jan. 19, 1999, p. 4.
- [23] TSN Oct. 29, 1998 pp. 43 & 47.
- [24] Art. 35 (4) and 41, Family Code.
- [25] Sec. 23. Public documents as evidence. – Documents consisting of entries in public records made in the performance of a duty by a public officer are prima facie evidence of the facts therein stated. All other public documents are evidence . . . of the fact which gave rise to their execution and of the date of the latter.

- [26] Reyes vs. Court of Appeals, 135 SCRA 439 [1985].
- [27] Tolentino, Commentaries & Jurisprudence on the Civil Code of the Philippines, Vol. I, 1990 ed., p. 540, citing Bercilles vs. GSIS, 128 SCRA 53 [1984] and Reyes vs. CA, 135 SCRA 439 [1985].
- [28] Rollo, pp. 134-135.
- [29] Sayson vs. Court of Appeals, 205 SCRA 321 [1999].
- [30] Crisolo vs. Macadaeg, 94 Phil.862 [1954].
- [31] Bercilles vs. GSIS, supra; [1984]; Reyes vs. CA, supra; Colorado vs. Court of Appeals, 135 SCRA 47 [1985].
- [32] Per Associate Justice Renato C. Dacudao, concurred in by Associate Justices Edgardo P. Cruz and Elizer R. Delos Santos; Rollo, pp. 1215 et seq.
- [33] Rollo, p. 1232.
- [34] Ibid., p. 1233
- [35] The rule on conclusiveness of judgment precludes the relitigation of particular facts or issues in another action between the same parties on a different claim or cause of action (Calalang vs. Register of Deeds of Quezon City, 231 SCRA 88 [1994].
- [36] Carlet vs. Court of Appeals, 275 SCRA 97 [1997].
- [37] See Note #10, supra.
- [38] Under Sec. 6(b), Rule 78, Rules of Court, the administration of the estate of a person who dies intestate shall be granted to the surviving husband or wife, as the case may be, or next of kin, or both, in the discretion of the court, or to such person as such surviving husband or wife, or next of kin, requests to have appointed, if competent and willing to serve.
- [39] Ventura vs. Ventura, 160 SCRA 810 [1988].
- [40] Tavera vs. El Hogar Filipino, Inc. 98 Phil. 481 [1980].

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