

AMADEA ANGELA K. AQUINO, PETITIONER, VS. RODOLFO C. AQUINO AND ABBULAH C. AQUINO, RESPONDENTS.

G.R. No. 208912. December 07, 2021

Ponente: LEONEN, J.

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LEONEN, J.:

A child whose parents did not marry each other can inherit from their grandparent by their right of representation, regardless of the grandparent's marital status at the birth of the child's parent.

For this Court's resolution are two consolidated Petitions for Review on Certiorari[1] concerning a nonmarital child's[2] right to inherit from her grandfather's estate.

The Petition in G.R No. 208912[3] questions the Court of Appeals Decision[4] disqualifying Amadea Angela K. Aquino (Angela) from inheriting from her alleged grandfather's estate.[5]

Meanwhile, the Petition in G.R. No. 209018[6] assails the Court of Appeals Decision[7] and Resolution[8] denying Rodolfo C. Aquino's (Rodolfo) Petition for Certiorari for being the wrong remedy and for violating the rules against forum shopping and the principle of res judicata.[9]

On May 7, 2003, Rodolfo filed before the Regional Trial Court a petition for the letters of administration of his father's estate.[10]

Rodolfo alleged that his father, Miguel T. Aquino (Miguel), died intestate on July 5, 1999, leaving personal and real properties. The estate of his first wife, Amadea C. Aquino (Amadea), who had died earlier on September 27, 1977, was already settled in 1978. Miguel was survived by: (1) Enderie B. Aquino, his second wife; (2) Abdullah C. Aquino (Abdulah) and Rodolfo C. (Rodolfo) Aquino, his sons with Amadea; and (3) the heirs of Wilfredo C. Aquino, his son with Amadea who also died earlier. Miguel was also predeceased by another son with Amadea, Arturo C. Aquino (Arturo).[11]

On July 2, 2003, Angela moved that she be included in the distribution and partition of Miguel's estate.[12] She alleged that she was Arturo's only child.[13] She presented a July 5, 2003 Certification[14] from the hospital, stating that she was Arturo and Susan Kuan's daughter.[15]

According to Angela, Arturo died on January 10, 1978,[16] before she was born on October 9, 1978. While her parents were not married, they did not suffer from any impediment to marry. Her parents were planning to marry before Arturo died.[17]

Angela claimed that her grandfather, Miguel, took care of her mother's expenses during her pregnancy with her.[18] Her mother was also attended by the Aquinos' family doctor.[19] Moreover, Angela lived with her mother and the Aquino family at their ancestral home.[20]

Since her birth, her father's relatives had continuously recognized her as Arturo's natural child.[21] Her father's brother, Abdullah, was even her godfather.[22] In support of this, Angela presented her baptismal certificate[23]

stating that she was Arturo's daughter.[24]

Angela narrated that Miguel, who fondly called her "Maggie," provided for her needs and supported her education.[25] Before Miguel died, he provided instructions on how his properties were to be distributed.[26] Based on a certain July 2, 1999 "INSTRUCTION OF MIGUEL T. AQUINO,"[27] Angela was among the heirs who would receive portions of Miguel's estate.[28] Miguel gave her a commercial lot, which rentals were now paid to her.[29]

On November 12, 2003, Rodolfo opposed[30] Angela's Motion, claiming that Arturo never legally recognized Angela as his natural child in his lifetime.[31] Angela also never presented sufficient evidence to prove her filiation.[32] Moreover, Rodolfo alleged that Angela was born more than nine months from Arturo's death.[33] Therefore, there was no way of knowing if Angela was Arturo's child.[34]

On November 17, 2003, Abdulah filed his Comment on Rodolfo's Petition[35] and moved for the issuance of letters of administration of Miguel's estate in his favor.[36]

On December 18, 2003, Angela filed a Manifestation and Reply[37] to Rodolfo's opposition. She alleged that she was born less than nine months, or particularly 272 days, from Arturo's death.[38]

Recognizing that Rodolfo had expressed his intention to yield the administration in favor of Abdulah, the trial court issued the letters of administration on September 3, 2004, and appointed Abdulah as administrator of Miguel's estate.[39]

On March 7, 2005, Angela filed a Motion for Distribution of Residue of Estate or for Allowance to the Heirs.[40] She alleged that as Arturo's natural child, she has a legal right to a monthly allowance like those given to Miguel's other heirs.[41] Rodolfo opposed,[42] while Abdulah commented[43] on this motion.[44]

On April 22, 2005, the Regional Trial Court issued an Order[45] that granted Angela's July 2, 2003 and March 7, 2005 Motions.[46] It ruled that the Aquino clan was already estopped from denying Angela's filiation.[47] As heir, Angela was deemed entitled to a share in Miguel's estate.[48] The dispositive portion of the Order reads:

ACCORDINGLY, Amadea Angela K. Aquino is hereby considered and declared an acknowledged natural child or legitimated child of Arturo C. Aquino, for purposes of determining her share in the estate of her grandfather, Miguel T. Aquino, in representation of her father Arturo, and pending the distribution of the residual estate, the Administrator is hereby directed to immediately give her a monthly allowance of P64,000.00, upon the latter's posting a bond of P100,000.00.

SO ORDERED.[49]

Rodolfo and Abdulah separately moved for reconsideration,[50] though Rodolfo's was later deemed withdrawn.[51] Later, the trial court denied Abdulah's Motion in its March 6, 2008 Order.[52]

Rodolfo filed a Petition[53] for Certiorari before the Court of Appeals, assailing the trial court's April 22, 2005 and March 6, 2008 Orders.[54]

On August 23, 2012, the Court of Appeals rendered a Decision,[55] denying Rodolfo's Petition on the grounds of wrong remedy and violation of the principles of forum shopping and res judicata.[56] Rodolfo moved for reconsideration, but his motion was also denied in an August 1, 2013 Resolution.[57]

On September 30, 2013, Rodolfo filed a Petition for Review[58] before this Court, assailing the Court of Appeals' August 23, 2012 Decision and August 1, 2013 Resolution.[59] This Petition was docketed as G.R. No. 209018.[60]

Rodolfo argued that Angela was already barred from claiming her nonmarital filiation to Arturo, since she was born after his death.[61] Even if she were Arturo's nonmarital child, Rodolfo noted that she cannot represent him in Miguel's estate under Article 992 of the Civil Code.[62] Moreover, assuming that she was Miguel's granddaughter, she was still not entitled to the grant of P64,000.00 monthly allowance since, says Rodolfo, the Civil Code limits the provision of an allowance to the decedent's widow and children.[63]

Rodolfo also contended that he availed of the right remedy in elevating his case via a Petition for Certiorari before the Court of Appeals, since the trial court's Orders, one of which was an interlocutory order, were issued with grave abuse of discretion.[64] If he did avail of the wrong remedy, he says that the Court of Appeals should have consolidated his Petition with Abdulah's appeal, since it already treated his Petition as an appeal.[65]

Finally, Rodolfo claimed that he did not commit forum shopping because he filed his Petition for Certiorari before Abdulah filed his appeal. Furthermore, he was not a party in Abdulah's appeal.[66]

Rodolfo prayed for the reversal of the Court of Appeals' August 23, 2012 Decision and August 1, 2013 Resolution.[67]

Meanwhile, Abdulah appealed the trial court's April 22, 2005 and March 6, 2008 Orders before the Court of Appeals[68] claiming that Angela failed to prove her filiation and, in any case, Angela could not inherit from Miguel ab intestato.[69]

On January 21, 2013, the Court of Appeals rendered a Decision[70] in favor of Abdulah.[71] It held that Angela failed to prove her filiation in accordance with Articles 172 and 175 of the Family Code. Moreover, she failed to present birth records showing Arturo's paternity or any document signed by Arturo admitting her filiation. Since Arturo died before she was born, Angela cannot also establish open and continuous possession of her status as Arturo's child, under Article 172(3) of the Family Code. Thus, Miguel's or the Aquino clan's overt acts cannot translate to legal recognition of her status as Arturo's child.[72]

In any case, even if Angela were able to establish her filiation, the Court of Appeals ruled that she could not inherit ab intestato from Miguel. It cited Article 922 of the New Civil Code, which provides that nonmarital children cannot inherit ab intestato from their parents' marital relatives.[73]

The dispositive portion of the Court of Appeals decision reads:

WHEREFORE, premises considered, the Order dated April 22, 2005 of the Regional Trial Court, Branch 14, Davao City as well as its the [sic] Order dated March 6, 2008 are hereby REVERSED AND SET ASIDE. Movant-appellee Amadea Angela K. Aquino's, (1) July 2, 2003 Motion to be Included in The Distribution and Partition of the Estate, and (2) February 22, 2005 Motion for Distribution of Residue of Estate or for Allowance to the Heirs are DENIED for her failure to prove her filiation with Arturo Aquino. Accordingly, movant-appellee Amadea Angela K. Aquino is hereby declared disqualified to inherit from the intestate estate of decedent Miguel T. Aquino.

SO ORDERED.[74]

Angela moved for reconsideration,[75] which was denied by the Court of Appeals in its July 24, 2013 Resolution.[76]

On October 2, 2013, Angela filed a Petition for Review[77] before this Court, assailing the Court of Appeals January 21, 2013 Decision.[78] This Petition was docketed as G.R. No. 208912.[79]

Angela argued that since she enjoyed the same love and support from her grandfather and his family, as they would to marital children, the principle of estoppel should apply. She claimed that the Aquino clan's

acknowledgment of her status as her father's natural child should stop them from questioning her filiation.[80]

Moreover, Angela contended that Article 992 of the Civil Code's presumed antagonism between the marital and nonmarital family should only apply to immediate families.[81] Her grandfather "cannot be presumed to hate his own grandchild." [82] Article 992 cannot be interpreted to apply to the relatives in the ascending line. It should only apply to collateral relatives.[83]

Angela prayed that the Court of Appeals January 21, 2013 Decision be reversed, and that the trial court's April 22, 2005 and March 6, 2008 Orders be reinstated. Angela also prayed for a declaration that she was her grandfather Miguel's legal heir.[84]

On October 21, 2013, this Court's Third Division issued a Resolution[85] consolidating G.R. Nos. 208912 and 209018.[86] This Court denied both Petitions in its November 11, 2013 Resolution,[87] which reads:

In G.R. 208912, the CA did not commit any reversible error in holding that petitioner Amadea Angela Aquino is disqualified to inherit from the intestate estate of decedent Miguel T. Aquino. Jurisprudence has consistently held that Article 992 of the Civil Code bars the illegitimate child from inheriting ab intestato from the legitimate children and relatives of his father or mother.

In G.R. 209018, the CA did not err in dismissing the petition. A petition for certiorari may only be availed of when there is no adequate, plain, or speedy remedy in the ordinary course of law. Petitioner Rodolfo C. Aquino is also guilty of forum shopping and litis pendencia for pursuing different remedies for a single objective. Moreover, the petition lacked proof that its copy was served on the lower court concerned in violation of Section 3, Rule 45 in relation to Section 5 of the same rule as well as Section 5(d) of Rule 59 of the 1997 Rules of Civil Procedure.[88]

Angela moved for reconsideration[89] on January 10, 2014, citing the following grounds:

ART. 992 SHOULD NOT BE APPLIED IN A VACUUM. IN THE CASE OF IN THE MATTER OF THE INTESTATE ESTATE OF CRISTINA AGUINALDO-SUNTAY; EMILIO A.M. SUNTAY III, petitioner, vs. ISABEL COJUANGCO-SUNTAY, respondent, IT HAS BEEN HELD THAT ART. 992 SHOULD BE CONSTRUED TOGETHER WITH THE OTHER PROVISIONS OF THE CIVIL CODE.

THERE IS NO REMEDY IN LAW FOR A PERSON LIKE PETITIONER WHO WAS BORN AFTER THE DEATH OF HER FATHER TO BE LEGALLY RECOGNIZED AS HIS CHILD. IN FACT, THERE IS ALSO NO REMEDY FOR A PERSON SAME AS PETITIONER WHO WAS BORN OUT OF WEDLOCK TO A FATHER WHO HAS NEVER BEEN MARRIED TO ANOTHER. THUS, SINCE THE COURT IS A COURT OF EQUITY, JUSTICE AND FAIRNESS DICTATES[sic] THAT THE PRINCIPLE OF ESTOPPEL SHOULD BE APPLIED TO GRANT RECOGNITION TO PETITIONER AS A DAUGHTER OF ARTURO AQUINO WHO IS A LEGITIMATE CHILD OF THE DECEDENT, FOR WHICH REASON, SHE CAN INHERIT AB INTESTATO FROM HER GRANDFATHER.[90] (Citation omitted)

On April 25, 2014, Angela moved to have the case referred to this Court En Banc,[91] She asserted that this Court should revisit its ruling in *Diaz v. Intermediate Appellate Court*. [92] In *Diaz*, this Court held that the word "relatives" in Article 992 was a broad term that, when used in a statute, "embrace[d] not only collateral relatives" but also all of the person's kin, unless the context indicated otherwise.[93] Thus, Angela argued that it included the grandparents of nonmarital children.[94] According to Angela, referral of the case to the En Banc was proper, as only it could reverse a doctrine or principle laid down by this Court.[95]

On April 29, 2014, this Court's Third Division issued a Resolution[96] granting Angela's Motion.

On May 30, 2014, Angela filed a Supplemental Motion for Reconsideration[97] arguing that the interpretation that grandparents are included in the prohibition under Article 992 of the Civil Code is unconstitutional for

violating the equal protection clause.[98] The law allows nonmarital descendants to inherit from a nonmarital child, putting nonmarital descendants of marital children, like Angela, at a more disadvantageous position.[99]

On September 2, 2014, this Court issued a Resolution[100] granting Angela's Motion for Reconsideration, reinstating the Petitions, and requiring Abdulah and Rodolfo to submit their comment.

Abdulah filed his Comment[101] on October 17, 2014, while Rodolfo filed his Comment[102] on October 30, 2014. Angela filed her Consolidated Reply[103] on January 14, 2015.

On January 27, 2015, this Court issued a Resolution[104] giving due course to the Petitions and required the parties to submit their respective memoranda.

On April 17, 2015, Rodolfo filed his Memorandum.[105] He reiterates that Angela can no longer prove that she was Arturo's nonmarital child since Arturo died before she was born.[106] Assuming that she was Arturo's nonmarital child, Rodolfo says that she still could not inherit from Miguel's estate since a nonmarital child was "barred to inherit from the legitimate family of her [or his] putative father under the iron bar rule in Article 992 of the New Civil Code." [107]

On April 28, 2015, Abdulah filed his Memorandum.[108] He averred that the Court of Appeals did not err when it ruled that Angela "failed to present competent proof of her filiation with Arturo[.]" [109] Angela's birth record states that her mother was Maria Angela Kuan Ho and her father was Enrique Ho.[110] Angela also allegedly failed to present any public document or any private handwritten document made and signed by Arturo, admitting that he was Angela's father.[111] There was likewise no evidence showing that Angela openly and continuously possessed the status of a nonmarital child.[112] He adds that she never even instituted any action "for recognition or acknowledgement by her putative father within the periods allowed by law." [113]

Abdulah contended that the Court of Appeals did not err when it held that the principle of estoppel in *Tongoy v. Court of Appeals*, [114] could not be applied. In *Tongoy*, there was overwhelming evidence that the nonmarital child was in continuous possession of the status of natural children. Meanwhile, Angela failed to present evidence to prove her allegations.[115]

Abdulah further maintained that the Court of Appeals correctly held that, under Article 992 of the Civil Code, Angela was barred from participating in the settlement of Miguel's estate.[116] Article 992 "categorically bars an illegitimate child from inheriting ab intestato from the legitimate children and relatives of [their] father or mother." [117] Lastly, Abdulah argued that Angela cannot question the constitutionality of Article 992 in a settlement proceeding. It should be done in a case for declaratory relief before the trial court, with notice to the Solicitor General.[118]

On May 13, 2015, Angela filed her Memorandum[119] insisting that Arturo recognized and acknowledged her filiation. She asserted that even Rodolfo and Abdulah admitted this in their judicial admissions, thus estopping them from claiming otherwise.[120]

Angela added that the Court of Appeals erred when it applied the iron curtain rule to her.[121] According to Angela, interpreting Article 992 of the Civil Code in conjunction with Articles 902, 982, 989, 990, 995, and 998 will show that "Article 992 only prohibits reciprocal succession between collaterals, not between descendants and ascendants." [122]

Finally, Angela asserted that when the Court of Appeals considered grandparents and other direct ascendants as "relatives" under Article 992, it violated the Constitution's equal protection clause. She argued that a less restrictive measure should be considered:[123]

Article 992 [must] be construed to prohibit only the reciprocal intestate succession between collateral relatives separated by the lines of illegitimacy, not between the illegitimate child and his relatives in the direct line. If the illegitimates of an illegitimate child can inherit from his or her grandparent by right of representation, so too should the illegitimates of a legitimate child.[124]

On July 3, 2018, this Court issued a Resolution directing the Office of the Solicitor General to submit its Comment on the Petitions.

In its Comment[125] filed on July 16, 2018, the Office of the Solicitor General concurred with the Court of Appeals ruling that Rodolfo's Petition should be denied "for being an erroneous remedy and for violating the rules on forum shopping." [126] It likewise agreed with the Court of Appeals that Angela's failure to prove her filiation with Arturo prevented her from inheriting from Miguel's estate.[127]

Further to a July 9, 2019 Resolution,[128] this Court conducted oral arguments on the consolidated petitions on September 3 and September 17, 2019. Dean Cynthia Del Castillo (Dean Del Castillo) and Professor Elizabeth Aguilung-Pangalangan (Professor Aguilung-Pangalangan) were appointed as amici curiae.[129] After the oral arguments concluded, the parties were given 20 days to file their respective memoranda.

On October 7, 2019, Angela,[130] the Office of the Solicitor General,[131]Abdulah,[132] and Professor Aguilung-Pangalangan[133] filed their respective Memoranda. On the same day, Dean Del Castillo submitted a Supplemental Opinion[134] to her earlier-submitted Opinion of Amicus Curiae.[135] Rodolfo filed his Memorandum on October 17, 2019.[136] The Memoranda filed by Angela, Rodolfo, and Abdulah substantially reiterate their previous arguments before this Court.

In addition to arguments already made in its Comment, the Office of the Solicitor General posits that Angela's alleged birth certificate attached to Abdulah's Comment in G.R. No. 208912, which shows the father named as one Enrique A. Ho, means that Angela's father is not Arturo, as she claims.[137] The Office of the Solicitor General, Abdulah, and Rodolfo all argue that Article 992 of the Civil Code does not violate the equal protection clause, maintaining that marital and nonmarital families should be kept separate to reduce resentment between them.[138]

This Court resolves the following issues:

First, whether or not Amadea Angela K. Aquino (the alleged nonmarital child of Arturo C. Aquino, who was a marital child of Miguel T. Aquino) can inherit from her grandfather's estate; and

Second, whether or not Amadea Angela K. Aquino was able to prove her filiation.

I

There is a distinction between a challenge to the constitutionality of a legal provision and revising the interpretation of a legal provision to make it more harmonious with the Constitution and, whenever applicable, provisions of treaties that have the effect of law in our jurisdiction.

As the Constitution is the fundamental law of our land, its provisions are deemed written in every statute and contract. All other laws must conform to it:

A constitution is a system of fundamental laws for the governance and administration of a nation. It is supreme, imperious, absolute and unalterable except by the authority from which it emanates. It has been defined as the fundamental and paramount law of the nation. It prescribes the permanent framework of a system of government, assigns to the different departments their respective powers and duties, and establishes certain fixed principles on which government is founded. The fundamental conception in other words is that it

is a supreme law to which all other laws must conform and in accordance with which all private rights must be determined and all public authority administered. Under the doctrine of constitutional supremacy, if a law or contract violates any norm of the constitution that law or contract whether promulgated by the legislative or by the executive branch or entered into by private persons for private purposes is null and void and without any force and effect. Thus, since the Constitution is the fundamental paramount and supreme law of the nation, it is deemed written in every statute and contract.[139] (Citations omitted)

Because of this, it is within this Court's power and duty to declare void all laws repulsive to the Constitution. When there is conflict between the Constitution and a law, the Constitution must prevail.[140]

Any attack on the constitutionality of any statute should be raised at the earliest time and in a proper case. These are among the requirements for a valid exercise of judicial review when the constitutionality of a provision is challenged:

Fundamentally, for this Court to exercise the immense power that enables it to undo the actions of the other government branches, the following requisites must be satisfied: (1) there must be an actual case or controversy involving legal rights that are capable of judicial determination; (2) the parties raising the issue must have standing or locus standi to raise the constitutional issue; (3) the constitutionality must be raised at the earliest possible opportunity, thus ripe for adjudication; and (4) the matter of constitutionality must be the very lis mota of the case, or that constitutionality must be essential to the disposition of the case.[141] (Citation omitted)

In her May 27, 2015 Memorandum,[142] Angela alleged that the continuing inclusion of grandparents and other direct ascendants in the word "relatives" in Article 992 of the Civil Code violates the equal protection clause of the Constitution. She argued:

It is against this yardstick of heightened or immediate scrutiny that we ought to gauge the validity of subcategorizing illegitimate children based on the legitimacy of their parents. Following the edict in the seminal case of *Clark v. Jeter*, decided by the United States Supreme Court, a statutory classification must be substantially related to an important governmental objective in order to withstand heightened scrutiny. Consequently they have invalidated classifications that burden illegitimate children for the sake of punishing the illicit relations of their parents, but acknowledged that it might be appropriate to treat illegitimate children differently in the support context.

Such "important governmental objective", however, is wanting in this case. Petitioner respectfully contents that there is no apparent and legitimate purpose behind prohibiting an illegitimate issue of a legitimate child from representing the latter in intestate succession while at the same time allowing the illegitimates of an illegitimate child to do so. It cannot be said that an apparent state interest rationally related to the prohibition set against the illegitimate issues of legitimates exist when illegitimate children are not themselves set to suffer the same prohibition. To rule otherwise would be patently discriminatory as the Civil Code and Family Code would favor more the illegitimate children of illegitimate children themselves over illegitimate issues of legitimate children. Moreover, it cannot be successfully argued that the prohibition is expected to promote and preserve institution of marriage or discourage illicit recourse.[143] (Citation omitted)

Nonetheless, when a provision is challenged, courts must first adopt an interpretation of the provision based on the ambient facts that will be: (1) constitutional; and (2) consistent with statutes and treaties which have the effect of law. Laws are joint acts of the Legislature and the Executive, co-equal branches of government to which this Court extends a becoming courtesy.[144] Whenever possible, courts avoid declaring laws as unconstitutional,[145] especially if the conflict between the Constitution and the statute may be resolved by interpreting and construing the latter's words and phrases.

Hence, even if the attempt to declare a statutory provision as unconstitutional is not properly raised or in its proper

form, courts must still interpret the law consistent with the Constitution, other statutes, and treaties that have the effect of law.

In this regard, as this Court seeks to ensure certainty and stability of judicial decisions, whenever we set precedents, we ensure that it is applied to succeeding cases with similar facts.[146] Yet, this Court should not hesitate to abandon established doctrines if there are strong and compelling reasons to do so, such as changes in law or public policy, evolving conditions, or the most pressing considerations of justice.[147] "But idolatrous reverence for precedent, simply as precedent, no longer rules. More important than anything else is that the court should be right." [148]

Associate Justice Alfred Benjamin S. Caguioa posited that examining Article 992 of the Civil Code is premature when there are evidentiary matters that first need to be addressed.[149] However, this does not account for how the current state of Article 992 bars Angela from making any claims to Miguel's estate even if she proves that she is Arturo's nonmarital child.

Refusing to timely address Article 992 is to subject the parties to even more protracted litigation. Even if the trial court finds for Angela on the facts, she will still not obtain the ultimate relief she seeks, because the absolute bar in Article 992 that persists in our legal system places her firmly outside Miguel's successional line.

The Sisyphean futility of attempting to prove nonmarital filiation in cases like Angela's is illustrated in *Leonardo v. Court of Appeals*, [150] where this Court held that even if the petitioner could prove that he was the nonmarital child of the deceased's son, he could not represent the son in the deceased's estate.

The Court of Appeals reached the same conclusion in its January 21, 2013 Decision in CA-G.R. CV No. 01633:

Besides, granting *arguendo* that Amadea has indeed proven that she is an illegitimate child of Arturo, still as argued by appellants and to which we agree, Amadea cannot inherit from the decedent Miguel T. Aquino because of the prohibition laid down in Art. [992] of the New Civil Code or what is so commonly referred to in the rules on succession as the "principle of absolute separation between the legitimate family and the illegitimate family" . . .

. . . .

Hence, even if indeed Amadea is an illegitimate child of Arturo, the law however prohibits her from inheriting through intestate succession from her father Arturo's legitimate relative, in this case the latter's father, the decedent Miguel T. Aquino. While the provision of the law may seem to be partial to illegitimate children, the law as it is however should be applied.[151]

At the very least, to rule upon Article 992 at this juncture, rather than at some indefinite future, will obviate repetitively and successively litigating a question that this Court is perfectly competent to answer now. It is in the greater interest of judicial economy and effective administration of justice to do so.

II

The statutory prohibition against reciprocal intestate succession between nonmarital children and the marital children and relatives of their parents is rooted in Article 943 of the Spanish Civil Code, made effective in the Philippines on December 7, 1889:

ARTICLE 943. A natural or a legitimated child has no right to succeed *ab intestato* from the legitimate children and relatives of the father or mother who has acknowledged it; nor shall such children or relatives so inherit from the natural or legitimated child.

This is in line with what this Court had considered as the regime under the Spanish Civil Code: The "legitimate"

relationship is the general rule, and exceptions made for nonmarital ascendants or descendants, which would allow properties of the marital family to pass to nonmarital relatives, must be expressly stated.[152]

Under the Spanish Civil Code, "natural children"[153] and "legitimated children"—natural children made legitimate children through subsequent marriage of the parents, provided the child is acknowledged by the parents,[154] and by royal concession[155]—were covered by the prohibition. However, they could still inherit in intestate succession, but only in their own right.[156] Nonmarital children who were neither "natural" nor "legitimated" had no right at all to inherit in intestate succession.[157]

When Republic Act No. 386, ordaining and instituting the Civil Code of the Philippines, took effect in 1950, nonmarital children, or "illegitimate children,"[158] was classified as the following: "natural children," or those whose parents were unmarried at the time of conception, and not disqualified to marry each other;[159] "natural children by legal fiction," or those conceived or born of marriages void from the beginning;[160] and "illegitimate children other than natural in accordance with Article 269 and other than natural children by legal fiction[.]"[161] Later, the Family Code would eliminate the distinctions among the various categories of nonmarital children:

The fine distinctions among the various types of illegitimate children have been eliminated in the Family Code. Now, there are only two classes of children — legitimate (and those who, like the legally adopted, have the rights of legitimate children) and illegitimate. All children conceived and born outside a valid marriage are illegitimate, unless the law itself gives them legitimate status.

Article 54 of the Code provides these exceptions: "Children conceived or born before the judgment of annulment or absolute nullity of the marriage under Article 36 has become final and executory shall be considered legitimate. Children conceived or born of the subsequent marriage under Article 53 shall likewise be legitimate."

Under Article 176 of the Family Code, all illegitimate children are generally placed under one category, without any distinction between natural and spurious. The concept of "natural child" is important only for purposes of legitimation. Without the subsequent marriage, a natural child remains an illegitimate child.[162] (Citations omitted)

Because the Civil Code changed the classification of nonmarital children, so did the wording of the prohibition, reflected now in Article 992:

ARTICLE 992. An illegitimate child has no right to inherit ab intestato from the legitimate children and relatives of his father or mother; nor shall children or relatives inherit in the same manner from the illegitimate child.

The Civil Code now allows all nonmarital children as defined in the Civil Code to inherit in intestate succession. But because of Article 992, all nonmarital children are barred from reciprocal intestate succession:

Verily, the interpretation of the law desired by the petitioner may be more humane but it is also an elementary rule in statutory construction that when the words and phrases of the statute are clear and unequivocal, their meaning must be determined from the language employed and the statute must be taken to mean exactly what it says. (Baranda v. Gustilo, 165 SCRA 758-759 [1988]). The courts may not speculate as to the probable intent of the legislature apart from the words (Aparri v. CA, 127 SCRA 233 [1984]). When the law is clear, it is not susceptible of interpretation. It must be applied regardless of who may be affected, even if the law may be harsh or onerous. (Nepomuceno, et al. v. RFC, 110 Phil. 42). And even granting that exceptions may be conceded, the same as a general rule, should be strictly but reasonably construed; they extend only so far as their language fairly warrants, and all doubts should be resolved in favor of the general provisions rather than the exception. Thus, where a general rule is established by statute, the court will not curtail the former nor add to the latter by implication (Samson v. C.A. 145 SCRA 654 [1986]).

Clearly the term "illegitimate" refers to both natural and spurious.

Finally under Article 176 of the Family Code, all illegitimate children are generally placed under one category, which undoubtedly settles the issue as to whether or not acknowledged natural children should be treated differently, in the negative.

It may be said that the law may be harsh but that is the law (DURA LEX SED LEX).[163]

The prohibition extends to the descendants of the nonmarital child. In *Rodriguez v. Reyes*:^[164]

Now, the record before us is totally barren of proof as to any personal acts of recognition by Juan Villota with regard to Luciano; nor is there evidence on the question of who was Luciano's father. The Court of First Instance cites no proof; and the evidence of the appellees is merely to the effect that Gavino and Luciano were "full blood brothers", which is only a conclusion of the witnesses and irrelevant to the issue of legitimation or recognition, especially under the laws of Toro. For under the Law XI the son had to be acknowledged by the parent and by no other person, said law expressly requiring "con tanto que el padre le reconozca por su hijo." (Sent. Trib. Sup. of Spain, 23 June 1858). It is well to recall here that the conferment of the status of acknowledged natural child by acts of the members of the parent's family (authorized by Article 135, No. 2, of the Spanish Civil Code of 1889) was entirely without precedent in the pre-Codal legislation of Spain and its colonies.

....

In the absence of reliable proof that Juan Villota had begotten and acknowledged Luciano de los Reyes as his natural son, his legitimation can not be declared duly proved.

"To hold otherwise would make possible the admission of fraudulent claims made after the decease of a married couple, based upon an allegation that the claimant was the fruit of illicit relations prior to their marriage, and without any attempt to show that the putative father had ever recognized the claimant as his child or even knew of its existence; and the mere possibility that such claimants might present themselves would cast doubt and confusion on may inheritances, and open wide the door to a form of fraud which the legitimate heirs would find great difficulty in combating." (*Siguiong vs. Siguiong*, supra.)

And without such legitimation, Luciano could not succeed to the estate of Gavino Villota y Reyes, in view of Article 943 of the Civil Code of 1889 (later clarified by Article 992 of the new Civil Code):

"ART. 943. A natural child has no right to succeed ab intestate legitimate children and relatives of the father or mother who has acknowledged it; nor shall such children or relatives so inherit from the natural child."

"ART. 992. (New Civil Code) An illegitimate child has no right to inherit an intestate from the legitimate children and relatives of his father or mother; nor shall such children or relatives inherit in the same manner from the illegitimate child."

And the disqualification of Luciano to succeed Gavino Villota extended under these articles to Luciano's own progeny, Zoilo and Andres and Martin Macatangay, since they could not represent him[.]

In conclusion, we hold:

....

(3) That a natural child, not recognized as required by the law XI of Toro, is not legitimated by the subsequent marriage for his parents; and therefore, he is barred from succeeding to the legitimate issue of said parents.

(4) That such disqualification to inherit extends to the descendants of the unrecognized natural child.^[165] (Citations omitted)

The prohibition affects the nonmarital child's right of representation under Articles 970 to 977 of the Civil Code.[166]

In *Landayan v. Bacani*,[167] this Court denied the right of representation to a nonmarital child, as the child was disqualified to inherit intestate from the marital children and relatives of the child's father:

As stated above, petitioners contend that Severino Abenojar is not a legal heir of Teodoro Abenojar, he being only an acknowledged natural child of Guillerma Abenojar, the mother of petitioners, whom they claim to be the sole legitimate daughter in first marriage of Teodoro Abenojar. If this claim is correct, Severino Abenojar has no rights of legal succession from Teodoro Abenojar in view of the express provision of Article 992 of the Civil Code, which reads as follows:

"ART. 992. An illegitimate child has no right to inherit ab intestato from the legitimate children and relatives of his father or mother; nor shall such children or relatives inherit in the same manner from the illegitimate child."

The right of Severino Abenojar to be considered a legal heir of Teodoro Abenojar depends on the truth of his allegations that he is not an illegitimate child of Guillerma Abenojar, but an acknowledged natural child of Teodoro Abenojar. On this assumption, his right to inherit from Teodoro Abenojar is recognized by law (Art. 998, Civil Code). He even claims that he is the sole legal heir of Teodoro Abenojar inasmuch as the petitioners Landayans, who are admittedly the children of the deceased Guillerma Abenojar, have no legal successional rights from Teodoro Abenojar, their mother being a spurious child of Teodoro Abenojar.

Should the petitioners be able to substantiate their contention that Severino Abenojar is an illegitimate son of Guillerma Abenojar, he is not a legal heir of Teodoro Abenojar. The right of representation is denied by law to an illegitimate child who is disqualified to inherit ab intestato from the legitimate children and relatives of his father. (Art. 992, Civil Code). On this supposition, the subject deed of extra-judicial partition is one that included a person who is not an heir of the descendant whose estate is being partitioned. Such a deed is governed by Article 1105 of the Civil Code, reading as follows:

"Art. 1105. A partition which includes a person believed to be an heir, but who is not, shall be void only with respect to such person."[168]

Similarly, in *Leonardo v. Court of Appeals*,[169] a grandchild was found not to have the right to represent his predeceased mother in his grandmother's estate, because the grandchild was a nonmarital child of the mother:

Referring to the third assignment of error, even if it is true that petitioner [grandchild] is the child of Sotero Leonardo [mother], still he cannot, by right of representation, claim a share of the estate left by the deceased Francisca Reyes [grandmother] considering that, as found again by the Court of Appeals, he was born outside wedlock as shown by the fact that when he was born on September 13, 1938, his alleged putative father and mother were not yet married, and what is more, his alleged father's first marriage was still subsisting. At most, petitioner would be an illegitimate child who has no right to inherit ab intestato from the legitimate children and relatives of his father, like the deceased Francisca Reyes. (Article 992, Civil Code of the Philippines.)[170]

The prohibition in Article 992 is so restrictive that this Court has characterized it as an "iron curtain"[171] separating marital and nonmarital relatives. In *Diaz v. Intermediate Appellate Court*,[172] this Court after conducting oral arguments on the matter even rejected an interpretation of the word "relatives" that would bar reciprocal intestate succession only between collateral relatives:

It is therefore clear from Article 992 of the New Civil Code that the phrase "legitimate children and relatives of his father or mother" includes Simona Pamuti Vda. de Santero as the word "relative" is broad enough to comprehend all the kindred of the person spoken of (Comment, p. 139 Rollo citing p. 2862 Bouvier's Law Dictionary vol. II, Third Revision, Eighth Edition)[.] The record reveals that from the commencement of this

case the only parties who claimed to be the legitimate heirs of the late Simona Pamuti Vda. de Santero are Felisa Pamuti Jardin and the six minor natural or illegitimate children of Pablo Santero. Since petitioners herein are barred by the provisions of Article 992, the respondent Intermediate Appellate Court did not commit any error in holding Felisa Pamuti Jardin to be the sole legitimate heir to the intestate estate of the late Simona Pamuti Vda. de Santero.

It is Our shared view that the word "relatives" should be construed in its general acceptance. Amicus curiae Prof. Ruben Balane has this to say:

"The term relatives, although used many times in the Code, is not defined by it. In accordance therefore with the canons of statutory interpretation, it should be understood to have a general and inclusive scope, inasmuch as the term is a general one. Generalia verba sunt generaliter intelligenda. That the law does not make a distinction prevents us from making one: Ubi lex non distinguit, nec nos distinguere debemus. Escriche, in his Diccionario de Legislacion y Jurisprudencia defines parientes as "los que estan relacionados por los vinculos de la sangre, ya sea por proceder unos de otros, como los descendientes y ascendientes, ya sea por proceder de una misma raiz o tronco, como los colaterales." (cited in Scaevola, op. cit., p. 457). (p. 377, Rollo)

According to Prof. Balane, to interpret the term relatives in Article 992 in a more restrictive sense than it is used and intended is not warranted by any rule of interpretation. Besides, he further states that when the law intends to use the term in a more restrictive sense, it qualifies the term with the word collateral, as in Articles 1003 and 1009 of the New Civil Code.

Thus, the word "relatives" is a general term and when used in a statute it embraces not only collateral relatives but also all the kindred of the person spoken of, unless the context indicates that it was used in a more restrictive or limited sense — which, as already discussed earlier, is not so in the case at bar.

To recapitulate, We quote this:

"The lines of this distinction between legitimates and illegitimates, which goes back very far in legal history, have been softened but not erased by present law. Our legislation has not gone so far as to place legitimate and illegitimate children on exactly the same footing. Even the Family Code of 1987 (EO 209) has not abolished the gradation between legitimate and illegitimate children (although it has done away with the subclassification of illegitimates into natural and 'spurious'). It would thus be correct to say that illegitimate children have only those rights which are expressly or clearly granted to them by law (vide Tolentino, Civil Code of the Philippines, 1973 ed., vol. III, p. 291). (Amicus Curiae's Opinion by Prof. Ruben Balane, p. 12).

In the light of the foregoing, We conclude that until Article 992 is suppressed or at least amended to clarify the term "relatives", there is no other alternative but to apply the law literally. Thus, We hereby reiterate the decision of June 17, 1987 and declare Felisa Pamuti-Jardin to be the sole heir to the intestate estate of Simona Pamuti Vda. de Santero, to the exclusion of petitioners.[173] (Emphasis in the original, citations omitted)

Yet, while Article 992 prevents nonmarital children from inheriting from their marital parents' relatives, there is no such prohibition for the nonmarital child whose parent is a nonmarital child as well. Articles 989 and 990 of the Civil Code provide:

ARTICLE 989. If, together with illegitimate children, there should survive descendants of another illegitimate child who is dead, the former shall succeed in their own right and the latter by right of representation.

ARTICLE 990. The hereditary rights granted by the two preceding articles to illegitimate children shall be transmitted upon their death to their descendants, who shall inherit by right of representation from their deceased grandparent.

Because of this, the reciprocity in intestate succession of nonmarital children now depends on their parents'

marital status. The parity granted to nonmarital children is more illusory than real. This disparity of treatment was not left unnoticed. Justice Jose B.L. Reyes, in his *Reflections on the Reform of Hereditary Succession*, stated:

In the Spanish Civil Code of 1889 the right of representation was admitted only within the legitimate family; so much so that Article 943 of that Code prescribed that an illegitimate child can not inherit ab intestato from the legitimate children and relatives of his father and mother. The Civil Code of the Philippines apparently adhered to this principle since it reproduced Article 943 of the Spanish Code in its own Art. 992, but with fine inconsistency, in subsequent articles (990, 995 and 998) our Code allows the hereditary portion of the illegitimate child to pass to his own descendants, whether legitimate or illegitimate. So that while Art. 992 prevents the illegitimate issue of a legitimate child from representing him in the intestate succession of the grandparent, the illegimates of an illegitimate child can now do so. This difference being indefensible and unwarranted, in the future revision of the Civil Code we shall have to make a choice and decide either that the illegitimate issue enjoys in all cases the right of representation, in which case Art. 992 must be suppressed; or contrariwise maintain said article and modify Articles 995 and 998. The first solution would be more in accord with an enlightened attitude vis-a-vis illegitimate children.[174] (Emphasis supplied)

II (A)

Article 992 carves out an exception to the general rule that persons, by operation of law, inherit intestate from their blood relatives up to a certain degree. It does so through a classification of persons based on their birth status. The classification created in Article 992 is made upon persons at their conception and birth—when they are children.[175] Children bear the burden of this classification, despite having no hand in it and its creation dependent on matters beyond their control, and without any power to change it[176] or even mitigate some of its most pernicious effects.[177] As this Court conceded in *Concepcion v. Court of Appeals*:[178]

The law, reason and common sense dictate that a legitimate status is more favorable to the child. In the eyes of the law, the legitimate child enjoys a preferred and superior status. He is entitled to bear the surnames of both his father and mother, full support and full inheritance. On the other hand, an illegitimate child is bound to use the surname and be under the parental authority only of his mother. He can claim support only from a more limited group and his legitime is only half of that of his legitimate counterpart. Moreover (without unwittingly exacerbating the discrimination against him), in the eyes of society, a 'bastard' is usually regarded as bearing a stigma or mark of dishonor.[179]

In 1974, Presidential Decree No. 603, otherwise known as the Child and Youth Welfare Code, was passed. Among its salient features is the recognition, promotion, and protection of the child's rights, without distinction, among others, to their parents' marital status. It states in part:

ARTICLE 3. Rights of the Child. — All children shall be entitled to the rights herein set forth without distinction as to legitimacy or illegitimacy, sex, social status, religion, political antecedents, and other factors. (Emphasis supplied)

The Constitution affirms the dignity of children as human beings,[180] and mandates the promotion and protection of their physical, moral, spiritual, intellectual, and social well-being:

ARTICLE II
Declaration of Principles and State Policies

....

SECTION 13. The State recognizes the vital role of the youth in nation-building and shall promote and protect their physical, moral, spiritual, intellectual, and social well-being. It shall inculcate in the youth patriotism and nationalism, and encourage their involvement in public and civic affairs.

It is our State policy to protect the best interests of children,[181] referring to the "totality of the circumstances

and conditions which are most congenial to the survival, protection and feelings of security of the child and most encouraging to the child's physical, psychological and emotional development." [182] Article XV, Section 3(2) of the Constitution states:

SECTION 3. The State shall defend:

....

(2) The right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development[.]

In line with these, the Philippines has bound itself [183] to abide by universal standards on children's rights embodied in the United Nations Convention on the Rights of the Child. The Convention, a human rights treaty signed by the Philippines on January 26, 1990 and ratified on August 21, 1990, [184] contains several State obligations, including a commitment to nondiscrimination of children and the enforcement of their best interests as a primary consideration in actions concerning children:

Preamble

The States Parties to the present Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

....

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

....

Have agreed as follows:

....

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.[185] (Emphasis supplied)

The United Nations Convention on the Rights of the Child is operative in Philippine law. Its principles and policies have been embraced in many laws on children and social welfare.[186] Notably, Section 2 of Republic Act No. 7610,[187] or the Special Protection of Children Against Child Abuse, Exploitation, and Discrimination Act, provides:

SECTION 2. Declaration of State Policy and Principles. — It is hereby declared to be the policy of the State to provide special protection to children from all forms of abuse, neglect, cruelty, exploitation and discrimination, and other conditions, prejudicial to their development including child labor and its worst forms; provide sanctions for their commission and carry out a program for prevention and deterrence of and crisis intervention in situations of child abuse, exploitation and discrimination. The State shall intervene on behalf of the child when the parent, guardian, teacher or person having care or custody of the child fails or is unable to protect the child against abuse, exploitation and discrimination or when such acts against the child are committed by the said parent, guardian, teacher or person having care and custody of the same.

It shall be the policy of the State to protect and rehabilitate children gravely threatened or endangered by circumstances which affect or will affect their survival and normal development and over which they have no control.

The best interests of children shall be the paramount consideration in all actions concerning them, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities, and legislative bodies, consistent with the principle of First Call for Children as enunciated in the United Nations Convention on the Rights of the Child. Every effort shall be exerted to promote the welfare of children and enhance their opportunities for a useful and happy life. (Emphasis supplied)

This Court has repeatedly invoked the Convention to protect the rights and promote the welfare of children in matters of custody;[188] filiation and paternity;[189] adoption;[190] crimes committed against them;[191] and their status and nationality.[192] As amicus curiae Professor Aguilung-Pangalangan pointed out:

29.

The Court has anchored several decisions on the Convention on the Rights of the Child in a long line of cases, to wit:

29.1.

Perez v. CA [G.R. No. 118870, March 29, 1996] where the Court awarded the custody to the mother petitioner Nerissa Pere[z] as this was for the best interest of the child and held that: "It has long been settled that in custody cases, the foremost consideration is always the welfare and best interest of the child. In fact, no less than an international instrument, the Convention on the Rights of the Child provides: 'In all actions concerning

children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."

29.2.

In the Matter of the Adoption of Stephanie Astorga Garcia [G.R. No. 148311, March 31, 2005] in deciding the issue of the name of an adopted child, the Court held that: "The modern trend is to consider adoption not merely as an act to establish a relationship of paternity and filiation, but also as an act which endows the child with a legitimate status. This was, indeed, confirmed in 1989, when the Philippines, as a State Party to the Convention of the Rights of the Child initiated by the United Nations, accepted the principle that adoption is impressed with social and moral responsibility, and that its underlying intent is geared to favor the adopted child. Republic Act No. 8552, otherwise known as the 'Domestic Adoption Act of 1998,' secures these rights and privileges for the adopted."

29.3.

Gamboa-Hirsch v. CA [G.R. No. 174485, July 11, 2007] where the Court stated: "The Convention on the Rights of the Child provides that 'in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.' The Child and Youth Welfare Code, in the same way, unequivocally provides that in all questions regarding the care and custody, among others, of the child, his/her welfare shall be the paramount consideration." The Court held that "the mother was not shown to be unsuitable or grossly incapable of caring for her minor child. All told, no compelling reason has been adduced to wrench the child from the mother's custody."

29.4.

Thornton v. Thornton [G.R. No. 154598, August 16, 2004] where the Court cited the UN CRC as basis for its ruling that RA 8369 did not divest the Court of Appeals of jurisdiction despite RA 8369 explicitly stating that family courts have exclusive original jurisdiction over petitions for habeas corpus. The Court stated that "... a literal interpretation of the word 'exclusive' will result in grave injustice and negate the policy 'to protect the rights and promote the welfare of children' under the Constitution and the United Nations Convention on the Rights of the Child [...]."

30. These decisions, having referred to the CRC, are part of the legal system in accordance with Article 8 of the Civil Code [R.A. 386, Civil Code of the Philippines, 1949] that states that: "Judicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines." [193] (Emphasis supplied)

Clearly, our Constitution, our laws, and our voluntary commitment to our treaty obligations, when taken together, extend special protection to children, in equal measure and without any qualifications. When we affirm our international commitments that are in harmony with our constitutional provisions and have already been codified in our domestic legislation, we do nothing more than to recognize and effect what has already formed part of our legal system.

In this instance, should children's successional rights be at stake, then the best interest of the child should be of paramount consideration.

The Civil Code dates back to 1950, when it took effect. The most recent interpretation of Article 992 by this Court, was promulgated in 1990, when the present Constitution was still relatively new [194]. Since then, developments in children's rights should be deemed as a new lens through which our laws may be scrutinized. In David v. Senate Electoral Tribunal: [195]

This Court does not exist in a vacuum. It is a constitutional organ, mandated to effect the Constitution's dictum of defending and promoting the well-being and development of children. It is not our business to reify discriminatory classes based on circumstances of birth.[196]

This case may be resolved without passing upon the constitutionality of Article 992. However, that provision should now be reexamined in order to be consistent with the Constitution.

II (B)

In *In re Grey*, [197] decided under the Spanish Civil Code, this Court cited the commentaries of the Spanish civilist Manresa in explaining the philosophy behind the prohibition in Article 992:

Under article 943 of the Civil Code, the oppositors, as natural children of Ramon Fabie y Gutierrez, cannot succeed ab intestate their deceased cousin Rosario Fabie y Grey. Said article reads:

"ART. 943. A natural or legitimated child has no right to succeed ab intestate the legitimate children and relatives of the father or mother who has acknowledged it; nor shall such children or relatives so inherit from the natural or legitimated child."

Commenting on the aforementioned article, Manresa has this to say:

"Between the natural child and the legitimate relatives of the father or mother who acknowledged it, the Code denies any right of succession. They cannot be called relatives and they have no right to inherit. Of course, there is a blood tie, but the law does not recognize it. In this, article 943 is based upon the reality of the facts and upon the presumptive will of the interested parties; the natural child is disgracefully looked down upon by the legitimate family; the legitimate family is, in turn, hated by the natural child; the latter considers the privileged condition of the former and the resources of which it is thereby deprived; the former, in turn, sees in the natural child nothing but the product of sin, a palpable evidence of a blemish upon the family. Every relation is ordinarily broken in life; the law does no more than recognize this truth, by avoiding further grounds of resentment." (7 Manresa, 3d ed., p. 110.) [198]

This philosophy has been repeated in cases decided under Article 992, such as *Corpus*, [199] *Diaz* [200] *Pascual v. Pascual-Bautista* [201] and *Manuel v. Ferrer*. [202]

Intestate succession is based on the decedent's presumed will. [203] Article 992 then assumes that the decedent's disposition of their property would not have included any nonmarital children, due to a supposed hostility between the marital family and the nonmarital child because the latter was the outcome of an extramarital affair. [204]

However, a nonmarital child is not defined that way. Nonmarital children, or "illegitimate children" as used under Article 165 of the Family Code, are "[c]hildren conceived and born outside a valid marriage[.]" [205] The phrase "outside a valid marriage" does not necessarily mean an extramarital affair. Parents may choose not to get married despite having no legal impediment to marry. The 2016 report of the Philippine Statistics Authority on Marriage in the Philippines [206] showed a declining trend in the number of marriages—from 490,054 registered marriages in 2007 to 419,628 in 2016. [207] In 10 years, the number decreased by 14.4% [208]

If there is a legal impediment, it does not necessarily follow that the impediment is that either or both parents are married to another person. It is entirely possible that one or both of them are below marriageable age. [209] The Philippine Statistics Authority also reported that in 2017, 196,478 children were born to adolescent—19 years old and under—mothers and 52,342 children were sired by adolescent fathers. [210]

Another reason why a child could have been born "outside a valid marriage" is because their mother was a victim of sexual assault [211] who did not marry the perpetrator. This is an unfortunate and wretched reality.

Too, our courts, in passing judgment upon the validity of marriages, bestow the status of a nonmarital child.[212]

There are also times when the father of an unborn child may have died before being able to marry the child's mother, as what has been alleged in Angela's case.

Children born from these circumstances are also considered "illegitimate." Yet, there may be no "antagonism or incompatibility," "hate," or "disgraceful looks" to speak of. If Article 992 merely recognizes existing conditions, then it should be construed to account for other circumstances of birth and family dynamics. Peace within families cannot be encouraged by callously depriving some of its members of their inheritance. Such deprivation may even be the cause of antagonism and alienation that could have been otherwise avoided.

This Court has recognized that the alleged resentment and hostility presumed by Article 992 can be proven by evidence to be non-existent. Particular facts of a case may show that the decedent's will does not distinguish between marital and nonmarital relatives, precluding a rigid application of Article 992.

In *In re Intestate Estate of Cristina Aguinaldo-Suntay*: [213]

Manresa explains the basis for the rules on intestate succession:

The law [of intestacy] is founded . . . on the presumed will of the deceased . . . Love, it is said, first descends, then ascends, and, finally, spreads sideways. Thus, the law first calls the descendants, then the ascendants, and finally the collaterals, always preferring those closer in degree to those of remoter degrees, on the assumption that the deceased would have done so had he manifested his last will... Lastly, in default of anyone called to succession or bound to the decedent by ties of blood or affection, it is in accordance with his presumed will that his property be given to charitable or educational institutions, and thus contribute to the welfare of humanity.

Indeed, the factual antecedents of this case accurately reflect the basis of intestate succession, i.e., love first descends, for the decedent, Cristina, did not distinguish between her legitimate and illegitimate grandchildren. Neither did her husband, Federico, who, in fact, legally raised the status of Emilio III from an illegitimate grandchild to that of a legitimate child. The peculiar circumstances of this case, painstakingly pointed out by counsel for petitioner, overthrow the legal presumption in Article 992 of the Civil Code that there exist animosity and antagonism between legitimate and illegitimate descendants of a deceased.[214]

This Court abandons the presumption in *In re Grey*, *Corpus*, *Diaz*, and *In re Suntay*, among others, that nonmarital children are products of illicit relationships or that they are automatically placed in a hostile environment perpetrated by the marital family. We are not duty bound to uncritically parrot archaic prejudices and cruelties, to mirror and amplify oppressive and regressive ideas about the status of children and family life. The best interest of the child should prevail.

We adopt a construction of Article 992 that makes children, regardless of the circumstances of their births, qualified to inherit from their direct ascendants—such as their grandparent—by their right of representation. Both marital and nonmarital children, whether born from a marital or nonmarital child, are blood relatives of their parents and other ascendants. Nonmarital children are removed from their parents and ascendants in the same degree as marital children. Nonmarital children of marital children are also removed from their parents and ascendants in the same degree as nonmarital children of nonmarital children.

This interpretation likewise makes Article 992 more consistent with the changes introduced by the Family Code on obligations of support among and between the direct line of blood relatives. As explained by amicus curiae Dean Del Castillo:

53. This interpretation of Article 992 is also supported by the Family Code. Particularly, it is consistent with

the provisions of the Family Code on support.

54. Article 195 of the Family Code identifies the persons who are obliged to support each other. It provides that parents and their children and the children of the latter, whether legitimate or illegitimate, are obliged to support each other.

"Family Code. Article 195. Subject to the provisions of the succeeding articles, the following are obliged to support each other to the whole extent set forth in the preceding article:

- 1) The spouses;
- 2) Legitimate ascendants and descendants;
- 3) Parents and their legitimate children and the legitimate and illegitimate children of the latter;
- 4) Parents and their illegitimate children and the legitimate and illegitimate children of the latter; and
- 5) legitimate brothers and sisters, whether of full or half blood.

55. The mandatory nature of the support from grandparents to grandchildren, regardless of status, is intentional. It reflects the evolution of the legal view towards illegitimate children from the time of the Spanish Civil Code and the Civil Code to the time of the Family Code.

56. The deliberations of the Civil Code Revision Committee which drafted the Family Code show the rationale behind the aforementioned paragraphs 3 and 4 of Article 195:

"The illegitimate children are clearly burdened with the stigma of bastardy and there is no reason why the committee should further inflict punishment or other disabilities on them. The committee is trying to ameliorate as much as possible the stigma. In addition, the sentiment of the present Civil Code of 1950 was best captured in the words: 'There are no illegitimate children, there are only illegitimate parents.' The committee is therefore implementing this rule. The committee has sufficiently studied the grounds for claim of support and believe that they are sufficient."

57. Thus, it is reasonable to conclude that the rules on support (under the Family Code) and succession (under the Civil Code) should be reciprocal. Grandchildren, regardless of their status and the status of their parents, should be able to inherit from their grandparents by right of representation in the same way that the grandchildren, also regardless of their status, are called upon by law to support their grandparents, if necessary. In the case of support, the grandchildren could not even shy away from the obligation because support is considered to be "the most sacred and important of all the obligations[.][215] (Citations omitted)

Accordingly, when a nonmarital child seeks to represent their deceased parent to succeed in their grandparent's estate, Article 982 of the Civil Code shall apply. Article 982 provides:

ARTICLE 982. The grandchildren and other descendants shall inherit by right of representation, and if any one of them should have died, leaving several heirs, the portion pertaining to him shall be divided among the latter in equal portions. (Emphasis supplied)

The language of Article 982 does not make any distinctions or qualifications as to the birth status of the "grandchildren and other descendants" granted the right of representation. Moreover, as pointed out by Senior Associate Justice Estela Perlas-Bernabe, to allow grandchildren and other descendants, regardless of their birth status, to inherit by right of representation will protect the legitime of the compulsory heir they represent; otherwise, the legitime will be impaired, contrary to protections granted to this legitime in other areas of our law on succession.[216]

Applying Article 982 in situations where the grandchild's right to inherit from their grandparent is in issue is more in accord with our State policy of protecting children's best interests and our responsibility of complying with the United Nations Convention on the Rights of the Child.

To emphasize, this ruling will only apply when the nonmarital child has a right of representation to their parent's share in her grandparent's legitime. It is silent on collateral relatives where the nonmarital child may inherit by themselves. We are not now ruling on the extent of the right of a nonmarital child to inherit in their own right. Those will be the subject of a proper case and, if so minded, may also be the subject of more enlightened and informed future legislation.

III

However, the application of Article 982 here does not automatically give Angela the right to inherit from Miguel's estate. Angela must still prove her filiation.

We must first resolve the rules concerning proof of filiation that govern this case.

The Office of the Solicitor General, Abdulah, and Rodolfo insist that Angela failed to prove her filiation to Arturo under Article 175,[217] in relation to Article 172,[218] of the Family Code. Even if the provisions under the Civil Code[219] were applied, they say that Angela's claim will not prosper since she did not file any action for recognition within four years from the time she attained the age of majority, when she turned 18 years old in 1996.

They are mistaken.

Angela was born on October 9, 1978, before the Family Code was created and when the Civil Code provisions on proving filiation applies. Meanwhile, she moved that she be included in the distribution and partition of Miguel's estate on July 2, 2003, when the Family Code was already in effect.

The question as to what provisions should be applied was already settled. As thoroughly explained in *Bernabe v. Alejo*: [220]

Under the new law [Family Code], an action for the recognition of an illegitimate child must be brought within the lifetime of the alleged parent. The Family Code makes no distinction on whether the former was still a minor when the latter died. Thus, the putative parent is given by the new Code a chance to dispute the claim, considering that "illegitimate children are usually begotten and raised in secrecy and without the legitimate family being aware of their existence. . . . The putative parent should thus be given the opportunity to affirm or deny the child's filiation, and this, he or she cannot do if he or she is already dead."

Nonetheless, the Family Code provides the caveat that rights that have already vested prior to its enactment should not be prejudiced or impaired as follows:

"ART. 255. 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."

The crucial issue to be resolved therefore is whether Adrian's right to an action for recognition, which was granted by Article 285 of the Civil Code, had already vested prior to the enactment of the Family Code. Our answer is affirmative.

A vested right is defined as "one which is absolute, complete and unconditional, to the exercise of which no obstacle exists, and which is immediate and perfect in itself and not dependent upon a contingency...." Respondent however contends that the filing of an action for recognition is procedural in nature and that "as a general rule, no vested right may attach to [or] arise from procedural laws."

Bustos v. Lucero distinguished substantive from procedural law in these words:

". . . . Substantive law creates substantive rights and the two terms in this respect may be said to be synonymous. Substantive rights is a term which includes those rights which one enjoys under the legal system prior to the disturbance of normal relations. Substantive law is that part of the law which creates, defines and

regulates rights, or which regulates the rights and duties which give rise to a cause of action; that part of the law which courts are established to administer; as opposed to adjective or remedial law, which prescribes the method of enforcing rights or obtains redress for their invasion."

Recently, in *Fabian v. Desierto*, the Court laid down the test for determining whether a rule is procedural or substantive:

"[I]n determining whether a rule prescribed by the Supreme Court, for the practice and procedure of the lower courts, abridges, enlarges, or modifies any substantive right, the test is whether the rule really regulates procedure, that is, the judicial process for enforcing rights and duties recognized by substantive law and for justly administering remedy and redress for a disregard or infraction of them. If the rule takes away a vested right, it is not procedural. If the rule creates a right such as the right to appeal, it may be classified as a substantive matter; but if it operates as a means of implementing an existing right then the rule deals merely with procedure."

Applying the foregoing jurisprudence, we hold that Article 285 of the Civil Code is a substantive law, as it gives Adrian the right to file his petition for recognition within four years from attaining majority age. Therefore, the Family Code cannot impair or take Adrian's right to file an action for recognition, because that right had already vested prior to its enactment.

....

To emphasize, illegitimate children who were still minors at the time the Family Code took effect and whose putative parent died during their minority are thus given the right to seek recognition (under Article 285 of the Civil Code) for a period of up to four years from attaining majority age. This vested right was not impaired or taken away by the passage of the Family Code.

Indeed, our overriding consideration is to protect the vested rights of minors who could not have filed suit, on their own, during the lifetime of their putative parents.[221] (Emphasis supplied, citations omitted)

Per the ruling in *Bernabe*, Angela, who was not yet born when the Family Code took effect, has the right to prove that she was her father's daughter under Article 285 of the Civil Code within four years from attaining the age of majority. Under Article 402 of the Civil Code, the age of majority is 21 years old. Angela attained majority on October 9, 1999. She had until October 9, 2003 to assert her right to prove her filiation with Arturo. Thus, when she moved to be included in the distribution and partition of Miguel's estate on July 17, 2003, she was not yet barred from claiming her filiation.

However, there is no provision in the Civil Code that guides a child, who was born after their father's death, in proving filiation with him.

Article 283 of the Civil Code[222] provides for the compulsory recognition of natural children, one ground for which is "continuous possession of status of a child of the alleged father by direct acts of the latter or of his family[.]" Angela certainly qualifies as a natural child as defined in the Civil Code, there being no contest that her putative parents were unmarried, yet had no impediment to marry each other at the time of her birth. But as has been held by this Court, the enjoyment or possession of the status of a natural child is only a ground for obligatory recognition by the alleged father, and not by itself a sufficiently operative acknowledgment.[223] Compulsory recognition involves the father's express recognition of his paternity,[224] which is impossible in this case. A person may possess, uninterrupted, the status of a "natural child," but this Court has held that only those "natural children" legally acknowledged according to the requirements of the Civil Code are entitled to inherit:

Petitioners' contention is tenable. We are bound by the finding of the Court of Appeals in its decision that said

respondents are the natural children of Justo Magallanes, that the petitioners do not deny their status as such, and that it can be inferred from the records that they enjoyed such status during the lifetime of their deceased father. Nonetheless, we are also bound by its finding that the record fails to adequately show that said respondents were ever acknowledged as such natural children. Under article 840 of the old Civil Code, above quoted, the natural children entitled to inherit are those legally acknowledged. In the case of *Briz vs. Briz*, 43 Phil. 763, the following pronouncement was made: ". . . the actual attainment of the status of a legally recognized natural child is a condition precedent to the realization of any rights which may pertain to such child in the character of heir. In the case before us, assuming that the plaintiff has been in the uninterrupted possession of the status of natural child, she is undoubtedly entitled to enforce legal recognition; but this does not in itself make her a legally recognized natural child." It being a fact, conclusive in this instance, that there was no requisite acknowledgment, the respondents' right to inherit cannot be sustained.[225]

Yet, this Court in *Tongoy v Court of Appeals*[226] recognized that there are circumstances where the natural child in question has already been enjoying the benefits and privileges of an acknowledged natural child, treated as such not just by the putative parent, but also by the extended family. In these instances, requiring the natural child to undergo the formalities of compulsory recognition, for fear that they be deprived of their hereditary rights, may be "rather awkward, if not unnecessary":

Of course, the overwhelming evidence found by respondent Court of Appeals conclusively shows that respondents Amado, Ricardo, Cresenciano and Norberto have been in continuous possession of the statue of natural, or even legitimated, children. Still, it recognizes the fact that such continuous possession of status is not, per se, a sufficient acknowledgment but only a ground to compel recognition (*Alabat vs. Alabat*, 21 SCRA 1479; *Pua vs. Chan*, 21 SCRA 753; *Larena vs. Rubio*, 43 Phil. 1017).

Be that as it may, WE cannot but agree with the liberal view taken by respondent Court of Appeals when it said:

". . . It does seem equally manifest, however, that defendants-appellants stand on a purely technical point in the light of the overwhelming evidence that appellees were natural children of Francisco Tongoy and Antonina Pabello, and were treated as legitimate children not only by their parents but also by the entire clan. Indeed, it does not make much sense that appellees should be deprived of their hereditary rights as undoubted nature children of their father, when the only plausible reason that the latter could have had in mind when he married his second wife Antonina Pebello just over a month before his death was to give legitimate status to their children. It is not in keeping with the more liberal attitude taken by the New Civil Code towards illegitimate children and the more compassionate trend of the New Society to insist on a very literal application of the law in requiring the formalities of compulsory acknowledgment, when the only result is to unjustly deprive children who are otherwise entitled to hereditary rights. From the very nature of things, it is hardly to be expected of appellees, having been reared as legitimate children of their parents and treated as such by everybody, to bring an action to compel their parents to acknowledge them. In the hitherto cited case of *Ramos vs. Ramos*, supra, the Supreme Court showed the way out of patent injustice and inequity that might result in some cases simply because of the implacable insistence on the technical amenities for acknowledgment.

Thus, it held —

'Unacknowledged natural children have no rights whatsoever (*Buenaventura vs. Urbano*, 5 Phil. 1; *Siguiong vs. Siguiong*, 8 Phil. 5, 11; *Infante vs. Figueras*, 4 Phil. 738; *Crisolo vs. Macadaeg*, 94 Phil. 862). The fact that the plaintiffs, as natural children of Martin Ramos, received shares in his estate implied that they were acknowledged. Obviously, defendants Agustin Ramos and Granada Ramos and the late Jose Ramos and members of his family had treated them as his children. Presumably, that fact was well-known in the community. Under the circumstances, Agustin Ramos and Granada Ramos and the heirs of Jose Ramos, are estopped from attacking plaintiffs' status as acknowledged natural children (See Arts. 283 [4] and 2666 [3], New Civil Code). [*Ramos vs. Ramos*, supra].'

"With the same logic, estoppel should also operate in this case in favor of appellees, considering, as already explained in detail, that they have always been treated as acknowledged and legitimated children of the second marriage of Francisco Tongoy, not only by their presumed parents who raised them as their children, but also by the entire Tongoy-Sonora clan, including Luis D. Tongoy himself who had furnished sustenance to the clan in his capacity as administrator of Hacienda Pulo and had in fact supported the law studies of appellee Ricardo P. Tongoy in Manila, the same way he did with Jesus T. Sonora in his medical studies. As already pointed out, even defendants-appellants have not questioned the fact that appellees are half-brothers of Luis D. Tongoy. As a matter of fact, that are really children of Francisco Tongoy and Antonina Pabello, and only the technicality that their acknowledgment as natural children has not been formalized in any of the modes prescribed by law appears to stand in the way of granting them their hereditary rights. But estoppel, as already indicated, precludes defendants-appellants from attacking appellees' status as acknowledged natural or legitimated children of Francisco Tongoy. In addition to estoppel, this is decidedly one instance when technicality should give way to conscience, equity and justice (cf. *Vda. de Sta. Ana vs. Rivera*, L-22070, October 29, 1966, 18 SCRA 588)" [pp. 196-198, Vol. I, rec.].

It is time that WE, too, take a liberal view in favor of natural children who, because they enjoy the blessings and privileges of an acknowledged natural child and even of a legitimated child, found it rather awkward, if not unnecessary, to institute an action for recognition against their natural parents, who, without their asking, have been showering them with the same love, care and material support as are accorded to legitimate children. The right to participate in their father's inheritance should necessarily follow.[227]

Similarly, in *Pactor v. Pestaño*,[228] a nonmarital child was permitted to participate in the settlement of the intestate estate of his father despite the lack of formal recognition during his father's lifetime. This Court noted that the nonmarital child, due to the father's acts and the widow's as well, had been in continuous possession of the status of a child of his father. As such, extending the application of the rule in *Tongoy* is proper in this case.

Moreover, DNA testing is a valid means of determining paternity and filiation.[229] Under the Rule on DNA Evidence, among the purposes of DNA testing is to determine whether two or more distinct biological samples originate from related persons, known as kinship analysis.[230] The Rule on DNA Evidence permits the use of any biological sample, including bones,[231] in DNA testing. This Court has sanctioned the exhumation of bodies for DNA testing.[232] In *Estate of Ong v. Diaz*,[233] this Court affirmed the use of DNA testing in an instance when the putative father was dead:

From the foregoing, it can be said that the death of the petitioner does not ipso facto negate the application of DNA testing for as long as there exist appropriate biological samples of his DNA.

As defined above, the term "biological sample" means any organic material originating from a person's body, even if found in inanimate objects, that is susceptible to DNA testing. This includes blood, saliva, and other body fluids, tissues, hairs and bones.

Thus, even if Rogelio already died, any of the biological samples as enumerated above as may be available, may be used for DNA testing. In this case, petitioner has not shown the impossibility of obtaining an appropriate biological sample that can be utilized for the conduct of DNA testing.

And even the death of Rogelio cannot bar the conduct of DNA testing. In *People v. Umanito*, citing *Tecson v. Commission on Elections*, this Court held:

The 2004 case of *Tecson v. Commission on Elections* [G.R. No. 161434, 3 March 2004, 424 SCRA 277] likewise reiterated the acceptance of DNA testing in our jurisdiction in this wise: "[i]n case proof of filiation or paternity would be unlikely to satisfactorily establish or would be difficult to obtain, DNA testing, which examines genetic codes obtained from body cells of the illegitimate child and any physical residue of the long dead parent could be resorted to."

It is obvious to the Court that the determination of whether appellant is the father of AAA's child, which may be accomplished through DNA testing, is material to the fair and correct adjudication of the instant appeal. Under Section 4 of the Rules, the courts are authorized, after due hearing and notice, *motu proprio* to order a DNA testing. However, while this Court retains jurisdiction over the case at bar, capacitated as it is to receive and act on the matter in controversy, the Supreme Court is not a trier of facts and does not, in the course of daily routine, conduct hearings. Hence, it would be more appropriate that the case be remanded to the RTC for reception of evidence in appropriate hearings, with due notice to the parties.[234]

Likewise, while the Rule on DNA Evidence refers specifically to DNA testing as probability of parentage involving a putative father,[235] it does not prohibit the use of kinship analysis through DNA testing of other genetically related persons, when there is *prima facie* evidence or reasonable possibility[236] of genetic kinship. Thus, in the absence of viable biological samples of the putative father, DNA testing may be used as corroborative evidence[237] of two or more persons' exclusion or inclusion in the same genetic lineage, subject to scientific analysis of the likelihood of relatedness of those persons based on the results of the tests. This is in keeping with the liberalization of the rule on investigation of the paternity and filiation of children, in the paramount consideration of the child's welfare and best interest of the child.[238]

The matter of how filiation may be proved under the present circumstances having been settled, we proceed to the factual issues raised in this case.

This Court is not a trier of facts.[239] "It is not [our] function to examine and determine the weight of the evidence supporting the assailed decision." [240] This is consistent with the rule that only questions of law may be resolved in petitions for review on certiorari under Rule 45 of the Rules of Court.

An exception to this general rule, however, is when there exist conflicting factual findings in the lower courts,[241] such as what has occurred here. The Regional Trial Court found that Angela should be considered "an acknowledged natural child or legitimated child of her father, Arturo C. Aquino,"[242] while the Court of Appeals held that Angela "failed to present any competent proof of her filiation with Arturo Aquino through any of the means provided by law." [243]

However, resolving several factual matters raised in the parties' pleadings and during the oral arguments requires receiving additional evidence, which this Court is not equipped to do. Documents may need to be presented and authenticated; witnesses' testimonies received and examined; and DNA testing ordered and conducted, to determine the truth or falsity of the allegations raised by the parties before this Court. This Court finds it prudent to remand these cases to their court of origin for reception of evidence, in conformity with the legal principles articulated here.

IV

Succession is not only a mode of acquiring ownership: a way for properties to be transferred from one person to another. Our laws have made succession a fixed point in the life cycle of a family. To whom a decedent's property is given and how much is our civil laws approximation of familial love: first descending, then ascending, and finally spreading out.[244] In its own way, an inheritance may be viewed as recompense, however pitiful and inadequate, for a permanent loss of which there can never be sufficient satisfaction. The laws on succession have social, cultural, and even moral dimensions, affecting and affected by ever-evolving norms of family, marriage, and children.

While not binding upon our jurisdiction, the changes in legitimacy statutes and successional rights in other countries may offer alternative perspectives that can help foster an overdue conversation about our civil laws.

As early as 1967, the United Nations Commission on Human Rights and the United Nations Economic and Social

Council appointed a special rapporteur to study discrimination against nonmarital children, then called as "persons born out of wedlock," across different member-nations, including the Philippines.[245] One outcome of this study was a set of draft general principles submitted by the Sub-Committee on Prevention of Discrimination and Protection of Minorities[246] "to enable all members of society, including persons born out of wedlock, to enjoy the equal and inalienable rights to which they are entitled,"[247] including inheritance rights:

12. Every person born out of wedlock shall, once his filiation has been established, have the same inheritance rights as persons born in wedlock. Legal limitations or restrictions on the freedom of a testator to dispose of his property shall afford equal protection to persons entitled to inheritance, whether they are born in wedlock or out of wedlock.[248]

Spain, after whose legal regime the Philippines had patterned—with improvements—its civil law system,[249] abolished the distinctions between marital and nonmarital children in 1981.[250] This resulted in a divergence from our successional laws:

Since 1981 the compulsory or forced heirs of the testator as referred to in art. 807 [of the Spanish Civil Code] are (1) First, children and descendants. (2) In the absence of children or descendants, the parents or ascendants of the testator (3) In any case, the widower or widow, succeeds the testator in the manner and to the extent established by the Civil Code. Therefore, there is no longer any discrimination between children due to their origin, and the live-in partner is not a forced heir. Moreover, the widowed spouse is only appointed on a usufruct share, and not the ownership of a share.[251] (Citation omitted)

More generally, the 1975 European Convention on the Legal Status of Children Born Out of Wedlock, ratified by 23 Council of Europe states,[252] includes a provision on nondiscrimination of children in succession:

Article 9

A child born out of wedlock shall have the same right of succession in the estate of its father and its mother and of a member of its father's or mother's family, as if it had been born in wedlock.

In 2013, the European Court of Human Rights observed that among its member-states, 21 countries gave children inheritance rights independent of their parents' marital status; 19 countries still retained a distinction according to the parents' marital status but the distinction did not extend to inheritance; 1 country—Malta—still made some distinctions in inheritance; and only Andorra treated nonmarital children less favorably than their marital counterparts in inheritance matters.[253]

Similarly, the United States Supreme Court struck down a state law which limited the intestate succession of nonmarital children to the matrilineal line, upon a finding that this limitation—not applicable to marital children—violated the equal protection clause.[254] There, it was acknowledged that although there was a legitimate purpose in promoting the family unit, this could not be achieved by discriminating against a cohort of children who could "affect neither their parents' conduct nor their own status." [255]

Our own laws also reflect progress in treating persons, regardless of their birth status, more equally. The Family Code and its amendments[256] sought to improve the living conditions of nonmarital children, by conferring upon them the rights and privileges previously unavailable under the Civil Code and its antecedents. Numerous social welfare laws grant benefits to marital and nonmarital children alike.[257] Moreover, laws such as Republic Act No. 8972, or the Solo Parents' Welfare Act, and Republic Act No. 10165, or the Foster Care Act, demonstrate that the family as a basic autonomous social institution is not restrictively defined by traditional notions of marital relations, moving toward unshackling the status of a child from the acts of their parents.

All children are deserving of support, care, and attention. They are entitled to an unprejudiced and nurturing environment free from neglect, abuse, and cruelty. Regardless of the circumstances of their birth, they are all

without distinction entitled to all rights and privileges due them. The principle of protecting and promoting the best interest of the child applies equally, and without distinction, to all children. As observed by Justice Gregory Perfecto in *Malonda v. Malonda*:^[258]

All children are entitled to equal protection from their parents. Only a distorted concept of that parental duty, which springs from and is imposed by nature, may justify discriminatory measures to the prejudice of those born out of illicit sexual relations. The legal or moral violations upon which some of our present day legal provisions penalize illegitimate children with social, economic and financial sanctions, are perpetrated by the parents without the consent or knowledge of the children. If the erring parents deserve to have their foreheads branded with the stigma of illegitimacy, it is iniquitous to load the innocent children with the evil consequences of that stigma. There can be illegitimate parents but there should not be any illegitimate children.^[259]

Nonetheless, the present state of our family laws constrains us to apply the Civil Code and the Family Code as they are, including the classifications and distinctions embedded in them. Reshaping policies with a profound effect on the basic framework of Philippine civil law may be better left to the Filipino people, through their duly elected representatives, empathetic to and steadfast in our constitutional commitment to our children.

WHEREFORE, Amadea Angela K. Aquino's Motion for Reconsideration in G.R. No. 208912 is **PARTIALLY GRANTED**. The January 21, 2013 Decision of the Court of Appeals in CA-G.R. CV No. 01633 is **REVERSED** and **SET ASIDE**.

The cases are **REMANDED** to the Regional Trial Court of origin for resolution, within 90 days of receipt of this Decision, of the issues of Amadea Angela K. Aquino's filiation—including the reception of DNA evidence upon consultation and coordination with experts in the field of DNA analysis—and entitlement to a share in the estate of Miguel T. Aquino, in accordance with this Decision and the re-interpretation of Article 992 of the Civil Code.

SO ORDERED.

Gesmundo, C.J., See separate opinion.

Perlas-Bernabe, J., Please see Separate Concurring Opinion.

Caguioa, J., See Concurring and Dissenting.

Hernando, Carandang, Inting, M. Lopez, Gaerlan, Rosario, J. Lopez, and Marquez, JJ., concur.

Lazaro-Javier, J., Pls. see Separate Opinion.

Zalameda, J., With Separate Concurring Opinion.

Dimaampao, [*] J., On Official Leave.

[*]On Official leave.

[1] The Petitions were filed under Rule 45 of the Rules of Court.

[2] Whenever practicable and not required by direct reference to statute and jurisprudence, the term "nonmarital child" is used in place of "illegitimate child" to refer to the status of a child whose parents who are not married to each other. See *Gocolay v. Gocolay*, G.R. No. 220606, January 11, 2021, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67250>> [Per J. Leonen, Third Division].

Similarly, "marital child" is used in place of "legitimate child." Various sources have discouraged the use of the term "illegitimate" to refer to children because it is a pejorative term that perpetuates a historical stigma. See, for example, Edward Schumacher-Matos, *Start the Debate: Language, Legitimacy and a "Love Child"*, available at <<https://www.npr.org/sections/publiceditor/2011/07/12/137792538/start-the-debate-language-legitimacy-and-a-lov>

e-child>, (last accessed on December 6, 2021); Edward Schumacher-Matos, Stylebook Survey: Newsroom Policy on "Illegitimate Children", available at <<https://www.npr.org/sections/publiceditor/2011/07/18/137861815/stylebook-survey-newsroom-policy-on-illegitimate-children>>, (last accessed on December 6, 2021); Mallary Jean Tenore, AP Stylebook adds entry for "illegitimate child," advises journalists not to use it, available at <<https://www.poynter.org/reporting-editing/2012/ap-stylebook-adds-entry-for-illegitimate-child-advises-journalists-not-to-use-it/>>, (last accessed on December 6, 2021).

Nonetheless, it is likewise acknowledged that even the terms "marital" and "nonmarital" children carry connotations regarding the perceived desirability of traditional two-person opposite-sex marriage, even though our laws and norms recognize other family configurations (e.g., single-parent households, unmarried cohabitation, foster care, adoptive families, and families of choice). At every opportunity, this Court ought to promote the dignity of every person in our choices of words and language.

[3] Rollo (G.R. No. 208912), pp. 12-35.

[4] Id. at 41-58. The January 21, 2013 Decision in CA-G.R. CV. No. 01633 was penned by Associate Justice Ma. Luisa C. Quijano-Padilla and concurred in by Associate Justices Romulo V. Borja and Marie Christine Azcarraga-Jacob of the Twenty-First Division, Court of Appeals, Cagayan de Oro City.

[5] Id. at 58.

[6] Rollo (G.R. No. 209018), pp. 4-34.

[7] Id. at 36-47. The August 23, 2012 Decision in CA-G.R. SP No. 02269-MIN was penned by Associate Justice Marilyn B. Lagura-Yap and concurred in by Associate Justices Edgardo A. Camello and Renato C. Francisco of the Twenty-Second Division, Court of Appeals, Cagayan de Oro City.

[8] Id. at 49-52. The August 1, 2013 Resolution in CA-G.R. SP No. 02269-MIN was penned by Associate Justice Edgardo A. Camello and concurred in by Associate Justices Renato C. Francisco and Edward B. Contreras of the Twenty-Second Division, Court of Appeals, Cagayan de Oro City.

[9] Id. at 40-46, Court of Appeals Decision in CA-G.R. SP No. 02269-MIN.

[10] Rollo (G.R. No. 208912), p. 42, Court of Appeals Decision in CA-G.R. CV No. 01633.

[11] Id. at 42-43.

[12] Id. at 44, Court of Appeals Decision in CA-G.R. CV No. 01633, and 89-96, Motion to be Included in the Distribution and Partition of the Estate.

[13] Id. at 44 and 89.

[14] Id. at 98.

[15] Id. at 60, April 22, 2005 Regional Trial Court Order in Spl. Proc. No. 6972-2003.

[16] Id. at 97, Death Certificate of Arturo C. Aquino.

[17] Id. at 44 and 89-90.

[18] Id. at 44 and 90.

[19] Id.

[20] Id. at 44-45 and 90.

[21] Id. at 60 and 90.

[22] Id. at 45, 60, and 90.

[23] Id. at 60, 90, and 99.

[24] Id. at 99, Baptismal Certificate of Amadea Angela Aquino.

[25] Id. at 45, 60, and 91.

[26] Id.

[27] Id. at 100.

[28] Id. at 60.

[29] Id. at 45 and 91.

[30] Id. at 101-107.

[31] Id. at 46, 60; and 102, Opposition to Claimant's Motion to be Included in the Distribution and Partition of the Estate.

[32] Id. at 60 and 103.

[33] Id.

[34] Id. at 61.

[35] Id. at 111-115.

[36] Id. at 43 and 114.

[37] Id. at 142-149.

[38] Id. at 61 and 148.

[39] Id. at 44.

[40] Id. at 150-151.

[41] Id. at 46 and 150.

[42] Id. at 153-155.

[43] Id. at 156-158.

[44] Id. at 46.

[45] Id. at 60-65. The Order was penned by Judge William M. Layague of Branch 14, Regional Trial Court, Davao City.

[46] Id. at 47 and 64.

[47] Id. at 48 and 63.

[48] Id. at 63.

[49] Id. at 64.

- [50] Id. at 48.
- [51] Id. at 49.
- [52] Id. at 66-68.
- [53] Rollo (G.R. No. 209018), pp. 54-68.
- [54] Id. at 67.
- [55] Id. at 36-47.
- [56] Id. at 40-46.
- [57] Id. at 49-52.
- [58] Id. at 4-33.
- [59] Id. at 31.
- [60] Id. at 4-34.
- [61] Id. at 10-14.
- [62] Id. at 14-18.
- [63] Id. at 18-19.
- [64] Id. at 19-23.
- [65] Id. at 28-30.
- [66] Id. at 23-28.
- [67] Id. at 31.
- [68] Rollo (G.R. No. 208912), pp. 41-42.
- [69] Id. at 49-50.
- [70] Id. at 41-58.
- [71] Id. at 57-58.
- [72] Id. at 53-56.
- [73] Id. at 56-57.
- [74] Id. at 57-58.
- [75] Id. at 69-75.
- [76] Id. at 79-81.
- [77] Id. at 12-35.
- [78] Id. at 33.
- [79] Id. at 12-35.
- [80] Id. at 23-30.

- [81] Id. at 31-32.
- [82] Id. at 32.
- [83] Id.
- [84] Id. at 33.
- [85] Id. at 204-205.
- [86] Id. at 204.
- [87] Id. at 206-207.
- [88] Id. at 206.
- [89] Id. at 208-221.
- [90] Id. at 208-209.
- [91] Id. at 233-238.
- [92] 261 Phil. 542 (1990) [Per J. Paras, En Banc].
- [93] Id. at 552.
- [94] Rollo (G.R. No. 208912), p. 235, Motion to Refer the Case to the Honorable Court En Banc.
- [95] Id. at 237.
- [96] Id. at 249.
- [97] Id. at 259-264.
- [98] Id. at 260.
- [99] Id.
- [100] Id. at 268.
- [101] Id. at 272-297.
- [102] Id. at 306-332.
- [103] Id. at 370-386.
- [104] Id. at 389-390.
- [105] Id. at 405-436.
- [106] Id. at 410-423.
- [107] Id. at 423.
- [108] Id. at 444-491.
- [109] Id. at 459.
- [110] Id. at 461.
- [111] Id. at 462.

[112] Id. at 466.

[113] Id.

[114] 208 Phil. 95 (1983) [Per J. Makasiar, Second Division].

[115] Rollo (G.R. No. 208912), pp. 472-477, Abdulah Aquino's Memorandum.

[116] Id. at 477-489.

[117] Id. at 478.

[118] Id. at 481-489.

[119] Id. at 510-560.

[120] Id. at 524-541.

[121] Id. at 541-546.

[122] Id. at 541.

[123] Id. at 546-554.

[124] Id. at 552.

[125] Rollo (G.R. No. 209018), pp. 490-512.

[126] Id. at 502.

[127] Id. at 502-507.

[128] Id. at 626.

[129] Id.

[130] Rollo (G.R. No. 208912), pp. 944-991.

[131] Id. at 1052-1108.

[132] Id. at 1136-1177.

[133] Id. at 1014-1042. On September 2, 2019, Professor Aguilung-Pangalangan submitted a Memorandum for the oral arguments (Id. at 739-761).

[134] Id. at 1043-1051.

[135] Id. at 844-869.

[136] Id. at 1263-1333.

[137] Id. at 1056-1063.

[138] Id. at 1077-1098; 1156-1171; and 1215-1247.

[139] *Manila Prince Hotel v. Government Service Insurance System*, 335 Phil. 82 (1997) [Per J. Bellosillo, En Banc].

[140] *Tawang Multi-Purpose Cooperative v. La Trinidad Water District*, 661 Phil. 390 (2011) [Per J. Carpio, En Banc].

[141] *Falcis v. Civil Registrar General*, G.R. No. 217910, September 3, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65744>> [Per J. Leonen, En Banc].

[142] *Rollo* (G.R. No. 208912), pp. 510-556.

[143] *Id.* at 550.

[144] *Cawiling, Jr. v. Commission on Elections*, 420 Phil. 524 (2001) [Per J. Sandoval-Gutierrez, En Banc].

[145] *Insular Lumber Company v. Court of Tax Appeals*, 192 Phil. 221, 228 (1981) [Per J. De Castro, En Banc].

[146] Justice Leonen's Separate Concurring Opinion, *Kolin v. Kolin*, G.R. No. 228165, February 9, 2021, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67171>> [Per J. Caguioa, En Banc], citing *Department of Transportation and Communications v. Cruz*, 581 Phil. 602 (2008) [Per J. Austria-Martinez, En Banc].

[147] Justice Leonen's Separate Concurring Opinion, *Kolin v. Kolin*, G.R. No. 228165, February 9, 2021, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67171>> [Per J. Caguioa, En Banc], citing *Quintanar v. Coca-Cola Bottlers, Philippines, Inc.*, 788 Phil. 385 (2016) [Per J. Mendoza, En Banc]. See, e.g., *Villaflor v. Summers*, 41 Phil. 62 (1920) [Per J. Malcolm, En Banc]; *Tan Chong v. Secretary of Labor*, 79 Phil. 249 (1947) [Per J. Padilla, First Division]; *Urbano v. Chavez*, 262 Phil. 374 (1990) [Per J. Gancayco, En Banc]; *Ebralinag v. The Division of Superintendent of Schools of Cebu*, 292 Phil. 267 (1993) [Per J. Griño-Aquino, En Banc]; *Bustamante v. National Labor Relations Commission*, 332 Phil. 833 (1996) [Per J. Padilla, En Banc]; *Carpio Morales v. Court of Appeals (Sixth Division)*, 772 Phil. 672 (2015) [Per J. Perlas-Bernabe, En Banc]; *Gomez v. People of the Philippines*, G.R. No. 216824, November 10, 2020, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67025>> [Per J. Gesmundo, En Banc].

[148] *In re Fernandez v. Mitchell*, 59 Phil. 30,36 (1933) [Per J. Malcolm, Second Division].

[149] Associate Justice Caguioa's Concurring and Dissenting Opinion, pp. 7-9.

[150] 205 Phil. 781 (1983) [Per J. Leonardo De Castro, Second Division].

[151] *Rollo* (G.R. No. 208912), pp. 56-57.

[152] *Nieva v. Alcala*, 41 Phil. 915 (1920) [Per J. Johnson, En Banc].

[153] CIVIL CODE (1889), art. 119 states:

Article 119. Only natural children can be legitimated.

Natural children are those born out of wedlock of parents who, at the time of the conception of such children, could have married with or without dispensation.

[154] CIVIL CODE (1889), art. 121 states:

Article 121. Children shall be considered as legitimated by a subsequent marriage only when they have been acknowledged by the parents before or after the celebration thereof.

[155] CIVIL CODE (1889), art. 120 states:

Article 120. Legitimation may be effected:

1. By the subsequent marriage of the parents.
2. By royal concession.

[156] CIVIL CODE (1889), arts. 134 and 844, in relation to art. 846, state:

Article 134. An acknowledged natural child is entitled:

1. To bear the surname of the person acknowledging it.

2. To receive support from such person, in accordance with Article 143.

3. To receive the hereditary portion, if available, determined by this Code.

Article 844. The hereditary portion of children legitimated by royal concession shall be the same as that established by law in favor of acknowledged natural children.

Article 846. The right of succession which the law grants natural children pertains reciprocally in the same cases to the natural father or mother.

[157] See CIVIL CODE (1889), sec. III in relation to art. 845; and see *Divinagracia v. Rovira*, 164 Phil. 311 (1976) [Per J. Aquino, Second Division].

[158] See *Hofileña v. Republic*, 145 Phil. 467,471 (1970) [Per J. Dizon, En Banc].

[159] CIVIL CODE, art. 269 states:

Article 269. Only natural children can be legitimated. Children born outside wedlock of parents who, at the time of the conception of the former, were not disqualified by any impediment to marry each other, are natural.

[160] CIVIL CODE, art. 89 states:

Article 89. Children conceived or born of marriages which are void from the beginning shall have the same status, rights and obligations as acknowledged natural children, and are called natural children by legal fiction.

Children conceived of voidable marriages before the decree of annulment shall be considered as legitimate; and children conceived thereafter shall have the same status, rights and obligations as acknowledged natural children, and are also called natural children by legal fiction.

[161] CIVIL CODE, art. 287 states:

Article 287. Illegitimate children other than natural in accordance with article 269 and other than natural children by legal fiction are entitled to support and such successional rights as are granted in this Code.

[162] *Briones v. Miguel*, 483 Phil. 483 (2004) [Per J. Panganiban, Third Division].

[163] *Pascual v. Pascual-Bautista*, G.R. No. 84240, March 25, 1992, 207 SCRA 561,567-568 [Per J. Paras, Second Division].

[164] 97 Phil. 659 (1955) [Per J. Reyes, J.B.L., First Division].

[165] *Id.* at 665-668.

[166] The pertinent provisions of the Civil Code are:

Article 970. Representation is a right created by fiction of law, by virtue of which the representative is raised to the place and the degree of the person represented, and acquires the rights which the latter would have if he were living or if he could have inherited.

Article 971. The representative is called to the succession by the law and not by the person represented. The representative does not succeed the person represented but the one whom the person represented would have succeeded.

Article 972. The right of representation takes place in the direct descending line, but never in the ascending.

In the collateral line, it takes place only in favor of the children of brothers or sisters, whether they be of the full or half blood.

Article 973. In order that representation may take place, it is necessary that the representative himself be capable of succeeding the decedent.

Article 974. Whenever there is succession by representation, the division of the estate shall be made per stirpes, in such manner that the representative or representatives shall not inherit more than what the person they represent

would inherit, if he were living or could inherit. (926a)

Article 975. When children of one or more brothers or sisters of the deceased survive, they shall inherit from the latter by representation, if they survive with their uncles or aunts. But if they alone survive, they shall inherit in equal portions. (927)

Article 976. A person may represent him whose inheritance he has renounced.

Article 977. Heirs who repudiate their share may not be represented.

[167] 202 Phil. 440 (1982) [Per J. Vasquez, First Division].

[168] *Id.* at 444-445.

[169] 205 Phil. 781 (1983) [Per J. De Castro, Second Division].

[170] *Id.* at 788.

[171] *Diaz v. Intermediate Appellate Court*, 234 Phil. 636 (1987) [Per J. Paras, Second Division]; *De La Puerta v. Court of Appeals*, 261 Phil. 87 (1990) [Per J. Cruz, First Division]; *Pascual v. Pascual-Bautista*, G.R. No. 84240, March 25, 1992 [Per J. Paras, Second Division]; *Manuel v. Ferrer*, 317 Phil. 568 (1995) [Per J. Vitug, Third Division]; *Suntay v. Cojuangco-Suntay*, 635 Phil. 136 (2010) [Per J. Nachura, Second Division].

[172] 261 Phil. 542 (1990) [Per J. Paras, En Banc].

[173] *Id.* at 551-552.

[174] *Diaz v. Intermediate Appellate Court*, 234 Phil. 636, 642 (1987) [Per J. Paras, Second Division], citing *Reflections on the Reform of Hereditary Succession*, Volume 4, Issue No. 1, First Quarter, JOURNAL OF THE INTEGRATED BAR OF THE PHILIPPINES, pp. 40-41 (1976).

[175] As noted by the United Nations Committee on the Rights of the Child in its General Comment No. 7 on implementing child rights in early childhood:

12. Young children may also suffer the consequences of discrimination against their parents, for example if children have been born out of wedlock or in other circumstances that deviate from traditional values, or if their parents are refugees or asylum-seekers. States parties have a responsibility to monitor and combat discrimination in whatever forms it takes and wherever it occurs - within families, communities, schools or other institutions. Potential discrimination in access to quality services for young children is a particular concern, especially where health, education, welfare and other services are not universally available and are provided through a combination of State, private and charitable organizations. As a first step, the committee encourages States parties to monitor the availability of and access to quality services that contribute to young children's survival and development, including through systematic data collection, disaggregated in terms of major variables related to children's and families' background and circumstances. As a second step, actions may be required that guarantee that all children have an equal opportunity to benefit from available services. More generally, States parties should raise awareness about discrimination against young children in general, and against vulnerable groups in particular, (at p. 6, UN Committee on the Rights of the Child (CRC), General comment No. 7 (2005): Implementing child rights in early childhood, 1 November 2005, CRC/C/GC/7)

[176] A child may only be legitimated by a subsequent marriage between their parents (Family Code, Art. 178). While a child may prove their filiation by action (see FAMILY CODE, arts. 172-173; 175), any change in status is still dependent on the court's judgment.

[177] While strides have been made in equitable treatment of nonmarital children, they are often granted fewer rights and privileges than marital children. Some of these areas include custody, use of surnames, legitimes, and

the Social Security Law. (See, for example, Sandra M.T. Magalang, *Legitimizing Illegitimacy: Resisting Illegitimacy in the Philippines and Arguing for Declassification of Illegitimate Children as a Statutory Class*, 88 PHIL. L.J. 467, 490-492, 495-497 (2014); and Republic Act No. 11199 (2019), section 8(k), which states that dependent nonmarital children are entitled to 50% of the share of the legitimate, legitimated or legally adopted children.)

[178] 505 Phil. 529 (2005) [Per J. Corona, Third Division].

[179] *Id.* at 543-544.

[180] CONST., art. XIII, sec. 1 states:

Section 1. The Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good.

[181] J. Leonen, Concurring Opinion in *Poe-Llamanzares v. Commission on Elections*, 782 Phil. 282,723 (2016) [Per J. Perez, En Banc].

[182] Republic Act No. 9344 (2005), sec. 4(b). The law is called the Juvenile Justice and Welfare Act of 2006.

[183] *Pimentel, Jr. v. Office of the Executive Secretary*, 501 Phil. 303 (2005) [Per J. Puno, En Banc].

[184] United Nations Human Rights, Office of the High Commissioner, < <http://indicators.ohchr.org/>> (last accessed on December 6, 2021).

[185] United Nations Human Rights Office of the High Commissioner, < <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>> (last accessed on December 6, 2021).

[186] See, for example, Republic Act No. 8043 (1995), otherwise known as the Inter-Country Adoption Act, sec. 9(g); Republic Act No. 8552 (1998), otherwise known as the Domestic Adoption Act, sec. 2(b); Republic Act No. 8369 (1997), otherwise known as the Family Courts Act, sec. 13; Republic Act No. 9208 (2003), as amended by Republic Act No. 10364 (2013), otherwise known as the Expanded Anti-Trafficking in Persons Act, sec. 2; Republic Act No. 9262 (2004), otherwise known as the Anti-Violence Against Women and Their Children Act, sec. 2; Republic Act No. 9745 (2009), otherwise known as the Anti-Torture Act, sec. 2(d); Republic Act No. 9775 (2009), otherwise known as the Anti-Child Pornography Act, sec. 2(c); Republic Act No. 9851 (2009), otherwise known as the Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity, sec. 15(d); Republic Act No. 7600 (1992), as amended by Republic Act No. 10028 (2010), otherwise known as the Expanded Breastfeeding Promotion Act, sec. 2; Republic Act No. 10165 (2012), otherwise known as the Foster Care Act, sec. 2; Republic Act No. 10821 (2016), otherwise known as the Children's Emergency Relief and Protection Act, sec. 2; Republic Act No. 11148 (2018), otherwise known as the *Kalusugan at Nutrisyon ng Mag-Nanay Act*, sec. 3(h); Republic Act No. 11166 (2018), otherwise known as the Philippine HIV and AIDS Policy Act, sec. 3(i); and Republic Act No. 11188 (2019), otherwise known as the Special Protection of Children in Situations of Armed Conflict Act, sec. 2(a).

[187] Republic Act No. 7610 (1992), as amended by Republic Act No. 9231 (2003).

[188] *In re Thornton*, 480 Phil. 224 (2004) [Per J. Corona, Third Division]; *Perez v. Court of Appeals*, 325 Phil. 1014 (1996) [Per J. Romero, Second Division]; *Gamboa-Hirsch v. Court of Appeals*, 554 Phil. 264 (2007) [Per J. Velasco, Jr., Second Division].

[189] *Dela Cruz v. Gracia*, 612 Phil. 167 (2009) [Per J. Carpio Morales, Second Division]; *Concepcion v. Court of Appeals*, 505 Phil. 529 (2005) [Per J. Corona, Third Division].

[190] Cang v. Court of Appeals, 357 Phil. 129 (1998) [Per J. Romero, Third Division]; In Re Adoption of Stephanie Nathy Astorga Garcia, 494 Phil. 515 (2005) [Per J. Sandoval-Gutierrez, Third Division].

[191] People v. Udang, Sr., 823 Phil. 411 (2018) [Per J. Leonen, Third Division]; People v. Tulagan, G.R. No. 227363, March 12, 2019, < <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65020> > [Per J. Peralta, En Banc].

[192] David v. Senate Electoral Tribunal, 795 Phil. 529 (2016) [Per J. Leonen, En Banc].

[193] Rollo (G.R. No. 208912), pp. 752-753.

[194] 261 Phil. 542 (1990) [Per J. Paras, En Banc].

[195] 795 Phil. 529 (2016) [Per J. Leonen, En Banc].

[196] Id. at 610.

[197] 68 Phil. 128 (1939) [Per J. Concepcion, First Division].

[198] Id. at 130-131.

[199] 175 Phil. 64 (1978) [Per J. Aquino, Second Division].

[200] 261 Phil. 542 (1990) [Per J. Paras, En Banc].

[201] G.R. No. 84240, March 25, 1992 [Per J. Paras, Second Division].

[202] 317 Phil. 568 (1995) [Per J. Vitug, Third Division].

[203] Roxas v. De Jesus, 219 Phil. 216 (1985) [Per J. Gutierrez, Jr., First Division]; Manuel v. Ferrer, 317 Phil. 568 (1995) [Per J. Vitug, Third Division].

[204] In re Grey, 68 Phil. 128 (1939) [Per J. Concepcion, First Division], citing Manresa, 7 Manresa, 3d ed., p. 110.

[205] FAMILY CODE, art. 165 states:

Article 165. Children conceived and bom outside a valid marriage are illegitimate, unless otherwise provided in this Code. (n)

[206] Philippine Statistics Authority, Marriage in the Philippines, 2016 < <https://psa.gov.ph/content/marriage-philippines-2016> > (last accessed on July 23, 2018).

[207] Philippine Statistics Authority, Table 1. Number of Marriages and Percent Annual Change, Philippines: 2007-2016, < <https://psa.gov.ph/sites/default/files/attachments/crd/specialrelease/Table%201.pdf> > (last accessed on December 6, 2021).

[208] Philippine Statistics Authority, Marriage in the Philippines, 2016, < <https://psa.gov.ph/content/marriage-philippines-2016> > (last accessed on December 6, 2021).

[209] See FAMILY CODE, art. 5, which states:

Article 5. Any male or female of the age of eighteen years or upwards not under any of the impediments mentioned in Articles 37 and 38, may contract marriage.

[210] Philippine Statistics Authority, Births in the Philippines, 2017, available at < <https://psa.gov.ph/content/births-philippines-2017> > (last accessed on December 6, 2021).

[211] See, for example, *People v. Baay*, G.R. No. 220143, 810 Phil. 943 (2017) [Per J. Tijam, Third Division]; *People v. Villamor*, 780 Phil. 817 (2016) [Per J. Peralta, Third Division]; *People v. Buenaflor*, 453 Phil. 317 (2003) [Per J. Puno, Third Division]; *People v. Pagcu, Jr.*, 315 Phil. 727 (1995) [Per J. Puno, Second Division]; and *People v. Villacampa*, 823 Phil. 70 (2018) [Per J. Carpio, Second Division].

[212] See, for example, FAMILY CODE, arts. 43(1), 53, and 54.

[213] 635 Phil. 136 (2010) [Per J. Nachura, Second Division].

[214] *Id.* at 149-150.

[215] *Rollo* (G.R. No. 208912), pp. 862-863.

[216] J. Perlas-Bernabe, *Separate Concurring Opinion*, p. 12.

[217] FAMILY CODE, art. 175 states:

Article 175. Illegitimate children may establish their illegitimate filiation in the same way and on the same evidence as legitimate children.

The action must be brought within the same period specified in Article 173, except when the action is based on the second paragraph of Article 172, in which case the action may be brought during the lifetime of the alleged parent.

[218] FAMILY CODE, art. 172 states:

Article 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 and 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.

[219] CIVIL CODE, Book I, Title VIII, Chapter 4, Section 1.

[220] 424 Phil. 933 (2002) [Per J. Panganiban, Third Division].

[221] *Id.* at 940-944.

[222] CIVIL CODE, art. 283 states:

Article 283. In any of the following cases, the father is obliged to recognize the child as his natural child:

- (1) In cases of rape, abduction or seduction, when the period of the offense coincides more or less with that of the conception;
- (2) When the child is in continuous possession of status of a child of the alleged father by the direct acts of the latter or of his family;
- (3) When the child was conceived during the time when the mother cohabited with the supposed father;
- (4) When the child has in his favor any evidence or proof that the defendant is his father.

[223] *Alabat v. Alabat*, 129 Phil. 734 (1967) [Per J. J.B.L. Reyes, En Banc]; *Paa v. Chan*, 128 Phil. 815 (1967) [Per J. Zaldivar, En Banc].

[224] *Javelona v. Monteclaro*, 74 Phil. 393 (1943) [Per J. Bocobo, First Division].

[225] *Magallanes v. Court of Appeals*, 95 Phil. 795, 798 (1954) [Per C.J. Paras, En Banc].

- [226] 208 Phil. 95 (1983) [Per J. Makasiar, Second Division].
- [227] Id. at 120-121.
- [228] 107 Phil. 685 (1960) [Per J. Labrador, En Banc].
- [229] *Agustin v. Court of Appeals*, 499 Phil. 307 (2005) [Per J. Corona, Third Division].
- [230] DNA EVID. RULE, sec. 3(e). A.M. No. 06-11-5-SC.
- [231] DNA EVID. RULE, sec. 3 (a).
- [232] See *People v. Adalia*, G.R. No. 235990, January 22, 2020, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66026>> [Per J. Lazaro-Javier, First Division].
- [233] 565 Phil. 215 (2007) [Per J. Chico-Nazario, Third Division].
- [234] Id. at 231-232.
- [235] DNA EVID. RULE, sec. 3(f).
- [236] *Lucas v. Lucas*, 665 Phil. 795 (2011) [Per J. Nachura, Second Division].
- [237] *Herrera v. Alba*, 499 Phil. 185 (2005) [Per J. Carpio, First Division].
- [238] *Abella v. Cabanero*, 816 Phil. 466 (2017) [Per J. Leonen, Second Division].
- [239] *Pascual v. Burgos*, 776 Phil. 167 (2016) [Per J. Leonen, Second Division].
- [240] *Blanco v. Quasha*, 376 Phil. 480, 491 (1999) [Per J. Ynares-Santiago, First Division].
- [241] *Social Security System v. Court of Appeals*, 401 Phil. 132 (2000) [Per J. Ynares-Santiago, First Division]; *Basilio v. Court of Appeals*, 400 Phil. 120 (2000) [Per J. Pardo, Second Division].
- [242] *Rollo* (G.R. No. 208912), p. 63.
- [243] Id. at 54.
- [244] *In re Intestate Estate of Cristina Aguinaldo-Suntay*, 635 Phil. 136 (2010) [Per J. Nachura, Second Division].
- [245] *Vieno Voitto Saario*, Study of Discrimination against Persons born out of wedlock, U.N. Doc. E/CN.4/Sub.2/265/Rev. 1 (1967).
- [246] United Nations Economic and Social Council, Report Of The Nineteenth Session Of The Sub-Commission On Prevention Of Discrimination And Protection Of Minorities To The Commission On Human Rights, E/CN.4/930 (1967).
- [247] Id. at 59.
- [248] Id. at 61.
- [249] See *Ruben F. Balane*, *The Spanish Antecedents of the Philippine Civil Code*, 54 PHIL. L.J. 1 (1979).
- [250] *José Manuel de Torres Perea*, *A Different Approach To The Study Of "Forced Shares" Or "Legitimas"*, Based On A Comparative Study Of Spanish And Philippine Succession Law, 2019, available at <<https://revista-estudios.revistas.deusto.es/article/view/1718/2092>> (last accessed on December 6, 2021).
- [251] Id.

[252] Chart of signatures and ratifications of Treaty 085, available at https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/085/signatures?p_auth=dKU19sxf.

[253] *Fabris v. France*, European Court of Human Rights, 16574/08, Grand Chamber, 2013.

[254] *Trimble v. Gordon*, 430 U.S. 762 (1977).

[255] *Id.* at 770.

[256] Specifically, Republic Act No. 9255, which allowed nonmarital children to use their father's surname.

[257] See, for example, CHILD & YOUTH WELFARE CODE, art. 3; Republic Act No. 541 (1950), sec. 2; Republic Act No. 772 (1952), sec. 8; Republic Act No. 8291 (1997), sec. 2(f); Republic Act No. 10699 (2015), sec. 7, Republic Act No. 11199 (2019), sec. 8(e)(2); Implementing Rules and Regulations of Republic Act No. 11223 (2019), Rule III, sec. 8.1.b.

[258] 81 Phil. 149 (1948) [Per J. Bengzon, First Division].

[259] *Id.* at 153-154.

SEPARATE OPINION

GESMUNDO, C.J.:

Before the Court are the petitions for certiorari filed by Amadea Angela K. Aquino (Amadea), in G.R. No. 208912, seeking to reverse and set aside the Decision[1] dated January 21, 2013 of the Court of Appeals (CA), and filed by Rodolfo Aquino (Rodolfo), in G.R. No. 209018, against the August 23, 2012 Decision[2] and August 1, 2013 Resolution[3] of the CA. Amadea essentially claims that she is the illegitimate daughter of deceased Arturo Aquino (Arturo), and, in turn, a legal heir of her grandfather, decedent Miguel Aquino (Miguel).

On October 21, 2013, the Third Division issued a Resolution[4] consolidating G.R. Nos. 208912 and 209018. Both petitions were denied by the Court in its November 11, 2013 Resolution.[5] Hence, Amadea filed a Motion for Reconsideration,[6] and the Court also granted her motion to refer the case to the Court En Banc.[7]

The ponencia granted the motion for reconsideration of Amadea on the basis that Article 992 of the Civil Code should be accorded an interpretation that qualifies children, regardless of the circumstances of their birth, to inherit from their direct ascendants by right of representation; and that Abdulah Aquino (Abdulah) and Rodolfo are estopped from claiming that Amadea is not Arturo's child.

I share the view of Justice Caguioa insofar as the petitions should be remanded to the Regional Trial Court (RTC) for reception of evidence and for resolution of the factual issues.

Judicial review

The subject matter raised before the Court is the interpretation of Art. 992 of the Civil Code, which provides:

Art. 992. An illegitimate child has no right to inherit ab intestato from the legitimate children and relatives of his father or mother; nor shall such children or relatives inherit in the same manner from the illegitimate child.[8]

Amadea essentially argues that this provision is unfair as it wrongly distinguishes between a legitimate and an illegitimate child regarding their right to inherit, where the illegitimate child shall not have any right to inherit from the legitimate relatives of his or her father or mother. On the other hand, Abdulah and Rodolfo counter that

Amadea did not even prove that she was an illegitimate child of Arturo in the first place, hence, she is not an heir of her alleged grandfather, Miguel.

The ponencia finds in favor of Amadea, stating that Art. 992, or the iron curtain principle, should be interpreted in such a way that children, regardless of the circumstances of their birth, can inherit from their direct ascendants by right of representation, applying the constitutional precepts of equal protection under the laws, due process, and the international obligations.

However, I find that before the Court should interpret whether Art. 992 of the Civil Code conforms to the Constitution or international laws, it must first be indispensably determined whether this Court can exercise its power of judicial review.

It is a rule firmly entrenched in our jurisprudence that the constitutionality of an act of the legislature will not be determined by the courts unless that question is properly raised and presented in appropriate cases and is necessary to a determination of the case, i.e., the issue of constitutionality must be the very *lis mota* presented. The essential requisites for a successful judicial inquiry into the constitutionality of a law are: (a) the existence of an actual case or controversy involving a conflict of legal rights susceptible of judicial determination, (b) the constitutional question must be raised by a proper party, (c) the constitutional question must be raised at the earliest opportunity, and (d) the resolution of the constitutional question must be necessary to the decision of the case.[9]

An actual case or controversy is one which involves a conflict of legal rights, an assertion of opposite legal claims, susceptible of judicial resolution, as distinguished from a hypothetical or abstract difference or dispute. To be justiciable, the case or controversy must present a contrariety of legal rights that can be interpreted and enforced on the basis of existing law and jurisprudence. Regardless of whether the Court's power of review is invoked under the traditional or expanded concept, the presence of an actual case or controversy remains a requisite before judicial power is exercised. However, when the Court's expanded jurisdiction is invoked, the requirement of an actual case or controversy is satisfied upon a *prima facie* showing of grave abuse of discretion in the assailed governmental act.[10]

In the landmark decision of *Angara v. Electoral Commission*,[11] the Court ruled that the power of judicial review is limited to actual cases or controversies to be exercised only after full opportunity of argument by the parties. Any attempt at abstraction could only lead to dialectics and barren legal questions and to sterile conclusions unrelated to actualities.[12] In *Information Technology Foundation of the Philippines v. COMELEC*,[13] it was further emphasized that courts do not sit to adjudicate mere academic questions to satisfy scholarly interest, however intellectually challenging. The controversy must be justiciable – definite and concrete, touching on the legal relations of parties having adverse legal interests. In other words, the pleadings must show an active antagonistic assertion of a legal right, on the one hand, and a denial thereof on the other hand; that is, it must concern a real and not merely a theoretical question or issue. There ought to be an actual and substantial controversy admitting of specific relief through a decree conclusive in nature, as distinguished from an opinion advising what the law would be upon a hypothetical state of facts.[14]

Interrelated with the requirement of an actual case or controversy is the requirement of ripeness. Consistently, a question is considered ripe for adjudication when the act being challenged has had a direct adverse effect on the individual or entity challenging it. The question of ripeness asks whether a case involves contingent events that may not occur as anticipated and whether there is actual injury to the party being sued.[15] Thus, it is required that an act had been accomplished or performed by either branch of the government and that there is an immediate or threatened injury to the petitioner as a result of the challenged action before courts may interfere.[16]

By ripening seeds, it is meant, not that sufficient accrued facts may be dispensed with, but that a dispute may be tried at its inception before it has accumulated the asperity, distemper, animosity, passion, and violence of a full blown battle that looms ahead. The concept describes a state of facts indicating imminent and inevitable litigation provided that the issue is not settled and stabilized by tranquilizing declaration.[17] Indeed, if the seeds of adjudication are not yet ripe, as there is no actual case or controversy yet, then the Court must not act on the judicial review of an assailed law.

The requirement of actual case or controversy before there can be a review of any law is constitutionally mandated under Section 1, Art. VIII:

Section 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government. (emphasis supplied)

If the Court acts on a case regarding the constitutionality of a particular statute without an actual case or controversy, it will not only violate Sec. 1, Art. VIII, but will also violate the doctrine that laws are constitutionally presumed valid. A challenged law always enjoys the presumption of constitutionality which the Court, at the first instance, cannot disturb in the absence of the clearest showing that there was indeed an infraction of the Constitution, or at the very least, *prima facie* grave abuse of discretion. If the Court were to invalidate the questioned law on the basis of conjectures and suppositions, then it would be unduly treading questions of policy and wisdom not only of the legislature that passed it, but also of the executive which approved it.[18] Without an actual case or controversy, the Court will only provide an advisory opinion, which is constitutionally proscribed.[19]

On a deeper philosophical basis of judicial review, the existence of an actual case of controversy as a mandatory requisite of constitutional adjudication espouses a delicate balance between three separate but co-equal branches of government. It is equally of paramount public concern, certainly paramount to the survival of our democracy, that acts of the other branches of government are accorded due respect by this Court. Such acts, done within their sphere of competence, have been – and should always be – accorded with a presumption of regularity.[20] The members of the legislature, as well as the top two officers of the executive branch, are direct representatives of the people, in whom sovereignty resides. The laws that are passed by Congress are a reflection of the will of the people.

When such acts are assailed as illegal or unconstitutional, the burden falls upon those who assail these acts to prove that they satisfy the essential norms of constitutional adjudication, because when the Court finally proceeds to declare an act of the executive or legislative branch of our government unconstitutional or illegal, what the Court actually accomplishes is the thwarting of the will of the elected representatives of the people in the executive or legislative branches of government.[21] Notwithstanding Sec. 1, Art. VIII of the Constitution, since the exercise of the power of judicial review by this Court is inherently non-democratic, as the members of the bench are not elected by the people at-large, this Court should exercise caution in heedlessly setting aside or modifying an act of the executive or legislative branch.

While the Court is mandated to have an important and indispensable role in ensuring check and balance in the State, it is bound by the constitutional limitation under Sec. 1, Art. VIII that there must first be an actual case or controversy before judicial review maybe exercised – this is the strict condition by which the people, in whom

sovereignty resides, conferred judicial power on the Court upon their act of ratifying the Constitution.

Thus, the existence of an actual case or controversy when invoking judicial review should not be taken lightly. It must be confirmed that the issues raised by the parties are indeed ripe for adjudication before the court as the assailed law has allegedly breached a particular constitutional right or rights.

With respect to the requirement of locus standi or legal standing, it requires a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions.[22] A party who assails the constitutionality of a statute must have a direct and personal interest. It must show not only that the law or any governmental act is invalid, but also that it sustained or is in immediate danger of sustaining some direct injury as a result of its enforcement, and not merely that it suffers thereby in some indefinite way. It must show that it has been or is about to be denied some right or privilege to which it is lawfully entitled or that it is about to be subjected to some burdens or penalties by reason of the statute or act complained of. For a concerned party to be allowed to raise a constitutional question, it must show that (1) it has personally suffered some actual or threatened injury as a result of the allegedly illegal conduct of the government, (2) the injury is fairly traceable to the challenged action, and (3) the injury is likely to be redressed by a favorable action.[23]

Locus standi is a party's personal and substantial interest in a case such that he has sustained or will sustain direct injury as a result of the governmental act being challenged. It calls for more than just a generalized grievance. The term "interest" means a material interest, an interest in issue affected by the decree, as distinguished from mere interest in the question involved, or a mere incidental interest. Unless a person's constitutional rights are adversely affected by the statute or ordinance, he has no legal standing.[24] To be sure, the rule on standing admits of recognized exceptions: the [overbreadth] doctrine, taxpayer suits, third party standing and the doctrine of transcendental importance.[25]

In the recent case of *Falcis III v. Civil Registrar General*,[26] the petition, which was assailing the constitutionality of Arts. 1, 2, 46(4), and 55(6) of the Family Code, was dismissed due to lack of locus standi because the petitioner's supposed "personal stake in the outcome of this case" is not the direct injury contemplated by jurisprudence as that which would endow him with standing. It was emphasized therein that petitioner presented no proof at all of the immediate, inextricable danger that the assailed law poses to him; and that assertions of injury cannot, without sufficient proof, be directly linked to the imputed cause, which is the existence of the Family Code.[27] Similarly, anticipation of harm is not equivalent to direct injury. Mere allegation that this injury comes from "the law's normative impact" is insufficient to establish the connection between the Family Code and his alleged injury. It was also discussed therein that the mere passage of a law does not create an actual case or controversy, and neither can it be a source of direct injury to establish legal standing.[28]

In this case, Amadea implores the Court to exercise its judicial review to provide a proper constitutional interpretation of Art. 992 of the Civil Code – whether it infringes her constitutional rights. A perusal of the assailed provision would show that before the Court can exercise its power of judicial review, the petition should have been brought by a party directly affected by the law, particularly, an illegitimate child; that the illegitimate child was unable to exercise his or her right to inherit because of the said law; and that the law produces an injury or damage against an illegitimate child, whether actual or imminent, which violates his or her constitutional rights.

I find that the Court, at this moment, cannot yet exercise its power of judicial review to interpret Art. 992 of the Civil Code because of the numerous unresolved factual issues.

Unresolved factual issues; lack of trial

As stated above, the suit assailing Art. 992 of the Civil Code must be brought before the Court by an illegitimate child, who was unduly prejudiced by the application of the law. However, in this case, it was not yet established whether Amadea, the party who assails the constitutionality of Art. 992, is an illegitimate child in the first place.

Amadea alleges that she is an illegitimate child of Arturo as shown by: (1) a Baptismal Certificate,[29] which purportedly proves that Amadea was baptized as the daughter of Susan Kuan and Arturo Aquino;[30] and (2) a Certification from the Davao Doctors Hospital dated July 5, 2003, which allegedly proves that "as per hospital record, her mother's name is Susan Kuan and her father's name is Arturo Aquino." Further, Amadea alleges that her grandfather, Miguel: (1) provided for the medical expenses of her mother while the latter was pregnant; (2) allowed the Aquino family doctor, Dr. Risalina Pangan, to attend to her mother; (3) allowed her to live in the Ancestral home of the Aquino family; (4) allowed her to be baptized as Amadea Angela Aquino; (5) visited her, provided for her needs, and spent for her education; and (6) instructed his son and grandson, shortly before his death, to give her a commercial lot.[31]

However, these are mere allegations and there was no evidence presented to establish the veracity and credibility of these allegations. It is an age-old rule in civil cases, such as a settlement of estate from which this current action arose, that one who alleges a fact has the burden of proving it, and mere allegation is not evidence.[32] The rule that "mere allegation is not proof" is especially applicable when the allegations are controverted by the opposing party. In such instance, there is a factual issue or question of fact that must be resolved by a competent trial court.

Verily, when there is a controverted fact, there must necessarily be a trial to receive evidence in order to determine the credible factual assertion. Without conducting a hearing to resolve the questions of fact, the factual issues cannot be settled and the allegations will remain the same - absent any evidentiary proof. Even in a motion, as in this case, since Amadea filed a motion for inclusion before the RTC,[33] a trial court is authorized to conduct a hearing and receive evidence to resolve the factual issues.[34] In this manner, the factual allegations of the asserting party may be proven and the opposing party shall be given an opportunity to refute the allegations.

Notably, during the oral arguments, it was uncovered that there was no hearing conducted for the reception of testimonial or documentary evidence regarding the factual allegations of Amadea with respect to her status as an illegitimate child before the trial court, which was also evident in the opinion of Justice Caguioa:

JUSTICE GESMUNDO:

x x x Mr. counsel, in your opening statement, you made mention that the Aquinos are in estoppel to question the filiation of Angela, is that correct?

ATTY. ANASTACIO:

Yes, Your Honor.

JUSTICE GESMUNDO:

And what is your basis in that assertion?

ATTY. ANASTACIO:

Because, Your Honor, because of the admission made by Abdulah, Your Honor.

JUSTICE GESMUNDO:

x x x How was this admission by Abdulah made?

ATTY. ANASTACIO:

In a Comment filed I think with the lower Court.

x x x x

JUSTICE GESMUNDO:

What pleading was that?

ATTY. ANASTACIO:

This is Comment to the Petition, Your Honor, dated November 14, 2003.

x x x x

JUSTICE GESMUNDO:

Because I have here with me as Annex "I" of Abdulah's Memorandum which I'd like you to, which I like to read for the record. "This is to certify further that no testimonial and documentary evidence was presented and offered both by the petitioner and the movant pertaining to the April 22, 2005 Order of the Court referring to the declaration of the Court that the petitioner should be entitled to the portion of the estate." So where can the Court now as it is, rely on your assertion that the Aquinos are in estoppel since there is no evidence presented before the lower court?

ATTY. ANASTACIO:

Your Honor, please.

JUSTICE GESMUNDO:

What will be our factual bearing?

x x x x

ATTY. ANASTACIO:

In this Petition, in this Motion, Your Honor, she alleges, among others, that the following, Your Honor: No. 1, it was Arturo's family...

(interrupted)

JUSTICE GESMUNDO:

No doubt, she made those allegations. But allegations are not proof.

x x x x

ATTY. ANASTACIO:

Yes, Your Honor, but as I, as we had indicated later, all these allegations that are mentioned here, were admitted by respondent Abdulah in his Comment to the Petition dated November 14, 2003, Your Honor.

JUSTICE GESMUNDO:

And how was the admission made?

ATTY. ANASTACIO:

In a Comment, Your Honor.

x x x x

JUSTICE GESMUNDO:

You're saying that this will be in the nature of judicial admission?

ATTY. ANASTACIO:

Yes, Your Honor, please.

x x x x

JUSTICE GESMUNDO:

Based on this statement in the certification, since no evidence was presented at the trial court, where will the Court get its factual bearing to resolve the instant petition?

ATTY. ANASTACIO:

I understand, Your Honor, the certification, but what I'm saying is that there was a judicial admission by Abdulah.

x x x x

JUSTICE GESMUNDO:

Because your main argument is that the Aquinos are in estoppel because of their acts?

ATTY. ANASTACIO:

Yes, Your Honor.

JUSTICE GESMUNDO:

And what are those acts?

ATTY. ANASTACIO:

The acts, Your Honor, that were admitted, Your Honor.[35] (emphases supplied)

Evidently, the Certification[36] from the RTC stated that "no testimonial and documentary evidence [were] presented and offered both by the petitioner and the movant pertaining to the April 22, 2005 Order of the Court referring to the declaration of the Court" that the petitioner should be entitled to the portion of the estate. Despite such lack of presentation of evidence, Amadea's allegation that she is an illegitimate child of Arturo was admitted as gospel truth by the trial court. Again, mere allegation is not tantamount to proof. In a civil case, a person who asserts a fact has the burden of proving it as the necessity of proving lies with the person who sues.[37]

Amadea claims that there was no need to present evidence before the trial court regarding her status as an illegitimate child because there was already judicial admission on the part of Abdulah in his Comment to the Petition[38] (Comment) dated November 14, 2003.

A judicial admission is a formal statement, either by a party or his or her attorney, in the course of judicial proceedings, which removes an admitted fact from the field of controversy. It is a voluntary concession of fact by a party or a party's attorney during judicial proceedings. Judicial admissions are used as a substitute for legal evidence at trial. Admissions made in the course of judicial proceedings or judicial admissions waive or dispense

with the production of evidence, and the actual proof of facts by conceding for the purpose of litigation that the proposition of the fact alleged by the opponent is true.[39]

Nevertheless, a judicial admission is a deliberate, clear, unequivocal statement of a party about a concrete fact within that party's peculiar knowledge, not a matter of law. In order to constitute a judicial admission, the statement must be one of fact, not opinion. To be a judicial admission, a statement must be contrary to an essential fact or defense asserted by the person giving the testimony; it must be deliberate, clear and unequivocal.[40]

Indeed, before a judicial admission can be held binding against a party, which would forgo the presentation of evidence, such admission must be deliberate, clear, and unequivocal. Otherwise, it cannot be treated as a judicial admission to the prejudice of the party. Notably, the Rules on Evidence provide that an imputed admission is not a judicial admission if it is in fact not made:

Section 4. Judicial admissions. – An admission, oral or written, made by [the] party in the course of the proceedings in the same case, does not require proof. The admission may be contradicted only by showing that it was made through palpable mistake or that the imputed admission was not, in fact, made.[41] (emphasis supplied)

I share the observation of Justice Caguioa that there was no deliberate, clear, and unequivocal statement made by Abdulah in his Comment regarding the admission to the status of Amadea being an illegitimate child of Arturo. The Comment stated that "[Abdulah] admits the allegations in paragraphs 1, 2, 3, and 5 of the Petition, on the personal circumstances of petitioner, the names of the deceased parents, the date of death and residence of decedent [Miguel] and the date of death and settlement of the estate of the late [Amadea C. Aquino, Miguel's first wife]."[42] However, the "petitioner" referred to in the Comment of Abdulah is not Amadea; rather, it was Rodolfo being the petitioner in the RTC.

The Comment of Abdulah also stated that Amadea was identified as one of the persons that Miguel wanted to bequeath property to before he died.[43] Evidently, this does not conclusively show that Abdulah admitted Amadea being an illegitimate child of Arturo. Absent any presentation of evidence, Amadea could either be an heir, legatee, or devisee of Miguel. If Amadea is a devisee of Miguel, it does not necessarily render her as an heir or granddaughter of Miguel.

Accordingly, I am not convinced that Abdulah deliberately, clearly, and unequivocally admitted Amadea being an illegitimate child of Arturo in his Comment. It cannot be considered a judicial admission of Abdulah. The only way for this factual question to be resolved – whether Amadea truly is an illegitimate child of Arturo – is to conduct a hearing for the reception of testimonial and documentary evidence.

Trial on the merits

Absent judicial admission on the part of Abdulah regarding the status of Amadea being an illegitimate child and the opposition raised against her allegation, Amadea must establish her claim through the presentation of evidence. I agree with Justice Caguioa that the applicable legal provision on this matter is Art. 283 of the Civil Code, as Amadea was born before the enactment of the Family Code, which provides:

Art. 283. In any of the following cases, the father is obliged to recognize the child as his natural child:

- (1) In cases of rape, abduction or seduction, when the period of the offense coincides more or less with that of the conception;
- (2) When the child is in continuous possession of status of a child of the alleged father by the direct acts of the latter or of his family;

(3) When the child was conceived during the time when the mother cohabited with the supposed father;

(4) When the child has in his favor any evidence or proof that the defendant is his father.[44] (emphasis supplied)

To my mind, a party asserting the benefit conferred by Art. 283 of the Civil Code must present evidence to prove the same, especially when controverted by an opposing party. There is nothing in the law which ipso jure grants the status of being an illegitimate child when a party merely alleges it. As stated earlier, Amadea alleges that she is an illegitimate child of Arturo through the various acts showing her purported continued possession of such status. These allegations are not judicially admitted by Abdulah; rather, they are controverted by Abdulah and Rodolfo in their pleadings. Accordingly, it is imperative for both parties to present evidence during trial to resolve such conflicting factual assertions.

Further, a trial on the merits must be conducted to determine whether the certificate of live birth attached to Abdulah's Comment, which purportedly belongs to Amadea, is credible. The said certification states, among others, that: Amadea's name is "Maria Angela Kuan Ho"; and that she was born on "October 9, 1978" to "Enrique A. Ho, 22 years old, and Susan Saludes Kuan, 18 years old." [45] During the oral arguments, Amadea admitted that she was indeed using the certificate of live birth in her official transactions, which was also stated in the opinion of Justice Caguioa:

JUSTICE GESMUNDO:

x x x There was an issue earlier because of the mention of the birth certificate purportedly indicating that you have a father by the name of Enrique Ho, is that right?

Ms. AMADEA AQUINO:

Yes, there was an issue raised. Correct.

JUSTICE GESMUNDO:

Do you know this Enrique Ho?

Ms. AMADEA AQUINO:

Yes, I do.

JUSTICE GESMUNDO:

How did you come to know him?

Ms. AMADEA AQUINO:

He is the second husband of my mom x x x He is... after my mom met my dad, after four years, he married by mom.

JUSTICE GESMUNDO:

So this is the present... (interrupted)

Ms. AMADEA AQUINO:

So this is the ex-husband of my mom.

x x x x

JUSTICE GESMUNDO:

And your mother contracted marriage with Enrique Ho, when?

Ms. AMADEA AQUINO:

When I was three years old, four (4) years old.

x x x x

JUSTICE GESMUNDO:

Now x x x you are presently residing in the United States, is that correct?

Ms. AMADEA AQUINO:

Right. I'm living in New York, Your Honor.

JUSTICE GESMUNDO:

And what passport are you using.

Ms. AMADEA AQUINO:

Right now I'm using my U.S. passport.

JUSTICE GESMUNDO:

And prior to that you had [a] Philippine passport, is that correct?

Ms. AMADEA AQUINO:

I have my Philippine passport, correct.

JUSTICE GESMUNDO:

And what birth certificate did you use in obtaining that Philippine passport?

Ms. AMADEA AQUINO:

You Honor, I used the one for the... my step...

JUSTICE GESMUNDO:

Your stepfather?

Ms. AMADEA AQUINO:

The one, the husband, the ex-husband of my mother now, correct.

JUSTICE GESMUNDO:

Are you referring to the birth certificate that was shown to the Court today?

Ms. AMADEA AQUINO:

Yes.

JUSTICE GESMUNDO:

Can you show it to the counsel for Abdulah Aquino to show it to the petitioner?

Ms. AMADEA AQUINO:

Yes, Your Honor. This birth certificate, Your Honor, was made by my mom when I was younger because for the reason that she wanted to protect me from people teasing me and she wanted to bring me in a school. And this was a requirement. She didn't want people to tease me that I have different, you know, I have a different father to my future family.

x x x x

JUSTICE GISMUNDO:

And the one who caused that birth certificate to be registered is your mother?

Ms. AMADEA AQUINO:

Yes, Your Honor.

JUSTICE GISMUNDO:

Okay. And since then you have been using that birth certificate for your official transactions, is that correct?

Ms. AMADEA AQUINO:

Yes, Your Honor, as a matter of fact the Aquinos know about this. They know about this. It was not a secret with them. We even asked permission from my Tata when this happened because they wanted to, to protect me from... (interrupted).[46]

A certificate of live birth is a public document that consists of entries regarding the facts of birth in public records, particularly, the Civil Registry, made in the performance of a duty by a public officer or the Civil Registrar. As such, it is prima facie evidence of the fact of birth of a child, and it does not need authentication. It can only be rebutted by clear and convincing evidence to the contrary.[47]

The National Statistics Office Administrative Order No. 1-93 or the Implementing Rules and Regulations of Act No. 3753 and Other Laws on Civil Registration (IRR of Act No. 3753)[48] states the rule on birth registration of illegitimate children:

Rule 23. Birth Registration of Illegitimate children. — (1) Children conceived or born during the marriage of the parents are legitimate. Children conceived and born outside a valid marriage unless otherwise provided in the Family Code are illegitimate.

(2) An illegitimate child born before 3 August 1988 and acknowledged by both parents shall principally use the surname of the father. If recognized by only one of the parents, the illegitimate child shall carry the surname of the acknowledging parent. If no parent acknowledged the child, he shall carry the surname of the mother.

(3) The name/s of the acknowledging parent/s, shall be indicated in the Certificate of Live Birth.

(4) An illegitimate child born on or after 3 August 1988 shall bear the surname of the mother, (emphasis supplied)

Accordingly, the IRR of Act No. 3753 mandates that the names of the acknowledging parents of the illegitimate child be indicated in the certificate of live birth. In this case, the certificate of live birth, which Amadea recognizes and uses in her official transactions, indicates that her father at the time she was born was Enrique A. Ho, and not Arturo.

The registration of a birth goes through a rigorous process. The books making up the civil register are considered public documents and are prima facie evidence of the truth of the facts stated there. As a public document, a

registered certificate of live birth enjoys the presumption of validity.[49]

Nevertheless, a certificate of live birth, in exceptional situations, can be rebutted by clear and convincing evidence to the contrary.[50] Amadea claims that the alleged certificate of live birth that she was using in her official transactions was falsified; that Enrique A. Ho is not her biological father; and that her mother merely registered Enrique A. Ho as her father in her certificate of live birth to protect her from the teasing of others so she could attend school.[51]

It is my opinion that the best way to settle whether Amadea is the illegitimate child of Arturo, and also to give her an opportunity to refute the alleged certificate of live birth, is to have a trial on the merits. This is the only way of settling conflicting factual assertions in a civil case.

Presumption of antagonism

Amadea has the burden of proof to establish that she is an acknowledged natural child of Arturo and to overcome the presumption of antagonism provided under Art. 992 of the Civil Code.

Art. 992 of the Civil Code, a basic postulate, enunciates what is commonly referred to in the rules on succession as the "principle of absolute separation between the legitimate family and the illegitimate family." The doctrine rejects succession ab intestato in the collateral line between legitimate relatives, on the one hand, and illegitimate relatives, on other hand, although it does not totally disavow such succession in the direct line. Since the rule is predicated on the presumed will of the decedent, it has no application, however, on testamentary dispositions.[52]

The rules laid down in Art. 982[53] that "grandchildren and other descendants shall inherit by right of representation" and in Art. 902[54] that the rights of illegitimate children are transmitted upon their death to their descendants, whether legitimate or illegitimate, are subject to the limitation prescribed by Art. 992 to the end that "an illegitimate child has no right to inherit ab intestato from the legitimate children and relatives of his father or mother." [55]

In *Diaz v. Intermediate Appellate Court*, [56] the Court cited *Manresa* in determining the rationale behind the iron curtain rule:

Article 992 of the New Civil Code provides a barrier or iron curtain in that it prohibits absolutely a succession ab intestato between the illegitimate child and the legitimate children and relatives of the father or mother of said legitimate child. They may have a natural tie of blood, but this is not recognized by law for the purposes of Art. 992. Between the legitimate family and the illegitimate family there is presumed to be an intervening antagonism and incompatibility. The illegitimate child is disgracefully looked down upon by the legitimate family; the family is in turn, hated by the illegitimate child; the latter considers the privileged condition of the former, and the resources of which it is thereby deprived; the former, in turn, sees in the illegitimate child nothing but the product of sin, palpable evidence of a blemish broken in life; the law does no more than recognize this truth, by avoiding further grounds of resentment.[57] (emphases supplied)

Accordingly, the basis of the applicability of Art. 992 of the Civil Code is the presumption of antagonism or incompatibility between the legitimate and illegitimate children.

A presumption is defined as an inference as to the existence of a fact not actually known, arising from its usual connection with another which is known, or a conjecture based on past experience as to what course human affairs ordinarily take. It is either a presumption juris, or of law, or a presumption hominis, or of fact.[58] A presumption of law exists when there is a law or rule directing the deduction made by the courts from the particular facts presented to them by the parties. Such deduction may be among the conclusive presumptions under Sec. 2 or the disputable presumptions under Sec. 3, Rule 131 of the Rules on Evidence, as amended.[59] On

the other hand, a presumption of fact is the reasonable deduction from the facts proved without an express direction of law to that effect.[60] The function of a presumption is to dispense with the need for proof.[61]

Under the ambit of Art. 992 of the Civil Code, a presumption of law exists, particularly, that there is a presumption of antagonism or incompatibility between the legitimate and illegitimate children. It creates a disputable presumption that such antagonism exists, hence, illegitimate children cannot inherit from their decedents, who are legitimate children.

As the presumption presented under Art. 992 of the Civil Code is only a disputable presumption, then it can be overturned by the party upon whom it is directed. It is settled that a disputable presumption is a species of evidence that may be accepted and acted on where there is no other evidence to uphold the contention for which it stands, or one which may be overcome by other evidence.[62] Sec. 5, Rule 131 of the Rules on Evidence, as amended, provides the procedure on how a party, against whom the presumption is charged, can rebut such disputable presumption of evidence:

Section 5. Presumptions in civil actions and proceedings. – In all civil actions and proceedings not otherwise provided for by the law or these Rules, a presumption imposes on the party against whom it is directed the burden of going forward with evidence to rebut or meet the presumption. If presumptions are inconsistent, the presumption that is founded upon weightier considerations of policy shall apply. If considerations of policy are of equal weight, neither presumption applies.[63] (emphasis supplied)

Indeed, the party to whom the disputable presumption is charged has the burden of going forward with the evidence to overcome the presumption.

The case of *In Re: Intestate Estate of Cristina Aguinaldo-Suntay v. Cojuangco-Suntay*[64] is squarely applicable in this case. There, the decedent Cristina Aguinaldo-Suntay (Cristina) was survived by her husband and several grandchildren. One of her grandchildren was Emilio III, and during the trial of the estate court, it was proven that Emilio III was an acknowledged natural child of Emilio I, who was the only child of Cristina, and that Emilio III was reared ever since he was a mere baby by Cristina and her spouse. Notably, evidence was received by the trial court to determine who is legally entitled to administer Cristina's estate. One of the issues raised before the Court was whether Art. 992 of the Civil Code shall apply to bar Emilio III, an illegitimate and acknowledged natural child, from inheriting from his grandmother, Cristina. The Court held that:

One final note. Counsel for petitioner meticulously argues that Article 992 of the Civil Code, the successional bar between the legitimate and illegitimate relatives of a decedent, does not apply in this instance where facts indubitably demonstrate the contrary — Emilio III, an illegitimate grandchild of the decedent, was actually treated by the decedent and her husband as their own son, reared from infancy, educated and trained in their businesses, and eventually legally adopted by decedent's husband, the original oppositor to respondent's petition for letters of administration.

x x x x

Indeed, the factual antecedents of this case accurately reflect the basis of intestate succession, i.e., love first descends, for the decedent, Cristina, did not distinguish between her legitimate and illegitimate grandchildren. Neither did her husband, Federico, who, in fact, legally raised the status of Emilio III from an illegitimate grandchild to that of a legitimate child. The peculiar circumstances of this case, painstakingly pointed out by counsel for petitioner, overthrow the legal presumption in Article 992 of the Civil Code that there exist animosity and antagonism between legitimate and illegitimate descendants of a deceased.[65] (emphasis supplied)

Evidently, in that case, there was presentation of evidence during the trial, which established factual antecedents;

and it was proved that Emilio III was an acknowledged natural child, that he was treated as their own son by Cristina and her spouse, and that after Cristina died, her spouse Federico eventually adopted Emilio III. Due to these factual findings, the presumption of antagonism under Art. 992 of the Civil Code was overcome by Emilio III, upon whom the disputable presumption was charged, hence, the iron curtain rule was not applied to him.[66] Nonetheless, the Court exercised judicial restraint in making a final declaration of heirship and distributing the presumptive shares of the parties in the estate considering that the question on who will administer the properties of the deceased [was] yet to be settled.[67]

In this case, Amadea has the burden of proof to overcome the disputable presumption of antagonism between illegitimate and legitimate children for the iron curtain principle to not apply. Through the presentation of evidence, Amadea must establish that she is an acknowledged natural child of Arturo, that in the eyes of the decedent Miguel, there is no antagonism between illegitimate and legitimate descendants, and that Miguel treated Amadea as his own granddaughter. Again, this presumption can only be overcome through the reception of evidence in a competent trial court.

The Court is not a trier of facts

At this point, it is clear that Amadea has not yet established being an illegitimate child of Arturo. Accordingly, it cannot be gainsaid that Amadea's rights were violated by the application of Art. 992 of the Civil Code because she has not yet established her status as an illegitimate child. As a rule, when there is no actual or imminent violation of the rights by the challenged law, there is an absence of an actual case or controversy ripe of judicial determination, and the Court cannot exercise its power of judicial review to interpret the law.[68]

Given the numerous factual issues that arise from the allegations of Amadea, the best way to settle these issues is to have a trial on the merits. Certainly, such trial on the merits cannot be conducted before the Court. For the Court to rule on the instant petitions would amount to usurpation of the functions of trial courts, as the Court's action would reach into settling factual disputes, a competence which it lacks. In *Gios-Samar, Inc. v. Department of Transportation and Communications*,^[69] the Court recounted the jurisprudential history of such dictum, thus –

In 1973, the dictum that the Supreme Court is not trier of facts first appeared in jurisprudence through the concurring opinion of then Chief Justice Querube Makalintal in *Chemplex (Philippines), Inc. v. Pamatian*. *Chemplex* involved a petition for certiorari against an order recognizing the validity and legitimacy of the election of directors on the board of a private corporation. In his concurrence to the majority decision dismissing the petition, Chief Justice Querube Makalintal wrote:

Judge Pamatian issued the order now assailed herein after he heard the parties and received relevant evidence bearing on the incident before him, namely, the issuance of a writ of preliminary injunction as prayed for by the defendants. He issued the writ on the basis of the facts as found by him, subject of course, as he himself admitted, considering the interlocutory nature of the injunction, to further consideration of the case on the merits after trial. I do not see that his factual findings are arbitrary or unsupported by the evidence. If anything, they are circumspect, reasoned out and arrived at after serious judicial inquiry.

This Court is not a trier of facts, and it is beyond its function to make its own findings of certain vital facts different from those of the trial court, especially on the basis of the conflicting claims of the parties and without the evidence being properly [presented] before it. For this Court to make such factual conclusions is entirely unjustified — first, because if material facts are controverted, as in this case, and they are issues being litigated before the lower court, the petition for certiorari would not be in aid of the appellate jurisdiction of this Court; and, secondly, because it preempts the primary function of the lower court, namely, to try the case on the merits, receive all the evidence to be presented by the parties, and only then come to a definite decision, including either the maintenance or the discharge of the preliminary injunction it has issued.

The thousands of pages of pleadings, memoranda, and annexes already before this Court and the countless

hours spent in discussing the bare allegations of the parties — as to the factual aspects of which the members are in sharp disagreement — merely to resolve whether or not to give due course to the petition, demonstrate clearly why this Court, in a case like this, should consider only one question, and no other, namely, did the court below commit a grave abuse of discretion in issuing the order complained of, and should answer that question without searching the pleadings for supposed facts still in dispute and not those set forth in the order itself, and in effect deciding the main case on the merits although it is yet in its preliminary stages and has not entered the period of trial.

The maxim that the Supreme Court is not a trier of facts will later find its way in the Court's majority opinion in *Mafinco Trading Corporation v. Ople*.

Mafinco involved a special civil action for certiorari and prohibition to annul a Decision of the Secretary of Labor, finding that the old National Labor Relations Commission (NLRC) had jurisdiction over the complaint filed against *Mafinco Trading Corporation* for having dismissed two union members. The crucial issue brought before the Court was whether an employer-employee relationship existed between petitioner and the private respondents. Before resolving the issue on the basis of the parties' contracts, the Court made the following pronouncements:

The parties in their pleadings and memoranda injected conflicting factual allegations to support their diametrically opposite contentions. From the factual angle, the case has become highly controversial.

In a certiorari and prohibition case, like the instant case, only legal issues affecting the jurisdiction of the tribunal, board or officer involved may be resolved on the basis of undisputed facts. Sections 1, 2 and 3, Rule 65 of the Rules of Court require that in the verified petition for certiorari, mandamus and prohibition the petitioner should allege "facts with certainty."

In this case, the facts have become uncertain. Controversial evidentiary facts have been alleged. What is certain and indubitable is that a notarized peddling contract was executed.

This Court is not a trier of facts. It would be difficult, if not anomalous, to decide the jurisdictional issue on the basis of the [parties'] contradictory factual submissions. The record has become voluminous because of their efforts to persuade this Court to accept their discordant factual statements.

Pro hac vice the issue of whether *Repomanta* and *Moralde* were employees of *Mafinco* or were independent contractors should be resolved mainly in the light of their peddling contracts. A different approach would lead this Court astray into the field of factual controversy where its legal pronouncements would not rest on solid grounds.

The Rules of Court referred to above is the 1964 Rules of Court. Up to this date, the requirement of alleging facts with certainty remains in Sections 1 to 3 of Rule 65 of the 1997 Revised Rules of Court.[70]

Correlatively, petitions for review on certiorari under Rule 45 of the Rules of Court filed before this Court also recognize the limitations on the kind of questions it can entertain. Sec. 1 provides:

Section 1. Filing of petition with Supreme Court. — A party desiring to appeal by certiorari from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on certiorari. The petition may include an application for a writ of preliminary injunction or other provisional remedies and shall raise only questions of law, which must be distinctly set forth.[71]

The above provision clearly limits the petitions filed before this Court to those raising questions of law only. The distinction between a "question of law" and a "question of fact" is settled. There is a "question of law" when the doubt or difference arises as to what the law is on a certain state of facts, and which does not call for an

examination of the probative value of the evidence presented by the parties-litigants. On the other hand, there is a "question of fact" when the doubt or controversy arises as to the truth or falsity of the alleged facts. Simply put, when there is no dispute as to fact, the question of whether or not the conclusion drawn therefrom is correct, is a question of law.[72]

This incapacity to settle factual questions is consciously conceded by the Court in its Internal Rules:

Section 2. The Court not a trier of facts. — The Court is not a trier of facts; its role is to decide cases based on the findings of fact before it. Where the Constitution, the law or the Court itself, in the exercise of its discretion, decides to receive evidence, the reception of evidence may be delegated to a Member of the Court, to either the Clerk of Court or one of the Division Clerks of Court, or to one of the appellate courts or its justices who shall submit to the Court a report and recommendation on the basis of the evidence presented.[73]

The sound rationale behind this dictum is simple. The trial court is concededly in the best position to gauge and evaluate the totality of the evidence presented since it receives demeanor evidence that the appellate courts are deprived of. This is the same reason why, as a rule, the Court treats factual findings of the lower court with finality. In *Heirs of Villanueva v. Heirs of Mendoza*,[74] it was explained that:

Findings of fact made by a trial court are accorded the highest degree of respect by an appellate tribunal and, absent a clear disregard of the evidence before it that can otherwise affect the results of the case, those findings should not simply be ignored. Absent any clear showing of abuse, arbitrariness, or capriciousness committed on the part of the lower court, its findings of facts are binding and conclusive upon the Court. The reason for this is because the trial court was in a much better position to determine which party was able to present evidence with greater weight.

The Court gives the highest respect to the RTC's evaluation of the testimony of the witnesses, considering its unique position in directly observing the demeanor of the witnesses on the stand. From its vantage point, the trial court is in the best position to determine the truthfulness of witnesses. It is established that the evaluation of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court because of its unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct, and attitude under grueling examination. These are important in determining the truthfulness of witnesses and in unearthing the truth, especially in the face of conflicting testimonies. Indeed, the emphasis, gesture, and inflection of the voice are potent aids in ascertaining the witness's credibility, and the trial court has the best opportunity to take advantage of the same. Said aids, unfortunately, cannot be incorporated in the records. Therefore, all that is left for the appellate courts to utilize are the cold words of the witnesses contained in a transcript, with the risk that some of what the witnesses actually said may have been lost in the process of transcribing. As stated by an American court, there is an inherent impossibility of determining with any degree of accuracy what credit is justly due to a witness from merely reading the words spoken by him, even if there were no doubt as to the identity of the words. However artful a corrupt witness may be, there is generally, under the pressure of a skillful cross-examination, something in his manner or bearing on the stand that betrays him, and thereby destroys the force of his testimony. Many of the real tests of truth by which the artful witness is exposed, in the very nature of things, cannot be transcribed upon the record, and hence, they can never be appreciated and considered by the appellate courts.[75]

Nevertheless, I acknowledge that this case has been dragging before the courts for almost two (2) decades. This dispute arose from the July 2, 2003 Motion for Inclusion filed by Amadea before the RTC on July 17, 2003.[76] Thus, I find that while the Court must remand the instant petitions before the RTC for the reception of evidence and trial on the merits, where both parties shall present evidence, the RTC shall be ordered to resolve the factual issues expeditiously.

Final Note

It may be possible that the review of the doctrine regarding the treatment of illegitimate children under current legislation is justified. However, until such possibility becomes a certainty, I stand firm that there must be an actual case or controversy before the Court may exercise its judicial power regarding the interpretation of Art. 992 of the Civil Code. To haphazardly exercise judicial power without the requisite constitutional authority would be tantamount to judicial legislation, which is beyond the ambit of authority provided to the Court. If Amadea can prove her allegations before the RTC, which is empowered to resolve factual issues – that she is indeed the illegitimate child of Arturo – then she can return to this Court to continue her advocacy against the law purportedly against the interests of illegitimate children. Until a justiciable case is brought before the Court regarding the proper interpretation of Art. 992 of the Civil Code, I reserve my views regarding the constitutionality of the iron curtain rule.

WHEREFORE, I vote to REMAND the petitions to the Regional Trial Court, and that the latter be ORDERED to conduct a trial on the merits and RESOLVE the questions of facts presented in the petition within ninety (90) days upon receipt of the Decision.

[1] Rollo (G.R. No. 208912), pp. 41-58; penned by Associate Justice Ma. Luisa C. Quijano-Padilla with Associate Justices Romulo V. Borja and Marie Christine Azcarraga-Jacob, concurring.

[2] Rollo (G.R. No. 209018), pp. 36-47; penned by Associate Justice Marilyn B. Lagura-Yap with Associate Justices Edgardo A. Camello and Renato C. Francisco, concurring.

[3] Id. at 49-52.

[4] Rollo (G.R. No. 208912), pp. 204-205.

[5] Id. at 206-207.

[6] Id. at 208-221.

[7] Id. at 237.

[8] Civil Code, Book III, Article 992.

[9] See *Police General Macasiano v. National Housing Authority*, 296 Phil. 56, 63-64 (1993).

[10] *Private Hospitals Association of the Philippines, Inc. v. Medialdea*, G.R. No. 234448, November 6, 2018, 884 SCRA 350, 390.

[11] 63 Phil. 139 (1936).

[12] Id. at 158.

[13] 499 Phil. 281 (2005).

[14] Id. at 304-305.

[15] *Lawyers Against Monopoly and Poverty (LAMP) v. The Secretary of Budget and Management*, 686 Phil. 357, 369 (2012).

[16] *Philippine Constitution Association (PHILCONSA) v. Philippine Government (GPH)*, 801 Phil. 472, 486 (2016).

[17] *Republic v. Roque*, 718 Phil. 294, 305 (2013).

- [18] See *Private Hospitals Association of the Philippines, Inc. v. Medialdea*, supra note 10, at 391.
- [19] *Tatad v. Commission on Appointments*, 584 Phil. 332, 335 (2008).
- [20] See Dissenting Opinion of Justice Kapunan in *Kilosbayan, Inc. v. Guingona, Jr.*, 302 Phil. 107, 211-212 (1994).
- [21] *Id.*
- [22] *Southern Hemisphere Engagement Network, Inc. v. Anti-Terrorism Council*, 646 Phil. 452, 471 (2010).
- [23] *Anak Mindanao Party-List Group v. Executive Secretary Ermita*, 558 Phil. 338, 351 (2007).
- [24] *Jumamil v. Cafe*, 507 Phil. 455, 465 (2005).
- [25] *White Light Corp. v. City of Manila*, 596 Phil. 444, 456 (2009).
- [26] G.R. No. 217910, September 3, 2019.
- [27] *Id.*
- [28] *Id.*
- [29] *Rollo* (G.R. No. 209018), p. 96.
- [30] *Id.* at 86-87.
- [31] *Id.* at 87-88.
- [32] See *Heirs of Reyes v. Calumpang*, 536 Phil. 795, 811 (2006).
- [33] *Rollo* (G.R. No. 209018), p. 92.
- [34] Section 6, Rule 15 of the Rules of Court, as amended: Notice of Hearing on Litigious Motions; Discretionary. – The court may, in the exercise of its discretion, and if deemed necessary for its resolution, call a hearing on the motion. The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing.
- [35] TSN, September 3, 2020, pp. 105-110.
- [36] *Rollo* (G.R. No. 208912), p. 1115.
- [37] *Watercraft Ventures Corp. v. Wolfe*, G.R. No. 231485, September 21, 2020.
- [38] RTC Order dated March 6, 2008; *rollo* (G.R. No. 208912), pp. 76-78.
- [39] *Agabayani v. Lupa Realty Holding Corporation*, G.R. No. 201193, June 10, 2019, 903 SCRA 262, 283.
- [40] *Id.*
- [41] Rules on Evidence, as amended by A.M. No. 19-08-15-SC, Rule 129, Sec. 4.
- [42] *Rollo* (G.R. No. 208912), p. 111.
- [43] *Id.* at 112-113.
- [44] Civil Code, Art. 283.
- [45] *Rollo* (G.R. No. 209018), p. 237.

- [46] TSN, September 3, 2020, pp. 100-105.
- [47] *Remiendo v. People*, 618 Phil. 273, 286 (2009).
- [48] Dated December 18, 1992.
- [49] *Baldos v. Court of Appeals*, 638 Phil. 601, 608 (2010).
- [50] See *Concepcion v. Court of Appeals*, 505 Phil. 529, 543 (2005).
- [51] TSN, September 3, 2020, p. 104.
- [52] *Manuel v. Ferrer*, 317 Phil. 568, 575 (1995).
- [53] Civil Code, Art. 982. The grandchildren and other descendants shall inherit by right of representation, and if any one of them should have died, leaving several heirs, the portion pertaining to him shall be divided among the latter in equal portions.
- [54] Civil Code, Art. 902. The rights of illegitimate children set forth in the preceding articles are transmitted upon their death to their descendants, whether legitimate or illegitimate.
- [55] *Diaz v. Intermediate Appellate Court*, 261 Phil. 542, 548-549 (1990).
- [56] 234 Phil. 636 (1987).
- [57] *Id.* at 641-642.
- [58] *Martin v. Court of Appeals*, 282 Phil. 610, 614 (1992).
- [59] *Id.*
- [60] *Id.*
- [61] *Jereza v. Mondia*, 222 Phil. 375, 378 (1985).
- [62] *Datumanong v. Malaga*, 810 Phil. 88, 99 (2017).
- [63] 2019 Amendments to the Revised Rules on Evidence, A.M. No. 19-08-15-SC, August 10, 2019.
- [64] 635 Phil. 136 (2010).
- [65] *Id.* at 148-150.
- [66] *Id.* at 146.
- [67] *Id.* at 150.
- [68] See *Cutaran v. Department of Environment and Natural Resources*, 403 Phil. 654, 662 (2001).
- [69] G.R. No. 217158, March 12, 2019, 896 SCRA 213.
- [70] *Id.* at 264-267.
- [71] Rules of Court, Rule 45, Sec. 1.
- [72] *Fantastico v. Malicse, Sr.*, 750 Phil. 120, 130 (2015).
- [73] Internal Rules of the Supreme Court (2010), Rule III, Sec. 2.
- [74] 810 Phil. 172 (2017).

[75] Id. at 184.

[76] Rollo (G.R. No. 208912), pp. 89-95.

SEPARATE CONCURRING OPINION

PERLAS-BERNABE, J.:

I concur in the result. The case should be remanded to the Regional Trial Court (RTC) for further proceedings to thresh out the issue of Amadea Angela K. Aquino's (Angela) filiation to her putative father, Arturo Aquino (Arturo), and ultimately, to resolve the issue of whether or not she is entitled to participate in the settlement of the estate of her putative grandfather, Miguel Aquino (Miguel), pursuant to the re-examined interpretation of Article 992 of the Civil Code, as will be discussed below. Before explaining my own reasons for concurrence, a brief background of this case is in order.

On May 7, 2003, Rodolfo C. Aquino (Rodolfo) filed before the RTC a petition for letters of administration of the estate of his deceased father, Miguel. In the said petition, Rodolfo alleged, inter alia, that Miguel was survived by: (a) his second wife, Enerie B. Aquino; (b) his sons from his first marriage, Abdulah Aquino (Abdulah) and himself (Rodolfo); and (c) the heirs of his other son, Wilfredo, who predeceased him. Notably, Miguel was also predeceased by his first wife and his other son, Arturo.[1]

On July 2, 2003, Angela filed a Motion to be Included in the Distribution and Partition of [Miguel's] Estate, claiming to be Arturo's only child.[2] Rodolfo opposed Angela's motion, pointing out that Arturo never recognized her as a natural child.[3] After Abdulah was appointed administrator of Miguel's estate, Angela filed another motion, claiming, among others, that she has a legal right to a monthly allowance, similar to those given to Miguel's other heirs.[4]

In an Order dated April 22, 2005, the RTC granted Angela's motions, finding that the Aquino clan was already estopped from denying Angela's filiation, and thus, she should be entitled to a share in Miguel's estate. Aggrieved, Abdulah filed an appeal, while Rodolfo filed a petition for certiorari before the Court of Appeals (CA).[5]

In a Decision dated August 23, 2012, the CA denied Rodolfo's certiorari petition for being the wrong remedy, as well as on the grounds of forum shopping and res judicata. Upon denial of his motion for reconsideration, Rodolfo filed a petition before the Court, docketed as G.R. No. 209018.[6]

Meanwhile, in a Decision dated January 21, 2013, the CA granted the appeal of Abdulah, and accordingly, reversed the assailed RTC Orders. It held that Angela was unable to prove her filiation with Arturo, considering that: (a) she failed to present birth records showing Arturo's paternity or any document signed by Arturo confirming such paternity; and (b) she cannot establish open and continuous possession of her status as Arturo's child since the latter died before she was born. In addition, the CA ruled that assuming arguendo that Angela was able to establish her filiation with Arturo, she still cannot inherit ab intestato from her putative grandfather, Miguel, pursuant to the "Iron Curtain Rule" provided under Article 992[7] of the Civil Code.[8] Dissatisfied, Angela moved for reconsideration which was, however, denied in a Resolution dated July 24, 2013; hence, the petition before the Court in G.R. No. 208912.[9]

Initially, the Court, through its Third Division, consolidated G.R. Nos. 208912 and 209018, and thereafter, denied them in a Resolution dated November 11, 2013.[10] Upon motion of Angela, however, G.R. Nos. 208912 and 209018 were reinstated and referred to the Court En Banc to resolve the issue of whether or not Angela may inherit from the estate of her putative grandfather, Miguel.[11] Consequently, the Court En Banc conducted oral

arguments, and required the parties to submit their respective memoranda.[12]

Essentially, Rodolfo contends that Angela is already barred from establishing her filiation to Arturo, whereas Abdulah argues that Angela failed to present competent proof of such filiation. In any event, both of them maintain that even if Angela is indeed Arturo's illegitimate child, she is nevertheless barred by Article 992 of the Civil Code from inheriting from Miguel's estate.[13]

On the other hand, Angela insists that she is not yet barred from proving her filiation to Arturo. Further, she pointed out that Rodolfo and Abdulah had already recognized and acknowledged her filiation to Arturo, and hence, are already estopped from claiming otherwise. Finally, Angela argues that Article 992 of the Civil Code should be re-interpreted to only prohibit reciprocal succession between collateral relatives, and not between direct ascendants and descendants.[14] Notably, this view squares with Justice Hugo E. Gutierrez Jr.'s (Justice Gutierrez) Dissenting Opinion in *Diaz v. Intermediate Appellate Court*[15] (*Diaz*).

I. Angela is not time-barred from proving her filiation.

As earlier intimated, Angela mainly alleges that she is the illegitimate daughter of Arturo, who is, in turn, the son of the decedent, Miguel. As Arturo had predeceased Miguel, Angela seeks to inherit from Miguel's estate being the latter's illegitimate granddaughter.

At the onset, it is apt to mention that Angela is not time-barred from proving her filiation to her father, Arturo, and hence, is not precluded from proving her status as Miguel's illegitimate granddaughter. Article 256 of the Family Code states that:

Article 256. 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. (Emphasis supplied)

Having been born on October 9, 1978 (or prior to the effectivity of the Family Code), Angela's right to prove her filiation had already been "vested or acquired" under the legal auspices of the Civil Code and hence, cannot be prejudiced or impaired by any provision of the Family Code.

Relatedly, Article 285[16] of the Civil Code provides for the prescriptive period to file an "action for the recognition of natural children," under which category "illegitimate children" fall.[17] Pursuant to this provision, "[i]f the father or mother died during the minority of the child, [t]he latter may file the action before the expiration of four years from the attainment of his majority," which under the same Code, "commences [at] the age of twenty-one years." [18]

Thus, from the time she was born up until four (4) years from reaching the age of 21, Angela may file an action for recognition. Since Angela was born on October 9, 1978, she had until October 9, 2003 to file such action.[19] Given that Angela filed her Motion to be Included in the Distribution and Partition of [Miguel's] Estate in July 2003, she is thus not barred from asserting her filiation to Arturo.[20]

II. Angela's filiation to the decedent has yet to be sufficiently proven because the trial court failed to conduct the proper hearing; hence, this case should be remanded.

Since Angela was born during the effectivity of the Civil Code, then the Civil Code provisions on the manner of proving filiation should be made applicable to her. In this relation, Article 283[21] of the Civil Code states, *inter alia*, that "the father is obliged to recognize the child as his natural child[,] x x x [w]hen the child is in continuous possession of [the] status of a child of the alleged father by the direct acts of the latter or of his family[.]"

Based on the records, the question of Angela's filiation to Miguel arose when she filed a Motion to be Included in

the Distribution and Partition of the Estate[22] of the latter.[23] In an attempt to prove her status as Arturo's daughter and consequently, Miguel's heir, Angela alleged the following circumstances which purportedly demonstrate that she was in continuous possession of her status as Arturo's child through the direct acts of the latter's family, particularly:

- (a) Miguel paid for the medical expenses of Angela's mother, Susan, throughout the latter's pregnancy, and even had the Aquino family doctor take care of Susan;
- (b) she was baptized as "Amadea Angela Aquino," thereby showing that Miguel allowed Susan to use "Amadea," the name of his first wife, as part of Angela's name, and allowed Angela to use the "Aquino" family name, and furthermore, Arturo's brother, Abdulah, agreed to be Angela's baptismal godfather;
- (c) from Angela's birth until the filing of her Motion, she had been living in the Aquino ancestral home upon the express instructions of Miguel;
- (d) Miguel had continually provided support for Angela, as he paid for her education, procured an educational plan for her benefit, would regularly visit her when she was living in Manila, and would send her extra money whenever she would travel abroad for vacations;
- (e) at his deathbed, Miguel expressed his wish to bequeath a commercial lot to Angela, and shortly after Miguel's death, possession of said lot was delivered to her, and in fact, the lessees thereof had been paying rent directly to her;
- (f) in the cockpit then-owned and operated by Miguel, there were seats with the name "Maggie" (Angela's nickname) on them, and fees collected from those who occupied said seats were all given to Angela for her support; and
- (g) the employees of the Aquino clan have known Angela to be a member thereof, and such fact is well-known in the community.[24]

In support of said allegations, Angela attached the following documents to her Motion, namely: (i) Arturo's death certificate; (ii) a certification from the Davao Doctors Hospital stating that Arturo was listed as Angela's father; (iii) Angela's baptismal certificate; and (iv) the handwritten document of Miko Aquino, Rodolfo's son, which supposedly transcribed Miguel's words while the latter was dictating his dying wishes.[25] In response, Rodolfo filed an opposition,[26] averring that Angela's allegations in her motion as well as the attached documents thereto are neither credible nor competent evidence of her filiation to Arturo.[27]

In an Order[28] dated April 22, 2005, the RTC ruled in favor of Angela, declaring that she had successfully established her filiation to Miguel.

However, records show that the Branch Clerk of Court of the RTC issued a Certification[29] dated April 21, 2015 attesting that "no testimonial and documentary evidence was presented and offered both by [Rodolfo] and [Angela] pertaining to the April 22, 2005 Order of the [RTC]." Thus, in the absence of any formal hearing for the reception of testimonial and/or documentary evidence which would support Angela's allegations, it was error for the RTC to make the foregoing declaration since there was no proper evidentiary basis to conclude that Angela had established her filiation to Arturo and hence, an heir of Miguel. Accordingly, the issue of Angela's filiation is an unresolved matter that necessitates the remand of the case. It is only when Angela's allegations have been duly proven through the proper hearing may the same be factored in to establish her status as Arturo's daughter in accordance with Article 283 of the Civil Code as above-stated.

At this juncture, it should be clarified that the fact that Rodolfo, the oppositor, did not specifically deny Angela's allegations of filiation should not mean that the same are already judicially admitted and hence, already proven as

facts in this case. On this score, it is apt to highlight that this case stemmed from a special proceeding and not an ordinary civil action between two (2) opposing parties where the threshold is mere preponderance of evidence. "A special proceeding is a remedy by which a party seeks to establish a status, a right, or a particular fact." [30] In this particular case, the settlement of the estate of deceased persons is further considered as a proceeding in rem in that the same is directed against the thing or property or status of a person who seeks a judgment with respect thereto as against the whole world. [31] Accordingly, issues on filiation which arise in these proceedings essentially seek to "establish a status, a right, or a particular fact"; [32] and hence, require a high standard of proof. [33] In this relation, case law provides that paternity or filiation must be established by clear and convincing evidence [34] – which is described as "more than mere preponderance, but not to the extent of such certainty as is required beyond reasonable doubt in criminal cases." [35]

Since the applicable threshold is clear and convincing evidence and not preponderance of evidence, the trial court, and consequently this Court, cannot simply conclude that a status, right, or particular fact has been established by simply weighing it against the evidence presented by an oppositor in the same case. The proceeding is one that is binding against the whole world and hence, the trial court must conduct a holistic factual determination to establish if such fact had been clearly and convincingly proven. In the same vein, an oppositor's failure to specifically deny any claim in the special proceeding cannot be conveniently regarded as judicial admissions in the same way that they are treated in ordinary civil cases. Besides, a particular oppositor cannot simply judicially admit the claimant's civil status in an in rem special proceeding since an admission thereof is tantamount to compromising one's civil status which is statutorily prohibited. [36]

In sum, there is a need for the RTC to determine the veracity of Angela's allegations by conducting a proper hearing for the due reception of her as well as any oppositor's evidence. Since no such hearings were conducted, a remand of the case to the court a quo is in order.

It bears stressing, however, that before this case is remanded, the applicability of Article 992, or the "Iron Curtain Rule," should be, as the ponencia correctly did, re-examined in order to guide the court of origin in the correct application of this provision in the event that Angela's filiation is duly proven. Notably, this purely legal question was both squarely raised by the parties and keenly traversed by this Court during the oral arguments. Moreover, this issue has a clear determinative effect on the disposition of Angela's ultimate claim to be declared as an heir and consequently, entitled to inherit from Miguel's estate. Accordingly, it is imperative for the Court to pass upon this legal issue not only to accord complete relief to the parties in this case but also for the proper guidance of the Bench, the Bar, and the public on the application of Article 992 in future cases. Much more, as will be illumined below on the discussion relative to Diaz, the Court, as the final arbiter of the laws, has the responsibility to rectify any error in jurisprudence.

III. The "Iron Curtain Rule" under Article 992 of the Civil Code applies only when one inherits "in his/her own right"; it has no application when the heir inherits "by right of representation" under Article 982 of the same Code.

Article 992 of the Civil Code reads as follows:

Article 992. An illegitimate child has no right to inherit ab intestato from the legitimate children and relatives of his father or mother; nor shall such children or relatives inherit in the same manner from the illegitimate child.

Known as the "Iron Curtain Rule," Article 992 creates a "legal iron curtain" prohibiting an illegitimate child from inheriting from the estate of the legitimate children and relatives of his father or mother. This prohibition operates vice versa. Notably, the provision is generally worded in that it refers to the "right to inherit ab intestato"

(intestate succession), which concept, as will be expounded below, may be further dichotomized into the manner in which one inherits, namely: (a) those who inherit in their own right; and (b) those who inherit through the right of representation.

The policy impetus behind the "Iron Curtain Rule" was explained in the 1990 case of *Diaz*. In particular, the Court stated that due to the presumed animosity and antagonism between the legitimate and illegitimate lines, our legislators intended to prohibit intestate succession between each class of relatives:

Article 992 of the New Civil Code provides a barrier or iron curtain in that it prohibits absolutely a succession ab intestato between the illegitimate child and the legitimate children and relatives of the father or mother of said illegitimate child. They may have a natural tie of blood, but this is not recognized by law for the purpose of Article 992. Between the legitimate family and the illegitimate family there is presumed to be an intervening antagonism and incompatibility. The illegitimate child is disgracefully looked down upon by the legitimate family; the family is in turn, hated by the illegitimate child; the latter considers the privileged condition of the former, and the resources of which it is thereby deprived; the former, in turn, sees in the illegitimate child nothing but the product of sin, palpable evidence of a blemish broken in life; the law does no more than recognize this truth, by avoiding further ground of resentment.[37]

The Court further explained that Article 992 originated from an identical provision in the Spanish Civil Code of 1889, and that the Philippines, through its reproduction in our own Civil Code, merely adhered to this ancient foreign principle:

Once more, We decline to agree with petitioner. We are fully aware of certain substantial changes in our law of succession, but there is no change whatsoever with respect to the provision of Article 992 of the Civil Code. Otherwise, by the said substantial change. Article 992, which was a reproduction of Article 943 of the Civil Code of Spain, should have been suppressed or at least modified to clarify the matters which are now the subject of the present controversy. While the New Civil Code may have granted successional rights to illegitimate children, those articles, however, in conjunction with Article 992, prohibit the right of representation from being exercised where the person to be represented is a legitimate child. Needless to say, the determining factor is the legitimacy or illegitimacy of the person to be represented. If the person to be represented is an illegitimate child, then his descendants, whether legitimate or illegitimate, may represent him; however, if the person to be represented is legitimate, his illegitimate descendants cannot represent him because the law provides that only his legitimate descendants may exercise the right of representation by reason of the barrier imposed in Article 992. In this wise, the commentaries of Manresa on the matter in issue, even though based on the old Civil Code, are still very much applicable to the New Civil Code because the amendment, although substantial, did not consist of giving illegitimate children the right to represent their natural parents (legitimate) in the intestate succession of their grandparents (legitimate). It is with the same line of reasoning that the three aforecited cases may be said to be still applicable to the instant case.

Equally important are the reflections of the Illustrious Hon. Justice Jose B.L. Reyes [Justice Reyes] which also find support from other civilists. We quote:

In the Spanish Civil Code of 1889 the right of representation was admitted only within the legitimate family; so much so that Article 943 of that Code prescribed that an illegitimate child cannot inherit ab intestato from the legitimate children and relatives of his father and mother. The Civil Code of the Philippines apparently adhered to this principle since it reproduced Article 943 of the Spanish Code in its own Art. 992, but with fine inconsistency, in subsequent articles (990, 995 and 998)[,] our Code allows the hereditary portion of the illegitimate child to pass to his own descendants, whether legitimate or illegitimate. So that while Art. 992 prevents the illegitimate issue of a legitimate child from representing him in the intestate succession of the grandparent, the illegitimates of an illegitimate child can now do so. This difference being indefensible and unwarranted, in the future revision of the Civil Code we shall have to make a choice and decide either that the illegitimate issue enjoys in all cases the right of representation, in which case Art. 992 must be suppressed; or

contrariwise maintain said article and modify Articles 992 and 998. The first solution would be more in accord with an enlightened attitude vis-à-vis illegitimate children.[38] (Emphases and underscoring supplied)

In *Diaz*, the Court went on to say that the "Iron Curtain Rule" includes the right of representation conferred to grandchildren and other descendants. In this regard, Article 982, governing the right of representation, reads:

Article 982. The grandchildren and other descendants shall inherit by right of representation, and if any one of them should have died, leaving several heirs, the portion pertaining to him shall be divided among the latter in equal portions. (Emphasis supplied)

It was then stated that "[t]he rules laid down in Article 982 that 'grandchildren and other descendants shall inherit by right of representation' and in Article 902 that 'the rights of illegitimate children [x x x] are transmitted upon their death to their descendants, whether legitimate or illegitimate['] are subject to the limitation prescribed by Article 992 to the end that 'an illegitimate child has no right to inherit ab intestato from the legitimate children and relatives of his father or mother.'"[39]

Continuing this train of thought, the Court concluded that as regards the right of representation of a grandchild, "Article 982 is the general rule and Article 992 [is] the exception." [40] In other words, the Court supposed that Article 982 is the general rule with respect to the right of representation by the illegitimate child to the legitimate child of the decedent, pointing out that the term "relatives" in Article 992 broadly includes both direct and collateral lines of the illegitimate child's parent. As definitively (albeit erroneously) held by the Court in *Diaz*, an illegitimate child cannot succeed his/her legitimate parent by right of representation.[41] The *Diaz* interpretation of the "Iron Curtain Rule" would go on to be regarded as a cornerstone dictum in succession law.

However, as unraveled through the submissions during the oral arguments in this case, it has become apparent that the *Diaz* ruling – specifically with respect to the interplay between Articles 982 and 992 of the Civil Code – actually runs anathema to the intent of the framers of the Civil Code. As elucidated by herein Amicus Curiae Dean Cynthia R. Del Castillo,[42] the Code Commission released a memorandum on the interpretation on the provision of Article 992 two (2) years after the effectivity of the Civil Code, the pertinent portions of which reveal:

Article 902

Mr. Justice Reyes contends that the provisions of Articles 902, 989, and 998 confer the right of representation upon the illegitimate issue of an illegitimate child; while the illegitimate issue of a legitimate child is denied the right of representation by Article 992 and therefore unfair and unjustified.

In answer to this claim of unfairness and injustice, we would like to cite the provisions of Article 982:

Article 982. The grandchildren and other descendants shall inherit by right of representation and if any one of them should have died, leaving several heirs, the portion pertaining to him shall be divided among the latter in equal portions.

If the provisions of the above article are correctly interpreted and understood, do they exclude the illegitimate issue of a legitimate child? The terms "grandchildren and other descendants" are not confined to legitimate offspring.

We submit that not only legitimate but also illegitimate descendants should be included in the interpretation of Articles 902, 989, and 998. In cases of this kind, where the Code does not expressly provide for specific rights, and for that matter, all codes have gaps, equity and justice should prevail, taking into consideration the fundamental purpose of the whole law on succession which, among other things, gives more rights to illegitimate children, thereby relaxing the rigidity of the old law, and liberating these unfortunate persons from the humiliating

status and condition to which they have been dumped.

It may be mentioned in this connection that the old Civil Code fails to provide for several concurrences of heirs, but as the interpreters of the same have correctly said, justice and equity should prevail in such cases.[43] (Emphases and underscoring supplied)

As expressed in the memorandum, the term "grandchildren and other descendants" under Article 982, which specifically governs the right of representation, must be read to include both legitimate and illegitimate descendants based on one fundamental purpose of the law on succession – to give more rights to illegitimate children on the basis of justice and equity. Hence, based on the avowed intent of the Code Commission, Article 992 does not operate to restrict the right of representation granted by Article 982 to the "grandchildren and other descendants" insofar as it concerns the illegitimate line.

In other words, the framers of the Civil Code themselves intended that, notwithstanding Article 992, illegitimate "grandchildren and other descendants" may be allowed, to inherit from the legitimate ascendant of their parent (i.e., their grandfather), provided, that they may only do so via the right of representation under Article 982.

As above-mentioned, intestate succession contemplates two (2) classes of heirs relative to their method of inheriting by law. These are: (a) those who inherit in their own right; and (b) those who inherit through the right of representation.[44] The Court's misconception in *Diaz* lies in its unfortunate failure to recognize this dichotomy in intestate succession. As evoked by the explicit wording of Articles 982 and 992 of the Civil Code, Article 992 speaks of intestate succession in general (i.e., "[a]n illegitimate child has no right to inherit ab intestato"); whereas Article 982 specifically pertains to intestate succession through the right of representation (i.e., "[t]he grandchildren and other descendants shall inherit by right of representation"). Thus, pursuant to the statutory construction axiom of *lex specialis derogat generali*,^[45] the general rule found in Article 992 should give way to the special rule laid down in Article 982. Also, as mentioned, this reading of the law is consistent with the intent of the Code Commission. Unfortunately, the Court, in *Diaz*, committed a misstep by having it the other way around. Article 982 entitles "grandchildren and other descendants" to succession through the right of representation, without distinguishing between the legitimate and illegitimate lines. Therefore, applying the principle of *ubi lex non distinguit nec nos distinguere debemus*,^[46] the right of representation of the aforesaid heirs must be recognized, regardless of their legitimacy or illegitimacy.

Accordingly, the controlling interpretation should henceforth be that: when it specifically comes to intestate succession by right of representation, Article 982 – which does not distinguish between legitimate or illegitimate lines – should apply; while, on the other hand, when it comes to intestate succession not by right of representation, but by one's own right, the general provision of Article 992 should apply. Consequently, the "Iron Curtain Rule" only persists when one inherits in one's own right.

Aside from applying construction principles, there are likewise substantive considerations supporting the afore-stated position.

Case law describes the right of representation as a method of inheriting whereby the representative, by operation of law, steps into the shoes of a closer blood relative of the decedent:

By right of representation, a more distant blood relative of a decedent is, by operation of law, "raised to the same place and degree" of relationship as that of a closer blood relative of the same decedent. The representative thereby steps into the shoes of the person he represents and succeeds, not from the latter, but from the person to whose estate the person represented would have succeeded.[47] (Emphases and underscoring supplied)

The right of representation under Article 982 distinctly applies in a situation wherein the person represented is a predeceased child – and hence, a compulsory heir^[48] – of the decedent. Under the law on succession, compulsory heirs occupy a "sacred" position, such that the law not only reserves certain portions of the decedent's estate to them (called the legitime), but also provides for remedies should any of them be deprived thereof. Thus, Article 982 actually protects the represented-compulsory heir's legitime by allowing his/her children, regardless of legitimacy or illegitimacy, to receive the same on behalf of the former. To deny his/her children the right of representation just because they are illegitimate would effectively result in the impairment of the represented-compulsory heir's legitime.

On a fairness standpoint, the Code Commission recognized that an illegitimate descendant's right to represent under Article 982 is reading "justice and equity" into the gaps of the law. An illegitimate grandchild, for instance, is after all, the son/daughter of a compulsory heir of the decedent; this compulsory heir should have received his/her share in the estate were it not for the fact that he/she predeceased the decedent. Therefore, as a matter of justice and equity, it is but fair for the compulsory heir's share to pass on to his/her child, regardless of the latter's illegitimate status. Otherwise, the compulsory heir's legitime from his/her predeceased father/mother would be impaired. Verily, irrespective of the legitimate relatives' presumed hate or antagonism against the illegitimate grandchild or descendant, the Code Commission's recognition of the illegitimate's right of representation under Article 982 is not about the acrimonious relationship between the two; but rather, it is about interpreting the law in a just and equitable way by preserving the share of the compulsory heir insofar as it allows for the said share to pass on to the person such compulsory heir is presumed to love the most, his/her own child.

In light of the foregoing, the "Iron Curtain Rule" under Article 992 of the Civil Code has no application when he/she stands to succeed in representation of a compulsory heir. When one inherits by right of representation, Article 982 – which does not provide for any prohibitory distinction between the legitimate and illegitimate lines – specifically governs. Conversely, by logical inverse, the "Iron Curtain Rule" only applies when the illegitimate descendant stands to succeed in his/her own right.

Notably, it is acknowledged that there are reasoned sentiments expressing that the policy considerations behind Article 992 are already passé – and in fact, might even be unfair – based on modern day society values. As captured in Justice Gutierrez' dissent in *Diaz*, the presumed antagonism between legitimates and illegimates based on the outdated policy exported from the Spanish Civil Code does not exist anymore. In *Diaz*, Justice Gutierrez opined:

Unless the opposite is proved, I will always presume that a grand [parent] loves [his/her] grandchildren [whether legitimate or illegitimate]. The grand[parent] may be angry at the indiscretions of [his/her child] but why should the law include the innocent grandchildren as objects of that anger.^[49]

Nevertheless, pursuant to Article 982 of the Civil Code, the only statutory basis allowing inheritance between legitimate and illegitimate relatives is restricted to the right of representation. However, insofar as inheriting by one's own right, Article 992 subsists as the legal iron curtain preventing succession between the two.

By the bedrock principle of separation of powers, the Court's main function is to interpret and not to make laws. While there is clear legal basis to now qualify *Diaz*'s overly expansive interpretation of Article 992 in that the same should not cover inheriting through representation, there is, however, no clear legal basis to interpret that Article 992 only applies to collaterals as Justice Gutierrez equally argues:

My dissent from the majority opinion is also premised on a firm belief that law is based on considerations of justice. The law should be interpreted to accord with what appears right and just. Unless the opposite is proved, I will always presume that a grandmother loves her grandchildren – legitimate or illegitimate – more than the

second cousins of said grandchildren or the parents of said cousins. The grandmother may be angry at the indiscretions of her son but why should the law include the innocent grandchildren as objects of that anger. "Relatives" can only refer to collateral relatives, to members of a separate group of kins but not to one's own grandparents.[50] (Emphasis supplied)

Disconcerting as it may seem, any perceived unfairness or insufficiency in our succession laws is not a license for the courts to engage injudicial legislation.[51] In resolving controversies, it is the Court's bounden duty to apply or interpret the law in accordance with the intent of the legislature. It is not within the Court's power to enlarge or abridge laws, else it will be guilty of usurping the prerogative of legislature. In one of the excerpts cited in Diaz, Justice Reyes ruminated that while the divide created by Article 992 of the Civil Code seems to be indefensible and unwarranted, the solution is in the future revision of the law.[52] Thus, up until Article 992 is completely amended by Congress through remedial legislation, the "Iron Curtain Rule," prohibiting illegitimates and legitimates from inheriting in their own respective rights from one another, remains good law and must be respected by the Court – but its application should be duly limited to the instances as above-described.

Consequently, as applied in this case, should Angela establish her status as Miguel's illegitimate granddaughter through clear and convincing evidence upon this case's remand to the court a quo, she should then be allowed to participate in the distribution of said decedent's estate. Article 992 would not apply since Angela – once proven to be filiated – stands to inherit by right of representation, and not in her own right. To repeat, when one is called to the succession by right of representation, Article 982 – which does not distinguish between legitimate or illegitimate lines – should apply; on the other hand, when one is called to the succession by his/her own right, the general prohibition under Article 992 applies. Simply stated, the "Iron Curtain Rule" only persists when one inherits in one's own right. Accordingly, Diaz and cases of similar import should be henceforth abandoned.

In fine, for the reasons herein explained, I vote to: (a) PARTIALLY GRANT petitioner Amadea Angela K. Aquino's Motion for Reconsideration in G.R. No. 208912, and accordingly REVERSE and SET ASIDE the Decision dated January 21, 2013 and the Resolution dated July 24, 2013 of the Court of Appeals in CA-G.R. CV No. 01633; and (b) REMAND the case to the court of origin for further proceedings, taking into particular consideration the Court's new interpretation of Article 992 vis-à-vis Article 982 of the Civil Code of the Philippines, and the abandonment of the Diaz doctrine.

[1] See ponencia, p. 3.

[2] See id. at 3-4.

[3] See id. at 4.

[4] See id. at 4-5.

[5] See id. at 5.

[6] See id. at 6.

[7] Article 992. An illegitimate child has no right to inherit ab intestato from the legitimate children and relatives of his father or mother; nor shall such children or relatives inherit in the same manner from the illegitimate child.

[8] See ponencia, pp. 6-7.

[9] See id. at 7.

[10] See id. at 8.

[11] See *id.* at 9-10.

[12] See *id.* at 10-13.

[13] See *id.* at 10-11.

[14] See *id.* at 11-12.

[15] 261 Phil. 542 (1990).

[16] Article 285. The action for the recognition of natural children may be brought only during the lifetime of the presumed parents, except in the following cases:

- (1) If the father or mother died during the minority of the child, in which case the latter may file the action before the expiration of four years from the attainment of his majority;
- (2) If after the death of the father or of the mother a document should appear of which nothing had been heard and in which either or both parents recognize the child.

In this case, the action must be commenced within four years from the finding of the document.

[17] The provisions on recognition of natural children, i.e., Articles 276 to 286, are found under Chapter 4, Title VIII, Book I of the Civil Code which talks about filiation of illegitimate children. Hence, natural children is a specific classification of illegitimate children (the other classification is called spurious children). (See *De Santos v. Angeles*, 321 Phil. 562, 576 [1995].)

[18] See Article 402 of the Civil Code.

[19] See ponencia, pp. 35-37.

[20] See *id.* at 37.

[21] Article 283. In any of the following cases, the father is obliged to recognize the child as his natural child:

- (1) In cases of rape, abduction or seduction, when the period of the offense coincides more or less with that of the conception;
- (2) When the child is in continuous possession of status of a child of the alleged father by the direct acts of the latter or of his family;
- (3) When the child was conceived during the time when the mother cohabited with the supposed father;
- (4) When the child has in his favor any evidence or proof that the defendant is his father.

[22] Rollo (G.R. No. 208912), pp. 89-96.

[23] As correctly pointed out by Justice Alfredo Benjamin S. Caguioa during the deliberations of this case, the issue of Angela's filiation may be resolved in the same proceeding for the settlement of Miguel's estate. (See *Abella v. Cabañero*, 816 Phil. 466, 478-480 [2017]; and *Briz v. Briz*, 43 Phil. 763, 769 [1922].)

[24] See rollo (G.R. No. 208912), pp. 90-91.

[25] *Id.* at 97-100.

[26] See Opposition to Claimant's Motion to Be Included in the Distribution and Partition of the Estate dated November 12, 2003; *id.* at 101-107.

[27] See *id.* at 103-105.

[28] *Id.* at 60-65.

[29] *Id.* at 497. Signed by Branch Clerk of Court Jocelyn M. Alibang-Salud.

[30] See Section 3 (c), Rule 1 of the Rules of Court.

[31] See *De Pedro v. Romasan Development Corporation*, 748 Phil. 706, 725 (2014).

[32] See Section 3 (c), Rule 1 of the Rules of Court.

[33] See *Baluyut v. Baluyut*, 264 Phil. 904, 912 (1990).

[34] See *Perla v. Baring*, 698 Phil. 323, 333 (2012); *Cabatania v. CA*, 484 Phil. 42, 50 (2004); and *Constantino v. Mendez*, 284-A Phil. 442, 448-449 (1992).

[35] *The Insular Life Assurance Co., Ltd. v. Heirs of Jose H. Alvarez*, G.R. No. 207526, October 3, 2018, 881 SCRA 516, 545, citing *Spouses Manalo v. Roldan-Confesor*, 290 Phil. 311, 323 (1992). See also *Fortun v. Macapagal-Arroyo*, 684 Phil. 526, 596 (2012).

[36] See Article 2035 (1) of the Civil Code.

[37] *Diaz*, supra note 15, at 549, citing 7 *Manresa* 110, cited in *Grey v. Fabie*, 40 OG (First S) No. 3, p. 196.

[38] *Id.* at 549-551, citing *Reflections on the Reform of Hereditary Succession*, *Journal of the Integrated Bar of the Philippines*, First Quarter, 1976, Volume 4, Number 1, pp. 40-41.

[39] *Id.* at 548-549, citing *Amicus Curiae's Opinion* by former Justice Minister Ricardo C. Puno, p. 12.

[40] *Id.* at 548.

[41] *Id.*

[42] See *Opinion of Amicus Curiae Cynthia Roxas-Del Castillo*; rollo (G.R. No. 208912), pp. 844-869.

[43] *Id.* at 855-856, citing *Memorandum to the Joint Congressional Committee on Codification* dated February 22, 1951.

[44] See *Intestate Estate of Petra V. Rosales v. Rosales*, 232 Phil. 73, 76 (1987), citing III Tolentino, *Commentaries and Jurisprudence on the Civil Code of the Philippines* 461, 1979 ed. See also Articles 970 and 971 of the Civil Code which respectively read:

Article 970. Representation is a right created by fiction of law, by virtue of which the representative is raised to the place and the degree of the person represented, and acquires the rights which the latter would have if he were living or if he could have inherited.

Article 971. The representative is called to the succession by the law and not by the person represented. The representative does not succeed the person represented but the one whom the person represented would have succeeded.

[45] "General legislation must give way to special legislation on the same subject, and generally is so interpreted as to embrace only cases in which the special provisions are not applicable. In other words, where two statutes are of equal theoretical application to a particular case, the one specially designed therefore should prevail." (*Department of Health v. Philip Morris Philippines Manufacturing, Inc.*, 757 Phil. 212, 227 [2015], citing *Nieves v. Duldulao*, 731 Phil. 189, 201 [2014].)

[46] "Where the law does not distinguish, neither should we." (*Spouses Plopenio v. Department of Agrarian Reform*, 690 Phil. 126, 132 [2012].)

[47] *Bagunu v. Piedad*, 400 Phil. 1380, 1385 (2000).

[48] See Article 887 of the Civil Code.

[49] See Justice Gutierrez' Dissenting Opinion in Diaz, *supra* note 15, at 555.

[50] *Id.*; emphasis supplied.

[51] See *Silverio v. Republic*, 562 Phil. 953, 973 (2007).

[52] See Diaz, *supra* note 15, at 551, citing *Reflections on the Reform of Hereditary Succession*, *Journal of the Integrated Bar of the Philippines*, First Quarter, 1976, Volume 4, Number 1, pp. 40-41.

CONCURRING AND DISSENTING OPINION

CAGUIOA, J.:

The ponencia grants, in part, the Motion for Reconsideration filed by petitioner Amadea Angela K. Aquino (Amadea) in G.R. No. 208912.

Foremost, the ponencia finds that Article 992 of the Civil Code should be accorded an interpretation that qualifies children, regardless of the circumstances of their births, to inherit from their direct ascendants by right of representation.^[1] As a consequence, the ponencia further holds that when illegitimate children seek to represent their deceased parent in their grandparent's estate, Article 982 of the Civil Code should apply.^[2]

Nevertheless, after much deliberation, the ponencia now orders the remand of the case to the court of origin "for resolution, within 90 days of receipt of this Decision, of the issues of [Amadea's] filiation x x x and entitlement to a share in the estate of Miguel T. Aquino [(Miguel)]"^[3] in accordance with the aforesaid reformulated interpretation of Article 992. This directive is prompted by the recognition that these factual matters have yet to be threshed out through a full-blown hearing.

The dispositive portion of the ponencia thus reads:

WHEREFORE, Amadea Angela K. Aquino's Motion for Reconsideration in G.R. No. 208912 is PARTIALLY GRANTED. The January 21, 2013 Decision of the Court of Appeals in CA-G.R. CV No. 01633 is REVERSED and SET ASIDE.

The cases are REMANDED to the Regional Trial Court of origin for resolution, within 90 days of receipt of this Decision, of the issues of Amadea Angela K. Aquino's filiation—including the reception of DNA evidence upon consultation and coordination with experts in the field of DNA analysis—and entitlement to a share in the estate of Miguel T. Aquino, in accordance with this Decision and the re-interpretation of Article 992 of the Civil Code.^[4] (Emphasis in the original)

I concur with the ponencia insofar as it orders the remand of the case for reception of evidence. This is the position I have constantly and consistently adopted throughout the course of deliberations that followed the conduct of the oral arguments.

I find that the reception of evidence is necessary to determine: (i) the veracity of Amadea's factual allegations; (ii) the veracity of the defenses of respondents Rodolfo C. Aquino (Rodolfo) and Abdulah C. Aquino (Abdulah); (iii) the evidentiary value of the Certificate of Live Birth indicating that Amadea is the illegitimate daughter of one Enrique A. Ho; and (iv) such other facts as the said court may determine to be relevant in the resolution of the pending "Motion to be Included in the Distribution and Partition of Estate"^[5] (Motion for Inclusion).

However, consistent with my stand articulated in many of the deliberations had in this case, I strongly dissent

insofar as the ponencia reinterprets Article 992 notwithstanding the absence of the facts and evidence needed to be threshed out which is precisely the basis for the remand. In my view, this reinterpretation is completely unwarranted as it clearly overlooks a factual matter which remains in dispute — Amadea's filiation to her alleged father Arturo C. Aquino (Aquino), the son of herein decedent Miguel.

Proceeding therefrom, I also dissent insofar as the ponencia directs the court of origin to resolve the case "in accordance with this Decision and the re-interpretation of Article 992 of the Civil Code." [6] The very need to remand the case contradicts the existence of the necessary factual basis to justify such reinterpretation, and completely belies the propriety of directing the lower court to dispose of the present case in accordance therewith.

Based on an examination of the records of the case, and with due regard to the significant matters that have come to fore during the oral arguments, I submit anew that a reexamination of the prevailing interpretation of Article 992 is unwarranted for the simple reason that Amadea has failed to prove her filiation by sufficient evidence. To my mind, this failure is fatal to Amadea's cause since her filiation to Arturo must necessarily be established before any deliberation on her successional rights as the latter's purported illegitimate child may even be had.

Procedural concerns

Before I delve into the substantive issues, I point out two preliminary matters which I believe should properly frame the Court's approach towards the resolution of the issues presented.

First. The constitutionality of Article 992 of the Civil Code was not raised by the parties.

The ponencia posits that a constitutional question may be resolved by this Court even if such a question was not raised at all, let alone raised in the proper forum. [7] However, jurisprudence teaches that ordinarily, the Court will not touch on the issue of unconstitutionality unless it is the very *lis mota* of the case. [8] It is a well-established rule that a court should not pass upon a constitutional question and decide a law to be unconstitutional or invalid, unless such question is raised by the parties. [9]

The ponencia recognizes that the instant controversy may be resolved without passing upon the constitutionality of Article 992. [10] This recognition, in itself, is more than sufficient basis for the Court to sidestep any ruling on the constitutionality of Article 992, since it is equally settled that if a constitutional question is raised, and if the records of the case also present some other ground upon which the court may rest its judgment, the case should be resolved on that other ground, and the constitutional question will be left for consideration only when such question becomes unavoidable. [11]

Hence, the Court is called upon here to exercise judicial restraint in approaching Article 992 of the Civil Code with the aim of weighing in on the statute's constitutionality. More so in this case since the issues may be resolved without going into the provision's constitutionality. Indeed, as will be discussed in greater detail, there are threshold issues, evidentiary in nature, that need to be resolved before the Court can even begin reshaping the contours of Article 992 of the Civil Code.

Second. The rights invoked 'by the parties in this case and the concomitant reliefs that the Court may afford such parties are all granted, defined, and limited by existing legislation — that is, the parties' successional rights under the Civil Code, as amended by the Family Code of the Philippines.

The ponencia steers its reading of Article 992 of the Civil Code, guided heavily by the oars of international instruments to which the Philippines is a state party, and fueled by the perceived inequity suffered by illegitimate children by virtue of the statute's application. With all due respect, I totally disagree with this approach as it drifts dangerously towards judicial legislation.

Indeed, the Philippines is a state party to the United Nations Convention on the Rights of the Child (UNCRC) which the country signed on January 26, 1990 and ratified shortly thereafter on August 21, 1990. By the general principle of international law *pacta sunt servanda*,^[12] the Philippines is bound by the international community to place primacy in the best interests of the child in all actions concerning them.^[13]

The Philippines' treaty obligations under the UNCRC notwithstanding, this does not give the Court *carte blanche* license to strike down, amend, or reinterpret an otherwise clear-cut municipal law concerning successional rights of persons. To be sure, I do not espouse the dilution of international obligations in the domestic context. However, I find that the remedy for a perceived conflict between international obligations and municipal law on succession does not lie with the courts. Verily, the Philippines' adherence to its treaty and convention obligations does not, *per se*, bring about the duty to cause a negation of its municipal law.

Section 2, Article II of the 1987 Constitution encapsulates the Philippines' adherence to the doctrine of incorporation. It reads:

SECTION 2. The Philippines renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of the law of the land and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations. (Emphasis supplied)

In the case of *Philip Morris, Inc. v. Court of Appeals*,^[14] the Court expounded on the implication of the doctrine of incorporation, and the interplay between treaties and municipal law, thus:

x x x Withal, the fact that international law has been made part of the law of the land does not by any means imply the primacy of international law over national law in the municipal sphere. Under the doctrine of incorporation as applied in most countries, rules of international law are given a standing equal, not superior, to national legislative enactments. x x x^[15]

By Constitutional fiat,^[16] the Philippines subscribes to the dualistic framework in the determination of the status and importance given to international instruments vis-à-vis municipal law as two distinct systems of law. International law and municipal law are based on different jurisdictions, enforcement mechanisms, and operate on different subjects.^[17] As international law mainly governs relationships between sovereigns, domestic law governs the rights and obligations of individuals within a sovereign state.^[18]

Highlighting the fact that treaty obligations and municipal law operate in distinct spheres of legal systems, the Vienna Convention on the Law of Treaties provides that a state party may not invoke its municipal law as justification for any breach thereof.^[19] International law thus holds the state party accountable through the relevant mechanisms enforcing state responsibility. Nevertheless, it does not go so far as calling for the nullification or modification of the municipal law to conform to the treaty obligation.^[20]

Each state party is given enough agency duly respecting its sovereignty to determine the manner in which it complies with its treaty obligations in the domestic sphere.^[21] As such, it is common for States to enact necessary legislation or amend existing ones to comply with their treaty obligations. In the *Exchange of Greek and Turkish Populations Case*,^[22] the then Permanent Court of International Justice made a pronouncement that a State which has contracted valid international obligations is bound to make in its national legislation such modifications as may be necessary. In our jurisdiction, for example, the Legislature enacted Republic Act No. (RA) 9262 or the "Anti-Violence Against Women and Their Children Act of 2004" primarily in recognition of the country's obligations under the Convention on the Elimination of all Forms of Discrimination Against Women.^[23]

However, in situations where there is an irreconcilable conflict between international law and municipal law as it

is written, municipal law takes precedence. As explained by the Court in *Secretary of Justice v. Lantion*:^[24]

x x x Under the doctrine of incorporation, rules of international law form part of the law of the land and no further legislative action is needed to make such rules applicable in the domestic sphere (*Salonga & Yap*, *Public International Law*, 1992 ed., p. 12).

The doctrine of incorporation is applied whenever municipal tribunals (or local courts) are confronted with situations in which there appears to be a conflict between a rule of international law and the provisions of the constitution or statute of the local state. Efforts should first be exerted to harmonize them, so as to give effect to both since it is to be presumed that municipal law was enacted with proper regard for the generally accepted principles of international law in observance of the Incorporation Clause in the above-cited constitutional provision (*Cruz*, *Philippine Political Law*, 1996 ed., p. 55). In a situation, however, where the conflict is irreconcilable and a choice has to be made between a rule of international law and municipal law, jurisprudence dictates that municipal law should be upheld by the municipal courts (*Ichong vs. Hernandez*, 101 Phil. 1155 [1957]; *Gonzales vs. Hechanova*, 9 SCRA 230 [1963]; *In re: Garcia*, 2 SCRA 984 [1961]) for the reason that such courts are organs of municipal law and are accordingly bound by it in all circumstances (*Salonga & Yap*, op. cit., p. 13). x x x^[25] (Emphasis supplied)

In *Ichong v. Hernandez*,^[26] the Court further clarified that the provisions of a treaty are always subject to qualification or amendment by a subsequent law, or subject to the police power of the State.^[27] Similarly, in *Gonzales v. Hechanova*,^[28] the Court reaffirmed the primacy of the 1987 Constitution and the possibility of invalidating a treaty that runs counter to an act of Congress:

As regards the question whether an international agreement may be invalidated by our courts, suffice it to say that the Constitution of the Philippines has clearly settled it in the affirmative, by providing, in Section 2 of Article VIII thereof, that the Supreme Court may not be deprived "of its jurisdiction to review, revise, reverse, modify, or affirm on appeal, certiorari, or writ of error as the law or the rules of court may provide, final judgments and decrees of inferior courts in—(1) All cases in which the constitutionality or validity of any treaty, law, ordinance, or executive order or regulation is in question". In other words, our Constitution authorizes the nullification of a treaty, not only when it conflicts with the fundamental law, but, also, when it runs counter to an act of Congress.^[29] (*Italics in the original*)

From the foregoing, it is abundantly clear that the lay of the international and municipal legal regimes is so arranged that the enforcement of international obligations within the domestic sphere does not lie with the courts of law but through Executive policy or the exercise of the plenary law-making powers of the Legislature. The Court is therefore minded not to overstep the bounds of propriety and encroach upon what properly belongs to a co-equal branch of government.

The ponencia exclaims that the reinterpretation of Article 992 only serves to recognize the principles that have already formed part of our legal system through "our Constitution, our laws, and our voluntary commitment to our treaty obligations"^[30] which "extend special protection to children, in equal measure and without any qualifications."^[31] Regrettably, however, I fail to see how the adoption of the principles extending special protection to children can be perceived as sufficient justification to recast Article 992 by way of judicial legislation.

A Decision that allows the Court to recast Article 992 in line with the Philippines' international obligations to give equal legal treatment to all children without any qualifications sets a dangerous precedent. It opens an avenue for the Court to cause the wholesale eradication of the statutory distinctions between legitimate and illegitimate children which, at present, remains firmly sown into the foundations of Philippine Civil Law. It is to permit an overhaul of the Civil Code and Family Code by judicial fiat in the guise of harmonization, and needless to say, the Court is not prepared nor empowered to undertake such.

I understand all too well the temptation to solve all perceived societal ills which may have been exacerbated by lacunae in the law or simply by the slow pace of meeting the State's international obligations and transforming them into domestic legislation. Noble as such a crusade may seem, it is a burden that the Court cannot and should not carry on its own due to the limitations that the Constitution has placed on the scope of its judicial authority.

I now proceed to the center of the ponencia's discussion — Article 992 of the Civil Code.

Prior determination of Amadea's

filiation is an indispensable

requirement for the judicial review of

Article 992

The ponencia's resolve to revisit the prevailing interpretation of Article 992 despite its recognition of the need to thresh out evidentiary matters rests heavily on the perceived need to afford Amadea the ultimate relief she seeks in the event she is able to establish her filiation in accordance with prevailing law.[32] According to the ponencia, it is in the greater interest of judicial economy and effective administration of justice to rule upon Article 992 at this juncture, rather than at some indefinite future.[33]

Again, I disagree.

Amadea's prayer is anchored on the alleged existence of her right to represent her putative father Arturo in the estate of her alleged grandfather, Miguel. Clearly, without proof of filiation, Amadea's invocation of her alleged right of representation and her challenge against the prevailing interpretation of Article 992 stand on nothing but hypothetical facts.

To simply say that a restraint in a revisit of Article 992 only means protracted litigation[34] is to wholly overlook the requisites for judicial review which include (i) an actual case or controversy; (ii) legal standing; (iii) the earliest raising of the constitutional question; and (iv) the constitutionality as the very *lis mota* of the case.[35]

As the learned ponente himself spoke for the Court En Banc in the case of *In the Matter of: Save the Supreme Court Judicial Independence and Fiscal Autonomy Movement v. Abolition of Judiciary Development Fund (JDF) and Reduction of Fiscal Autonomy*,[36] the power of judicial review, like all powers granted by the Constitution, is subject to limitations, and a party who goes before the Court to question the constitutionality of a law must comply with all four requisites of judicial review, or invite an outright dismissal of the action.[37] The Court's ruling in *Provincial Bus Operators Association of the Philippines (PBOAP) v. Department of Labor and Employment (DOLE)*[38] lends guidance:

No less than the Constitution in Article VIII, Section 1 requires an actual controversy for the exercise of judicial power:

Section 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government. x x x

As a rule, "the constitutionality of a statute will be passed on only if, and to the extent that, it is directly and necessarily involved in a justiciable controversy and is essential to the protection of the rights of the parties concerned." A controversy is said to be justiciable if: first, there is an actual case or controversy involving legal

rights that are capable of judicial determination; second, the parties raising the issue must have standing or locus standi to raise the constitutional issue; third, the constitutionality must be raised at the earliest opportunity; and fourth, resolving the constitutionality must be essential to the disposition of the case.

An actual case or controversy is "one which involves a conflict of legal rights, an assertion of opposite legal claims susceptible of judicial resolution." A case is justiciable if the issues presented are "definite and concrete, touching on the legal relations of parties having adverse legal interests." The conflict must be ripe for judicial determination, not conjectural or anticipatory; otherwise, this Court's decision will amount to an advisory opinion concerning legislative or executive action. x x x

x x x x

Even the expanded jurisdiction of this Court under Article VIII, Section 1 does not provide license to provide advisory opinions. An advisory opinion is one where the factual setting is conjectural or hypothetical. In such cases, the conflict will not have sufficient concreteness or adversariness so as to constrain the discretion of this Court. After all, legal arguments from concretely lived facts are chosen narrowly by the parties. Those who bring theoretical cases will have no such limits. They can argue up to the level of absurdity. They will bind the future parties who may have more motives to choose specific legal arguments. In other words, for there to be a real conflict between the parties, there must exist actual facts from which courts can properly determine whether there has been a breach of constitutional text.[39] (*Italics and underscoring in the original*)

While the requirement of an actual case or controversy is often passed upon in relation to the Court's expanded jurisdiction to determine the existence of grave abuse "on the part of any branch or instrumentality of the Government" particularly in cases involving issues of constitutionality,[40] the existence of an actual case or controversy remains a requisite for the exercise of judicial power even in its traditional sense. Thus:

Basic in the exercise of judicial power — whether under the traditional or in the expanded setting — is the presence of an actual case or controversy. For a dispute to be justiciable, a legally demandable and enforceable right must exist as basis, and must be shown to have been violated.[41] (*Emphasis supplied*)

Hence, as appropriately observed by Chief Justice Alexander G. Gesmundo and Associate Justice Japar B. Dimaampao, the present case fails to present an actual case or controversy so as to justify the exercise of the Court's power of review with respect to the interpretation of Article 992. Without a prior determination of Amadea's filiation, any deliberation on Article 992 will be no more than an advisory opinion, at once premature and unwarranted, because the established facts do not bear out the need to revisit the provision.

Too, any reinterpretation of Article 992 at this stage would constitute an obiter dictum, being merely incidental to the resolution of the consolidated petitions.

In *Dee v. Harvest All Investment Limited*,[42] the Court reiterated the legal effects of an obiter dictum, thus:

[An obiter dictum] "x x x is a remark made, or opinion expressed, by a judge, in his decision upon a cause by the way, that is, incidentally or collaterally, and not directly upon the question before him, or upon a point not necessarily involved in the determination of the cause, or introduced by way of illustration, or analogy or argument. It does not embody the resolution or determination of the court, and is made without argument, or full consideration of the point. It lacks the force of an adjudication, being a mere expression of an opinion with no binding force for purposes of res judicata." x x x[43] (*Emphasis and underscoring omitted*)

Moreover, the consolidated petitions stem from the proceeding for the settlement of Miguel's estate. Generally, proceedings involving the settlement of estate of deceased persons are governed by the rules on special proceedings. Nevertheless, in the absence of special provisions, the rules for ordinary actions, as far as

practicable, also apply.[44]

On this score, it bears recalling that in her Motion for Inclusion filed in the proceeding for the settlement of Miguel's estate, Amadea prays for: (i) her recognition as the illegitimate child of Arturo; and (ii) her participation in Miguel's estate as the latter's grandchild via right of representation. In so doing, Amadea attempts to assert a cause of action against Miguel's estate, as her claims proceed from an alleged deprivation of her right to participate therein.[45]

It is well established that a cause of action has three elements, namely: (i) a right in favor of the plaintiff by whatever means and under whatever law it arises or is created; (ii) an obligation on the part of the named defendant to respect or not to violate such right; and (iii) an act or omission on the part of such defendant violative of the right of the plaintiff or constituting a breach of the obligation of the defendant to the plaintiff. It is only when the last element occurs or takes place that it can be said in law that a cause of action has arisen.[46]

Here, the ponencia does not dispute, and in fact recognizes, that the remand of the case is necessary to thresh out evidentiary matters with respect to the issue of Amadea's filiation. It is therefore clear that Amadea has not been able to as yet assert an unequivocal right in her favor, as she has yet to establish the factual basis of her alleged right to participate in Miguel's estate, that is, her filiation. The absence of an unequivocal right entails the absence of a concomitant obligation that may be subject of breach. Evidently, all three elements of a cause of action are wanting in this case.

Hence, before the Court can even consider whether Amadea may, in the face of Article 992, inherit from Miguel as the alleged illegitimate daughter of the latter's legitimate son Arturo, it must first be established whether or not, in the first place, Amadea is, in fact, the illegitimate daughter of Arturo.

In this regard, I find that the only question that the Court should resolve at this juncture is whether or not Amadea has established her filiation in accordance with prevailing law. As stated at the outset, I submit that she has not.

A preliminary discussion of the relevant legal concepts is in order.

Succession of illegitimate children

under the Civil Code

Article 887 of the Civil Code enumerates those who succeed as compulsory heirs. It states:

ART. 887. The following are compulsory heirs:

- (1) Legitimate children and descendants, with respect to their legitimate parents and ascendants;
- (2) In default of the foregoing, legitimate parents and ascendants, with respect to their legitimate children and descendants;
- (3) The widow or widower;
- (4) Acknowledged natural children, and natural children by legal fiction;
- (5) Other illegitimate children referred to in Article 287.

Compulsory heirs mentioned in Nos. 3, 4 and 5 are not excluded by those in Nos. 1 and 2; neither do they exclude one another.

In all cases of illegitimate children, their filiation must be duly proved.

The father or mother of illegitimate children of the three classes mentioned, shall inherit from them in the

manner and to the extent established by this Code. (Emphasis and underscoring supplied)

Acknowledged natural children, natural children by legal fiction, and spurious children under Article 287 all have the right to succeed as compulsory heirs under Article 887 of the Civil Code. Nevertheless, this right to succeed as compulsory heirs is subject to the requirement that their filiation be duly proved.

The successional rights of illegitimate children as legal or intestate heirs are circumscribed in a separate Subsection 3 on Illegitimate Children, consisting of Articles 988 to 994, and in Article 983 of the Civil Code. In addition, the right of representation of illegitimate children is provided in Articles 902 and 990. As to their share in the legitime, Articles 895, 896, 899, 901, and 903 govern. Article 176 of the Family Code now provides that the legitime of each illegitimate child shall consist of one-half of the legitime of a legitimate child. When they concur with the surviving spouse, they share in intestate succession pursuant to Articles 998 and 999. Thus, in addition to the requirement that their filiation must be duly proved under Article 887, they can only inherit strictly under the above-referred provisions.

In turn, the Civil Code provides two ways through which the filiation of illegitimate children may be proved — voluntary recognition and compulsory recognition.

Voluntary recognition is the admission of the fact of paternity or maternity done by either parent in "the record of birth, a will, a statement before a court of record, or in any authentic writing." [47]

In the absence of voluntary recognition, an illegitimate child may prove his or her filiation by seeking compulsory recognition through an action for recognition under Article 285 (in case of natural children) or through an action for investigation of paternity or maternity under Article 289 (in case of spurious children).

In *Barles v. Ponce Enrile* [48] (Barles), the Court En Banc summarized the actions through which illegitimate children may seek compulsory recognition under the Civil Code, the prescriptive periods applicable, and the grounds which may be invoked for the purpose, thus:

x x x Plaintiffs, who are admittedly illegitimate (spurious) children, seek mainly to establish in their complaint their filiation or paternity with the defendant, aware as they must be that in the absence of a competent voluntary recognition on the part of the defendant, their alleged father, they cannot be entitled to successional rights unless their filiation is judicially decreed. Their action is authorized under Article 289 of the new Civil Code which permits the investigation of the paternity of illegitimate (spurious) children under the circumstances specified in Articles 283 and 284 of the same Code. The Code nowhere specifies the period within which the action to investigate spurious paternity should be brought. It will be observed, however, that such action is similar to the action for compulsory recognition of natural children which, under Article 285 of the new Civil Code, may be brought only during the lifetime of the presumed parents, except (1) where the parent has died during the minority of the child, in which case the later may file the action within four years from the attainment of his majority, or (2) when a hitherto unknown document of recognition is discovered after the parent's death, in which case the action must be commenced within four years from such discovery. Both are actions whereby the child may prove that the defendant is in fact the father or mother of the plaintiff, notwithstanding the refusal of the parent to admit the generative link. The grounds upon which either action must be premised are the same, i.e., those specified in Articles 283 and 284 of the new Civil Code. And as a matter of fact, both spurious and natural children are the offspring of illicit relations and for this reason it is but just that the investigation of parental relation should take place during the lifetime of the putative parent; for only the parent is in a position to reveal the true facts surrounding the claimant's conception. Logically, therefore, the same time limitation, in the absence of an express legal provision to the contrary, should apply to both actions. x x x [49] (Emphasis supplied)

In its subsequent Resolution resolving the appellants' Motion for Reconsideration, the Court En Banc reiterated:

We declared in the decision sought to be reconsidered that plaintiffs action, authorized under Article 289 of the new Civil Code which permits the investigation of the paternity of illegitimate (spurious) children under the circumstances therein mentioned, is similar to the action for the recognition of natural children under Article 285 of the same Code, which provides that such action may be brought during the lifetime of the presumed parents unless the case falls within the exceptions therein specified allowing the filing of the action even after death of the alleged parent. Owing to this similarity, we ruled that the same time limitation should apply to both actions, in the absence of express legal provision to the contrary. x x x[50] (Emphasis and underscoring supplied)

In sum Barles teaches that in the absence of voluntary recognition, illegitimate children cannot succeed "unless their filiation is judicially decreed." [51] Barles further emphasizes that while the nomenclature [52] of the actions through which natural and spurious children may seek compulsory recognition are different, the grounds upon which these actions may be based are the same. These grounds are those set forth under Articles 283 and 284 of the Civil Code, thus:

ART. 283. In any of the following cases, the father is obliged to recognize the child as his natural child:

- (1) In cases of rape, abduction or seduction, when the period of the offense coincides more or less with that of the conception;
- (2) When the child is in continuous possession of status of a child of the alleged father by the direct acts of the latter or of his family;
- (3) When the child was conceived during the time when the mother cohabited with the supposed father;
- (4) When the child has in his favor any evidence or proof that the defendant is his father.

ART. 284. The mother is obliged to recognize her natural child:

- (1) In any of the cases referred to in the preceding article, as between the child and the mother;
- (2) When the birth and the identity of the child are clearly proved.

In turn, the natural child's action for compulsory recognition and the spurious child's action for investigation of paternity or maternity must, as a general rule, be filed within the lifetime of the alleged parent, except: (i) where the parent has died during the minority of the child, in which case the latter may file the action within four years from the attainment of his or her majority, or (ii) when a hitherto unknown document of recognition is discovered after the parent's death, in which case the action must be commenced within four years from such discovery.

Succession of illegitimate children under the Family Code

With the enactment of the Family Code, the classifications of illegitimate children under the Civil Code were eliminated. Thus, the term "illegitimate children" under the Family Code refers to all children conceived out of wedlock. This change had the effect of equalizing the legitime of all illegitimate children regardless of the status of their parents at the time of their conception and birth. As stated in Article 176:

ART. 176. Illegitimate children shall use the surname and shall be under the parental authority of their mother, and shall be entitled to support in conformity with this Code. The legitime of each illegitimate child shall consist of one-half of the legitime of a legitimate child. Except for this modification, all other provisions in the Civil Code governing successional rights shall remain in force. (Emphasis supplied)

Despite these changes, the right of illegitimate children to succeed as compulsory heirs remains subject to the requirement that their filiation be duly proved. Hence, under the Family Code, illegitimate children may establish

their filiation in the same way and on the basis of the same evidence as legitimate children.

ART. 175. Illegitimate children may establish their illegitimate filiation in the same way and on the same evidence as legitimate children.

The action must be brought within the same period specified in Article 173, except when the action is based on the second paragraph of Article 172, in which case the action may be brought during the lifetime of the alleged parent. (Emphasis supplied)

In turn, Articles 172 and 173 state:

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 and 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.

ART. 173. The action to claim legitimacy may be brought by the child during his or her lifetime and shall be transmitted to the heirs should the child die during minority or in a state of insanity. In these cases, the heirs shall have a period of five years within which to institute the action.

The action already commenced by the child shall survive notwithstanding the death of either or both of the parties. (Emphasis supplied)

Based on these provisions, the establishment of illegitimate filiation under the Family Code may be done either by voluntary or compulsory recognition.

The due recognition of an illegitimate child in a record of birth, a will, a statement before a court of record, or in any authentic writing is, in itself, a consummated act of acknowledgment of the child, and no further court action is required.^[53] Recognition done through any of these means shall constitute voluntary recognition and shall not require farther judicial approval.^[54]

In the absence of voluntary recognition, a claim for compulsory recognition may be filed by an illegitimate child based on open and continuous possession of such status, or any other means allowed by the Rules of Court and special laws.

Unlike the Civil Code, the Family Code does not permit the filing of an action for compulsory recognition beyond the lifetime of the alleged parent.

Given these premises, I now proceed to apply the foregoing principles to this case.

In determining Amadea's filiation,
the Civil Code applies

As the records show, Amadea was born on October 9, 1978. She alleges that while her mother Susan Kuan and her putative father Arturo did not suffer any legal impediment to marry at the time she was conceived, Arturo unfortunately died before he could marry her mother. Thus, Amadea claims that she is entitled to recognition as a natural child, or one "born outside wedlock of parents who, at the time of the conception of the former, were not

disqualified by any impediment to marry each other." [55] Amadea anchors her right to recognition on her alleged open and continuous possession of the status of an illegitimate child.

As maintained in Barles, the filiation of natural children under the Civil Code is established through an action for recognition under Article 285. It reads:

ART. 285. The action for the recognition of natural children may be brought only during the lifetime of the presumed parents, except in the following cases:

(1) If the father or mother died during the minority of the child, in which case the latter may file the action before the expiration of four years from the attainment of his majority;

(2) If after the death of the father or of the mother a document should appear of which nothing had been heard and in which either or both parents recognize the child.

In this case, the action must be commenced within four years from the finding of the document. (Emphasis supplied)

Article 285 of the Civil Code was later superseded by Articles 172, 173, and 175 of the Family Code. As discussed, the Family Code requires illegitimate children who seek to establish their filiation by compulsory recognition (that is, on the basis of open and continuous possession of the alleged status or other means allowed by the Rules of Court and special laws) to file an action only within the lifetime of the alleged parents.

In effect, the Family Code removed the exceptions set forth in Article 285 of the Civil Code which permitted actions for recognition to be filed within a limited period after the death of the alleged parent in cases where the alleged parent died during the minority of the child or where a document wherein the alleged parent recognized the child was discovered after the former's death.

In the assailed Decision rendered in CA-G.R. CV. No. 01633, the CA held that Amadea can no longer seek recognition as Arturo's illegitimate child since the Family Code requires actions for compulsory recognition to be filed within the lifetime of the alleged parent. [56] This is error.

The Court's ruling in *Bernabe v. Alejo* [57] (*Bernabe*) applies.

In *Bernabe*, Carolina Alejo, on behalf of her minor son Adrian Bernabe (Adrian), filed a complaint praying that Adrian be declared an acknowledged illegitimate son of the late Ernesto A. Bernabe (Ernesto). The complaint alleged that as Ernesto's illegitimate child, Adrian was entitled to a share in the former's estate.

The RTC dismissed the complaint, finding that Ernesto's death effectively barred the action because under Article 175 of the Family Code, a child who seeks recognition on the basis of "open and continuous possession of the status" as an illegitimate child or "any other means allowed by the Rules of Court and special laws" can only file an action to do so within the lifetime of the putative parent.

The CA reversed on appeal. It held that since Adrian was born in 1981, his rights were governed by Article 285 of the Civil Code which allowed an action for recognition to be filed within four (4) years after the child attained the age of majority.

Ernestina Bernabe filed a Petition for Review on Certiorari before the Court claiming to be Ernesto's sole surviving heir. Acting on the petition, the Court held:

Under the new law, an action for the recognition of an illegitimate child must be brought within the lifetime of the alleged parent. The Family Code makes no distinction on whether the former was still a minor when the latter died. Thus, the putative parent is given by the new Code a chance to dispute the claim, considering that

"illegitimate children are usually begotten and raised in secrecy and without the legitimate family being aware of their existence. x x x The putative parent should thus be given the opportunity to affirm or deny the child's filiation, and this, he or she cannot do if he or she is already dead."

Nonetheless, the Family Code provides the caveat that rights that have already vested prior to its enactment should not be prejudiced or impaired as follows:

"ART. 255. 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."

The crucial issue to be resolved therefore is whether Adrian's right to an action for recognition, which was granted by Article 285 of the Civil Code, had already vested prior to the enactment of the Family Code. Our answer is affirmative.

A vested right is defined as "one which is absolute, complete and unconditional, to the exercise of which no obstacle exists, and which is immediate and perfect in itself and not dependent upon a contingency x x x." Respondent however contends that the filing of an action for recognition is procedural in nature and that "as a general rule, no vested right may attach to [or] arise from procedural laws."

Bustos v. Lucero distinguished substantive from procedural law in these words:

"x x x. Substantive law creates substantive rights and the two terms in this respect may be said to be synonymous. ['Substantive rights'] is a term which includes those rights which one enjoys under the legal system prior to the disturbance of normal relations. Substantive law is that part of the law which creates, defines and regulates rights, or which regulates the rights and duties which give rise to a cause of action; that part of the law which courts are established to administer; as opposed to adjective or remedial law, which prescribes the method of enforcing rights or obtains redress for their invasion." x x x

Recently, in *Fabian v. Desierto*, the Court laid down the test for determining whether a rule is procedural or substantive:

"[I]n determining whether a rule prescribed by the Supreme Court, for the practice and procedure of the lower courts, abridges, enlarges, or modifies any substantive right, the test is whether the rule really regulates procedure, that is, the judicial process for enforcing rights and duties recognized by substantive law and for justly administering remedy and redress for a disregard or infraction of them. If the rule takes away a vested right, it is not procedural. If the rule creates a right such as the right to appeal, it may be classified as a substantive matter; but if it operates as a means of implementing an existing right then the rule deals merely with procedure."

Applying the foregoing jurisprudence, we hold that Article 285 of the Civil Code is a substantive law, as it gives Adrian the right to file his petition for recognition within four years from attaining majority age. Therefore, the Family Code cannot impair or take Adrian's right to file an action for recognition, because that right had already vested prior to its enactment.[58] (Emphasis supplied; italics in the original)

As unequivocally held in *Bernabe*, "[t]he right to seek [compulsory] recognition granted by the Civil Code to illegitimate children who were still minors at the time the Family Code took effect cannot be impaired or taken away." [59]

Here, Amadea was nine years old at the time the Family Code took effect. Thus, Amadea's right to file an action for recognition pursuant to the provisions of the Civil Code vested prior to the Family Code's enactment.

The applicable law having been established, the next questions which must be addressed are: (i) whether the issue of filiation, raised by way of Amadea's Motion for Inclusion, may be resolved in the proceeding for the settlement of Miguel's estate; (ii) assuming that Amadea's filiation may be resolved in the settlement proceeding, whether

such claim of filiation has been timely raised; and (iii) assuming further that Amadea's claim of filiation had been timely raised, whether Amadea's filiation has been proved in accordance with applicable law.

My own analysis leads me to the conclusion that while Amadea properly and timely raised the issue of tier filiation through her Motion for Inclusion before the settlement court, the facts necessary to establish her filiation remain in dispute. Hence, I submit that these matters should first be threshed out In a full-blown trial before the trial court.

I explain these points in sequence.

(i)

Amadea's filiation may be determined in the proceeding for the settlement of Miguel's estate.

Amadea first asserted her alleged filiation with Miguel through the Motion for Inclusion she filed before the RTC. It is not disputed that Arturo did not voluntarily recognize Amadea and that she never attempted to compulsorily establish her filiation at any time prior to the filing of said Motion for Inclusion.

Abdulah and Rodolfo insist that Amadea's Motion for Inclusion should be dismissed, as Amadea's filiation had never been established in any previous action filed for the purpose.[60] Abdulah and Rodolfo argue that Amadea cannot be allowed to collaterally assert her claim of filiation in the proceeding for the settlement of Miguel's estate.[61]

To reiterate, Amadea's right to succeed as an illegitimate child of Arturo is necessarily contingent upon proof of her alleged filiation. For, as held in Barles, without voluntary recognition, illegitimate children cannot succeed "unless their filiation is judicially decreed." [62]

In this connection, Article 285 explicitly states that those who claim to be natural children may establish their filiation by filing an action for compulsory recognition. However, Article 285 fails to state whether natural children must seek recognition exclusively through a direct action specifically filed for the purpose, or whether recognition may be prayed for collaterally, in furtherance of other reliefs.

Reference to the 1922 case of *Briz v. Briz and Remigio* [63] (*Briz*) is thus apropos.

In *Briz*, a complaint for recovery of a parcel of land was filed on behalf of minor Gertrudis Briz (Gertrudis) against her father's alleged aunt and uncle, Geronimo Bello (Geronimo) and Vivencia Briz (Vivencia). The complaint alleged that Gertrudis was an acknowledged natural daughter of deceased Maximo Briz (Maximo). As such, Gertrudis inherited the parcel of land subject of the action. However, said parcel of land was never delivered to Gertrudis, and remained in the possession of Geronimo and Vivencia since Maximo's death. Geronimo and Vivencia opposed the complaint, arguing, in the main, that Gertrudis was neither acknowledged voluntarily during Maximo's lifetime, nor subsequently recognized as Maximo's natural child by judicial decree.

On appeal, the Court was called upon to determine whether a child's filiation may be determined in an action for recovery of property anchored on the child's alleged status as heir. Ruling affirmatively, the Court held:

The question whether a person in the position of the present plaintiff can in any event maintain a complex action to compel recognition as a natural child and at the same time to obtain ulterior relief in the character of heir, is one which in the opinion of this court must be answered in the affirmative, provided always that the conditions justifying the joinder of the two distinct causes of action are present in the particular case. In other words, there is no absolute necessity requiring that the action to compel acknowledgment should have been

instituted and prosecuted to a successful conclusion prior to the action in which that same plaintiff seeks additional relief in the character of heir. Certainly, there is nothing so peculiar to the action to compel acknowledgment as to require that a rule should be here applied different from that generally applicable in other cases. For instance, if the plaintiff had in this action impleaded all of the persons who would be necessary parties[-]defendant to an action to compel acknowledgment, and had asked for relief of that character, it would have been permissible for the court to make the judicial pronouncement declaring that the plaintiff is entitled to be recognized as the natural child of Maximo Briz, and at the same time to grant the additional relief sought in this case against the present defendants; that is, a decree compelling them to surrender to the plaintiff the parcel of land sued for and to pay her the damages awarded in the appealed decision.

The conclusion above stated, though not heretofore explicitly formulated by this court, is undoubtedly to some extent supported by our prior decisions. Thus, we have held in numerous cases, and the doctrine must be considered well settled, that a natural child having a right to compel acknowledgment, but who has not been in fact legally acknowledged, may maintain partition proceedings for the division of the inheritance against his coheirs (*Siguiong vs. Siguiong*, 8 Phil., 5; *Tiamson vs. Tiamson*, 32 Phil., 62); and the same person may intervene in proceedings for the distribution of the estate of his deceased natural father, or mother (*Capistrano vs. Fabella*, 8 Phil., 135; *Conde vs. Abaya*, 13 Phil., 249; *Ramirez vs. Gmur*, 42 Phil., 855). In neither of these situations has it been thought necessary for the plaintiff to show a prior decree compelling acknowledgment. The obvious reason is that in partition suits and distribution proceedings the other persons who might take by inheritance are before the court; and the declaration of heirship is appropriate to such proceedings.[64] (Emphasis and underscoring supplied)

Briz was decided by the Court under the regime of the Spanish Civil Code of 1889. Nevertheless, the principles enunciated therein have been consistently applied, and have been reiterated in *Abella v. Cabañero*[65] (*Abella*), a recent case involving a claim for support.

In *Abella*, the Court, through our esteemed colleague Justice Leonen held:

Having thus far only presented her child's birth certificate, which made no reference to respondent as the child's father, the [CA] correctly noted that the necessary condition of filiation had yet to be established. The [CA] later affirmed the dismissal of petitioner's Complaint, insisting that separate filiation proceedings and their termination in petitioner's daughter's favor were imperative.

While ably noting that filiation had yet to be established, the [CA's] discussion and final disposition are not in keeping with jurisprudence.

Dolina v. Vallecera clarified that since an action for compulsory recognition may be filed ahead of an action for support, the direct filing of an action for support, "where the issue of compulsory recognition may be integrated and resolved," is an equally valid alternative[.]

x x x x

Agustin v. Court of Appeals extensively discussed the deep jurisprudential roots that buttress the validity of this alternative.

Agustin concerned an action for support and support pendente lite filed by a child, represented by his mother. The putative father, Arnel Agustin, vehemently denied paternal relations with the child. He disavowed his apparent signature on the child's birth certificate, which indicated him as the father. Agustin "moved to dismiss the complaint for lack of cause of action, considering that his signature on the birth certificate was a forgery and that, under the law, an illegitimate child is not entitled to support if not recognized by the putative father." The [RTC] denied Agustin's motion to dismiss; it was subsequently affirmed by the [CA].

In sustaining the lower courts' decisions, this Court noted that enabling the mother and her child to establish

paternity and filiation in the course of an action for support was merely a permission "to prove their cause of action against [Agustin,] who had been denying the authenticity of the documentary evidence of acknowledgement."

This Court added that an action to compel recognition could very well be integrated with an action for support. This Court drew analogies with extant jurisprudence that sustained the integration of an action to compel recognition with an action to claim inheritance and emphasized that "the basis or rationale for integrating them remains the same." This Court explained:

[Petitioner] claims that the order and resolution x x x effectively converted the complaint for support to a petition for recognition, which is supposedly proscribed by law. According to petitioner, Martin, as an unrecognized child, has no right to ask for support and must first establish his filiation in a separate suit x x x

The petitioner's contentions are without merit.

The assailed resolution and order did not convert the action for support into one for recognition but merely allowed the respondents to prove their cause of action against petitioner who had been denying the authenticity of the documentary evidence of acknowledgement. But even if the assailed resolution and order effectively integrated an action to compel recognition with an action for support, such was valid and in accordance with jurisprudence. In *Tayag v. Court of Appeals*, we allowed the integration of an action to compel recognition with an action to claim one's inheritance:

x x x In *Paulino*, we held that an illegitimate child, to be entitled to support and successional rights from the putative or presumed parent, must prove his filiation to the latter. We also said that it is necessary to allege in the complaint that the putative father had acknowledged and recognized the illegitimate child because such acknowledgment is essential to and is the basis of the right to inherit. There being no allegation of such acknowledgment, the action becomes one to compel recognition which cannot be brought after the death of the putative father. The ratio decidendi in *Paulino*, therefore, is not the absence of a cause of action for failure of the petitioner to allege the fact of acknowledgment in the complaint, but the prescription of the action.

Applying the foregoing principles to the case at bar, although petitioner contends that the complaint filed by herein private respondent merely alleges that the minor Chad Cuyugan is an illegitimate child of the deceased and is actually a claim for inheritance, from the allegations therein the same may be considered as one to compel recognition. Further, that the two causes of action, one to compel recognition and the other to claim inheritance, may be joined in one complaint is not new in our jurisprudence.

x x x x

Although the instant case deals with support rather than inheritance, as in *Tayag*, the basis or rationale for integrating them remains the same. Whether or not respondent Martin is entitled to support depends completely on the determination of filiation. A separate action will only result in a multiplicity of suits, given how intimately related the main issues in both cases are. To paraphrase *Tayag*, the declaration of filiation is entirely appropriate to these proceedings. x x x

Indeed, an integrated determination of filiation is "entirely appropriate" to the action for support filed by petitioner Richelle for her child. An action for support may very well resolve that ineluctable issue of paternity if it involves the same parties, is brought before a court with the proper jurisdiction, prays to impel recognition of paternal relations, and invokes judicial intervention to do so. This does not run afoul of any rule. To the contrary, and consistent with *Briz v. Briz*, this is in keeping with the rules on proper joinder of causes of action. This also serves the interest of judicial economy — avoiding multiplicity of suits and cushioning litigants from the vexation and costs of a protracted pleading of their cause.[66] (Emphasis supplied)

In fact, in the recent case of *Treyes v. Larlar*,[67] the Court clarified that no prior declaration of heirship is

necessary before an heir can file an ordinary civil action to enforce ownership rights acquired by virtue of succession. Hence, the legal heirs of a decedent are deemed parties in interest in ordinary civil actions arising out of their rights of succession:

x x x [U]nless there is a pending special proceeding for the settlement of the decedent's estate or for the determination of heirship, the compulsory or intestate heirs may commence an ordinary civil action to declare the nullity of a deed or instrument, and for recovery of property, or any other action in the enforcement of their ownership rights acquired by virtue of succession, without the necessity of a prior and separate judicial declaration of their status as such. The ruling of the trial court shall only be in relation to the cause of action of the ordinary civil action, i.e., the nullification of a deed or instrument, and recovery or reconveyance of property, which ruling is binding only between and among the parties.[68] (Emphasis omitted)

The Court's rulings in *Briz and Abella*, taken in connection with the recent pronouncement in *Treyes*, confirm that while filiation must be duly established, it may be determined in "a complex action [filed] to compel recognition x x x and at the same time obtain ulterior relief in the character of heir,"[69] provided that all necessary parties to the action for recognition are properly impleaded, and the court taking cognizance has jurisdiction over the subject matter of the complex action.

Based on these parameters, I am of the view that the issue of Amadea's filiation may be resolved in the proceeding for the settlement of Miguel's estate.

To note, the parties who may be prejudiced by a judicial decree confirming Amadea's filiation with Arturo are, precisely, the heirs who are parties to the aforesaid settlement proceeding. Moreover, the RTC of Davao City, acting as settlement court, has jurisdiction to determine Amadea's filiation. It is well settled that the main function of a settlement court is, precisely, to settle and liquidate the estate of the deceased either summarily or through the process of administration. Thus, the settlement court must "determine x x x the heirs [who shall] receive the net assets of the estate and the amount or proportion of their respective shares." [70] The issue of Amadea's filiation is necessarily subsumed within the settlement court's function of determining the heirs who shall participate in Miguel's estate, either by direct succession or by right of representation.

(ii)

Amadea had four (4) years from attainment of the age of twenty-one (21) to seek recognition under Article 285.

As discussed, Amadea had the vested right to file an action for recognition within four (4) years from attainment of majority.

Under the Civil Code, "[m]ajority commences upon the attainment of the age of twenty-one [(21)] years." [71] This remained the age of majority under Article 234 [72] of the Family Code, until the provision was later amended by RA 6809, [73] as follows:

SECTION 1. Article 234 of Executive Order No. 209, the Family Code of the Philippines, is hereby amended to read as follows:

"Art. 234. Emancipation takes place by the attainment of majority. Unless otherwise provided, majority commences at the age of eighteen years." (Emphasis supplied)

Amadea attained majority when she turned twenty-one (21) years old on October 9, 1999. Thus, Amadea had until October 9, 2003 to assert her right to prove her filiation with Arturo. [74] Accordingly, her Motion for Inclusion

filed on July 2, 2003 was timely filed.

Thus, I find that Amadea's Motion for Inclusion was timely filed since her four-year period to seek recognition began from the time she attained the age of twenty-one (21) years. However, I submit that the four-year period runs from such time not because Amadea attained the age of majority when she turned twenty-one (21) years old on October 9, 1999 as the ponencia suggests; rather, I agree with Senior Associate Justice Estela M. Perlas-Bernabe's position that Amadea's right to a longer period of four (4) years from attainment of the age of twenty-one (21) years vested in her favor pursuant to Article 256.[75]

Jurisprudence instructs that in determining when a person is deemed to have reached the age of majority, the prevailing law at such time is controlling.

In *Nunga v. Viray*,[76] the Court held respondent therein administratively liable for notarizing a document at a time when he had no authorization or commission to do so. There, the Court observed that respondent's unlawful notarization in 1987 was aggravated by the fact that the transaction involved was in favor of his son who, at such time, was only eighteen (18) years old and therefore, a minor. The Court took particular note of the fact that in 1987, the governing law was Article 402 of the Civil Code which set the age of majority at twenty-one (21) years.[77]

Similarly, in *Vancil v. Belmes*,[78] the Court declared that the petition for guardianship filed by petitioner therein had been rendered moot and academic with respect to one of the children who turned eighteen (18) years old during the pendency of the case. There, the Court applied the majority age set by RA 6809 to a child born prior to its enactment, as it was the prevailing law at the time the child reached the age of eighteen (18) years.[79]

Consistent with these cases, Amadea must be deemed to have reached the age of majority when she turned eighteen (18) years old on October 9, 1996, since the law prevailing at such time was the Family Code, as amended by RA 6809. Nevertheless, Amadea's right to seek recognition must be reckoned from the time she reached twenty-one (21) years old because her right to seek recognition "in the manner and within the period prescribed under Article 285 of the Civil Code" vested prior to the effectivity of the Family Code. Thus, while Amadea had in fact attained the age of majority at eighteen (18) years old, the longer period to file an action for recognition granted by Article 285, that is, four (4) years from the attainment of the age of twenty-one (21) years, had already vested in her favor.

(iii)

Amadea's filiation has not been proved.

Although Amadea properly and timely raised the issue of her filiation through her Motion for Inclusion before the settlement court, it is crystal clear that Amadea's filiation has not been duly proved for the following reasons: (i) the application of equitable estoppel is improper; (ii) no trial has been conducted and no evidence has been presented to substantiate Amadea's allegations; and (iii) during the oral arguments, Amadea recognized the existence of a Certificate of Live Birth that suggests that she had been voluntarily recognized as a natural child of a certain "Enrique A. Ho".

(a)

The application of equitable estoppel is improper.

The ponencia holds that "there is no provision in the Civil Code that guides a child, who was born after [his or

her] father's death, in proving [his or] her filiation with him." [80] In default of an applicable provision, the ponencia thus relies on the principle of estoppel, citing *Tongoy v. Court of Appeals* [81] (*Tongoy*) as basis. [82]

On the other hand, Justice Perlas-Bernabe is of the position that resort to estoppel is improper considering that Article 283(2) of the Civil Code squarely applies. [83]

I believe that Justice Perlas-Bernabe is correct. Article 283(2) states:

ART. 283. In any of the following cases, the father is obliged to recognize the child as his natural child:

x x x x

(2) When the child is in continuous possession of status of a child of the alleged father by the direct acts of the latter or of his family;

x x x x (Emphasis supplied)

While Article 283(2) may be based on the principle of estoppel, the fundamental differences between the concept of equitable estoppel as applied by the ponencia on the one hand, and the concept of estoppel under Article 283(2) on the other, require that distinctions be drawn.

The ponencia's application of estoppel in this case is more akin to the concept of paternity by estoppel in the United States of America (U.S.A.), and not that which is contemplated by Article 283(2). Although these concepts similarly take into principal account the putative father's act of holding out the child as his own, they differ both in the manner of proof, as well as the legal effect that such acts have on the determination of filiation.

In the U.S.A., paternity by estoppel is a legal fiction that a father must hurdle despite genetic testing having been resorted to for the determination of paternity. It is an equitable doctrine that turns on the pivotal consideration of the best interests of the child, so that even though a subsequent DNA test may exclude a man as the biological father, the man may still be held as the legal father upon whom the duty of child support lies. The underlying social policy of paternity by estoppel was succinctly defined in *Brinkley v. King*: [84]

x x x Estoppel is based on the public policy that children should be secure in knowing who their parents are. If a certain person has acted as the parent and bonded with the child, the child should not be required to suffer the potentially damaging trauma that may come from being told that the father he has known all his life is not in fact his father. [85]

Some courts have also cited the doctrine of paternity by estoppel to keep petitions to disestablish paternity from prospering, on the ground that since the presumed father has held out the child as his own for a length of time, he is already effectively estopped from challenging his paternity. [86] A study on the evolution of modalities of parentage determination in the U.S.A. described the underlying policy behind this principle:

The doctrine "is based on the public policy that children should be secure in knowing who their parents are." *Brinkley v. King*, 701 A.2d 176, 180 (Pa. 1997). In other words, once a presumed father has held himself out as a child's father and they have formed a father-child relationship, "the child should not be required to suffer the potentially damaging trauma that may come from being told that the father he has known all his life is not in fact his father." *Id.* An equitable estoppel case could result in a presumed father being required to financially support a child who has no genetic connection to him. Such cases prioritize the child's best interests over the presumed father's financial interests.

Notably, the use of the equitable estoppel doctrine in parentage cases is based on the underlying assumption that a child can only have two parents — a mother and a father. In a world where family structures are changing and children can have same-sex parents and multiple caregivers, this assumption may be outdated. [87]

Against the growing trend in a number of American States where the legal fathers, in cases dubbed as "paternity fraud" suits, are permitted to "disestablish" their paternity upon successful scientific proof of genetic impossibility of the same, paternity by estoppel has been used to prevent presumed fathers from disputing their own paternity, along with the societal reminder of the high costs of challenging established or presumed parentage.[88]

Unlike the American concept of paternity by estoppel where a man who holds out a person as his child is estopped from challenging his presumed paternity, with his acts per se considered as equivalent to acknowledgment, the Philippine concept of estoppel as adopted under Article 283(2) does not amount to acknowledgment, but rather, constitutes merely a ground upon which recognition may be compelled. In other words, the Civil Code only recognizes the act of clothing one with the status of a child to be among the grounds that a child may present the court with in support of a prayer for recognition. However, they are not, by themselves, equivalent to the recognition of the child, per se.

The foregoing distinction was set in clear tones in *Quismundo v. Workmen's Compensation Commission*,[89] where the Court categorically held that while Article 283 provides grounds for compulsory recognition which may be substantiated through evidence, they do not, by themselves, amount to de facto acknowledgment of filiation:

x x x This provision contemplates compulsory recognition as distinguished from voluntary recognition provided in Art. 278. The possession of status of a child does not in itself constitute an acknowledgment; it is only a ground for a child to compel recognition by his assumed parent. The provision provides the grounds for compulsory recognition in an action which may be brought by the child. Neither the proceedings before the Commission nor in this Court can be regarded as the appropriate action to compel recognition.[90]

This distinction was actually affirmed in *Tongoy*, the case relied upon by the ponencia. In *Tongoy*, the Court ruled that such continuous possession of status is not a sufficient acknowledgment but only a ground to compel the same.[91]

Still, in *Mendoza v. Court of Appeals*,[92] the Court further clarified that the permanent intention of the putative father to clothe the child with the status of his illegitimate child must be proven:

To establish "the open and continuous possession of the status of an illegitimate child," it is necessary to comply with certain jurisprudential requirements. "Continuous" does not mean that the concession of status shall continue forever but only that it shall not be of an intermittent character while it continues. The possession of such status means that the father has treated the child as his own, directly and not through others, spontaneously and without concealment though without publicity (since the relation is illegitimate). There must be a showing of the permanent intention of the supposed father to consider the child as his own, by continuous and clear manifestation of paternal affection and care.[93]

There is no question, therefore, that, far from amounting to recognition per se, the acts which result in a person's possession of the status of child within the contemplation of Article 283(2) merely serve as grounds to compel a putative father's recognition of the child as an illegitimate child in cases where such acts are proven reflective of a permanent intention of the putative father to clothe the child with the status of his illegitimate child.

All considered, the American doctrine of paternity by estoppel gives rise to an effectively recognized child and a presumed father who is barred from disestablishing his paternity. In stark contrast, Article 283(2) only gives a child a ground to compel the putative father to acknowledge his or her filiation. The former gives rise to a ripened right by virtue of estoppel; the latter merely affords a child one ground to lay claim to such a right.

Notably, the ponencia now acknowledges that key distinctions exist between the American concept of equitable estoppel and the concept of estoppel adopted under Article 283(2).[94] Nevertheless, the ponencia still holds that

the concept of equitable estoppel should apply in the determination of Amadea's filiation based on the premise that Article 283 finds no application in situations where, as here, the putative father has predeceased the alleged child. This premise appears to be drawn from the opening paragraph of Article 283 which relates the grounds for compulsory recognition specifically to the putative father.

At first blush, it would appear that the grounds for compulsory recognition set forth in Article 283 could only be asserted against the putative father. However, I find that Article 283 must be understood in conjunction with Article 285 of the Civil Code, which states:

ART. 285. The action for the recognition of natural children may be brought only during the lifetime of the presumed parents, except in the following cases:

- (1) If the father or mother died during the minority of the child, in which case the latter may file the action before the expiration of four years from the attainment of his majority;
- (2) If after the death of the father or of the mother a document should appear of which nothing had been heard and in which either or both parents recognize the child.

In this case, the action must be commenced within four years from the finding of the document.

Article 285(1) thus admits of situations where an action for compulsory recognition may be filed beyond the lifetime of the presumed parents. As held in *Barles*, the grounds upon which such actions for compulsory recognition under Article 285(1) may be brought are none other than the grounds set forth in Article 283 (in cases of compulsory recognition vis-à-vis the putative father) and Article 284 (in cases of compulsory recognition vis-à-vis the putative mother).[95]

As previously stated, Amadea timely sought recognition by raising the issue of her filiation in her Motion for Inclusion. Considering that Amadea had the vested right to seek recognition within the extended period of four (4) years from her attaining the age of twenty-one (21) years, or from 1999, the Motion for Inclusion was timely filed in 2003. This illustrates that compulsory recognition on the basis of Article 283(2) of the Civil Code is, in fact, possible in this particular case.

Moreover, the ponencia recognizes that under the Rule on DNA Evidence,[96] DNA testing serves as a valid means of determining paternity and filiation.[97] The ponencia states:

x x x Under the Rule on DNA Evidence, among the purposes of DNA testing is to determine whether two or more distinct biological samples originate from related persons, known as kinship analysis. The Rule on DNA Evidence permits the use of any biological sample, including bones, in DNA testing. This Court has sanctioned the exhumation of bodies for DNA testing. x x x[98]

The ponencia adds that the Rule on DNA Evidence permits the use of kinship analysis through DNA testing of other genetically-related persons upon a prima facie showing of a possibility of genetic kinship.[99] Thus, even as Arturo is now long gone, Amadea may be permitted to avail of DNA testing to establish her relationship on the basis of biological samples taken from Arturo's blood relatives, in the absence of viable biological samples from Arturo himself. The ponencia adds that in such situations, "DNA testing may be used as corroborative evidence of two or more persons' exclusion or inclusion in the same genetic lineage, subject to scientific analysis of the likelihood of relatedness of those persons based on the results of the tests." [100]

I agree that DNA evidence may be used to determine paternity and filiation. Under the Rule on DNA Evidence, DNA testing of biological samples may be resorted to "for the purpose of determining, with reasonable certainty, whether or not the DNA obtained from two or more distinct biological samples originates from the same person (direct identification) or if the biological samples originate from related persons (kinship analysis)."[101] Verily,

with the advancement in the field of science, particularly, DNA testing, paternity is now capable of proof at the level of sufficient certainty.

Notably, by the ponencia's own directive to order DNA testing upon remand,[102] it unequivocally places the present case squarely within the scope of Article 283(4), which states:

ART. 283. In any of the following cases, the father is obliged to recognize the child as his natural child:

x x x x

(4) When the child has in his favor any evidence or proof that the defendant is his father. (Emphasis supplied)

To be sure, the principle of equitable estoppel cannot be applied in cases covered by an express provision of law.[103]

The common law principle of estoppel was first introduced as part of Philippine statutory law through the new provisions enshrined in Title IV of the Civil Code. Noted civilist Justice Desiderio P. Jurado explains the rationale behind the inclusion of these provisions, thus:

The reason for the inclusion of a separate chapter in the New Civil Code on estoppel, according to the Code Commission, is that the principle of estoppel, which is an important branch of American law, will afford solution to many questions which are not foreseen in our legislation. It is, of course, true that under the old Code there are some articles whose underlying principle is that of estoppel; but the fact that it does not definitely recognize estoppel as a separate and distinct branch of our legal system has not at all helped in the solution of these problems.[104]

Thus, the real office of the equitable estoppel is limited to supply a deficiency in the law, but not to supplant positive law.[105] To be sure, the application of estoppel in this jurisdiction is explicitly limited by Article 1432, thus:

ART. 1432. The principles of estoppel are hereby adopted insofar as they are not in conflict with the provisions of this Code, the Code of Commerce, the Rules of Court and special laws. (Emphasis supplied)

Since Amadea's right to prove filiation falls within the scope of Article 283(2) and (4) of the Civil Code as detailed above, said provision must be applied.[106]

Thus, upon the conduct of DNA testing in accordance with the ponencia's directive, the assessment of the results shall be subject to Section 9 of the Rule on DNA Evidence which reads:

SECTION 9. Evaluation of DNA Testing Results. – In evaluating the results of DNA testing, the court shall consider the following:

(a)

The evaluation of the weight of matching DNA evidence or the relevance of mismatching DNA evidence;

(b)

The results of the DNA testing in the light of the totality of the other evidence presented in the case; and that

(c)

DNA results that exclude the putative parent from paternity shall be conclusive proof of non-paternity. If the value of the Probability of Paternity is less than 99.9%, the results of the DNA testing shall be considered as corroborative evidence. If the value of the Probability of Paternity is 99.9% or higher, there shall be a disputable presumption of paternity. (Emphasis supplied)

It is clear that if viable biological samples from Arturo still exist, and DNA testing using these samples results in a 99.9% probability of paternity, such results would give rise to a disputable presumption of paternity which, in the absence of contrary evidence, shall already be sufficient to warrant recognition under Article 283(4) of the Civil Code.

However, if the DNA testing using viable biological samples from Arturo registers a probability of paternity that is less than 99.9%, these results shall only be considered corroborative evidence of paternity. Similarly, and as the ponencia itself recognizes, DNA testing results based on biological samples from other related persons (i.e., the Aquinos) would stand "as corroborative evidence of two or more persons' exclusion or inclusion in the same genetic lineage, subject to scientific analysis of the likelihood of relatedness of those persons based on the results of the tests."^[107] On both these accounts, Amadea would still have to present, by way of additional evidence, proof of the direct acts of Arturo's family which allegedly resulted in her continuous possession of the status of Arturo's child under Article 283(2), considering as the DNA evidence relied upon in these two instances would only be corroborative in nature.

Whatever the outcome, it is evident that the determination of Amadea's filiation and her consequent recognition would necessarily fall within the scope of Article 283(2) and/or (4), thereby precluding the application of equitable estoppel.

(b)

No trial has been conducted
and no evidence has been
presented to substantiate
Amadea's claims.

Even as it is clear that Article 283(2) applies in this case, Amadea nonetheless failed to prove her filiation within the parameters of said provision.

As explained, the Philippine civil law tradition affords a semblance of estoppel for purposes of paternity determination, but allows the same in a more limited sense — one which does not correspond to the putative parent being deemed as having acknowledged the child without need for any action for recognition. Thus, in determining whether Amadea was able to establish her filiation, the Court must necessarily hinge its analysis on the sufficiency of the evidence submitted to prove the same, as measured against the parameters of Article 283(2).

In this case, Amadea unequivocally stated in her Motion for Inclusion that "[she] has not been formally acknowledged through any of the modes allowed by law."^[108] In other words, Amadea readily admits that Arturo did not voluntarily recognize her as his child in any record of birth, will, statement before a court of record, or any other authentic writing as required under Article 278^[109] of the Civil Code. This is necessarily so, as Arturo died prior to Amadea's birth.

Amadea likewise stated in the same Motion for Inclusion that she has never "brought an action for recognition prior to the death of her [purported] father, Arturo Aquino."^[110] In other words, she readily also admits that she has not been judicially recognized as a natural child of Arturo under Article 283 in relation to Article 285 of the Civil Code.

Absent voluntary or compulsory recognition therefore, Amadea may not be considered a "recognized natural child" of Arturo and may not exercise any of the rights conferred by Article 282 of the Civil Code. To reiterate, "[i]t is an elementary and basic principle under the old and new Civil Code, that an unrecognized natural child has no rights whatsoever against his [or her] parent or [the latter's] estate. His [or her] rights spring not from the

filiation itself, but from the child's acknowledgment by the natural parent." [111] "It is the fact of recognition, voluntary (by any of the four means specified in Article 278 of the Civil Code) or compulsory (in any of the cases mentioned in Article 283 [of the same statute]), that gives the natural child the rights of support and succession." [112]

Nevertheless, Amadea insists that she is the sole heir and natural child of Arturo as shown by: (i) a Baptismal Certificate, [113] which purportedly proves that she was baptized as "Amadea Angela Aquino, x x x the daughter of Arturo Aquino and Susan Kuan" [114] and the goddaughter of Abdulah Aquino; [115] and (ii) a Certification from the Davao Doctors Hospital dated July 5, 2003 [116] which purportedly proves that "as per hospital record, her mother's name is Susan Kuan and her father's name is Arturo Aquino." [117]

In addition, Amadea alleges that after the untimely death of her father, her grandfather, Miguel: (i) provided for the medical expenses of her mother while the latter was pregnant; (ii) allowed the Aquino family doctor, Dr. Rizalina Pangan, to attend to her mother; (iii) allowed her to live in the ancestral home of the Aquino family; (iv) allowed her to be baptized as Amadea Angela Aquino; (v) visited her, provided for her needs, and spent for her education; and (vi) instructed his son and grandson, shortly before his death, to give her a commercial lot. [118]

As repeatedly emphasized, I find it abundantly clear that Amadea has not substantiated these claims.

First. The records reveal that the RTC issued the assailed Order [119] dated April 22, 2005 declaring Amadea as the acknowledged natural child of Arturo [120] without the benefit of a trial.

In their motions for reconsideration of the RTC Order dated April 22, 2005, respondents vehemently argued that: (i) "the Honorable Court favorably acted on the aforesaid two (2) motions without any formal hearing and/or without formal presentation of evidence as mandated by [Rule] 15, [Sections] 3 and 4;" [121] (ii) it was "[inequitable] to resolve the x x x issue by mere allegations, suppositions, manifestations and comments;" [122] and (iii) the RTC issued the assailed Order on the basis of incompetent evidence which were never introduced and proven in Court. [123]

Indeed, respondents' claims were confirmed by a Certification dated April 21, 2015 issued by Clerk of Court of RTC, Davao City, Branch 16, unequivocally stating:

THIS IS TO CERTIFY that per records of the above entitled case, the proceeding that led to the issuance of an Order dated April 22, 2005 was through a "Motion To Be Included in the Distribution And Partition of the Estate" (dated July 2, 2003) filed by movant Amadea Angela Aquino, which is met by "Opposition etc." (dated November 12, 2003) filed by the Petitioner Rodolfo C. Aquino through counsel; the "Manifestation and Reply to Opposition etc." (dated December 15, 2003) filed by movant Amadea Angela Aquino and another motion by movant Amadea Angela Aquino through counsel – "Motion for Distribution of Residue of Estate or for Allowance to the Heirs" (dated February 22, 2005) along with the "Opposition etc." (dated April 1, 2005) filed by Petitioner through Counsel and the "Comment on the Motion for Distribution etc." (dated April 6, 2005) filed by the Administrator Abdulah Aquino through counsel.

This is to [c]ertify further that no testimonial and documentary evidence was presented and offered both by the Petitioner and the movant pertaining to the April 22, 2005 Order of the Court." [124] (Emphasis supplied; original emphasis omitted)

Undoubtedly, no testimony was received. No cross-examination was conducted. No evidence [125] whatsoever, be it documentary or testimonial, was offered to prove Amadea's claims that Miguel and the rest of the Aquino clan had performed acts sufficient to warrant compulsory recognition as a child of Arturo. [126] Indeed, the purported acts of the decedent Miguel do not even rise to the level of hearsay evidence [127] as no witness was ever presented to testify on any of Amadea's claims. In like manner, both Rodolfo and Abdulah were denied the chance

to disprove Amadea's claims or present countervailing evidence.[128]

This glaring procedural lapse became even more obvious after the skillful Interpellation of Chief Justice Gesmundo during the September 3, 2019 oral arguments, viz.:

[CHIEF] JUSTICE GESMUNDO:

x x x x

Mr. counsel, in your opening statement, you made mention that the Aquinos are in estoppel to question the filiation of Angela, is that correct?

ATTY. ANASTACIO:

Yes, Your Honor.

[CHIEF] JUSTICE GESMUNDO:

And what is your basis in that assertion?

ATTY. ANASTACIO:

Because, Your Honor, because of the admission made by Abdulah, Your Honor.

[CHIEF] JUSTICE GESMUNDO:

x x x How was this admission by Abdulah made?

ATTY. ANASTACIO:

In a Comment filed I think with the lower court.

x x x x

[CHIEF] JUSTICE GESMUNDO:

What pleading was that?

ATTY. ANASTACIO:

This is Comment to the Petition, Your Honor, dated November 14, 2003.

x x x x

[CHIEF] JUSTICE GESMUNDO:

Because I have here with me as Annex I of Abdulah's Memorandum which I'd like you to, which I like to read for the record. "This is to certify further that no testimonial and documentary evidence was presented and offered both by the petitioner and the movant pertaining to the April 22, 2005 Order of the Court referring to the declaration of the Court that the petitioner should be entitled to the portion of the estate.["] So where can the Court now as it is, rely on your assertion that the Aquinos are in estoppel since there is no evidence presented before the lower court?

ATTY. ANASTACIO:

Your Honor, please.

[CHIEF] JUSTICE GESMUNDO:

What will be our factual bearing?

x x x x

ATTY. ANASTACIO:

In this Petition, in this Motion, Your Honor, she alleges, among others, that the following, Your Honor: No. 1, it was Arturo Aquino's family... (interrupted)

[CHIEF] JUSTICE GESMUNDO:

No doubt, she made those allegations. But allegations are not proof.

x x x x

ATTY. ANASTACIO:

Yes, Your Honor, but as I, as we had indicated later, all these allegations that are mentioned here, were admitted by respondent Abdulah in his Comment to the Petition dated November 14, 2003, Your Honor.

[CHIEF] JUSTICE GESMUNDO:

And how was the admission made?

ATTY. ANASTACIO:

In a Comment, Your Honor.

x x x x

[CHIEF] JUSTICE GESMUNDO:

You're saying that this x x x will be in the nature of judicial admission?

ATTY. ANASTACIO:

Yes, Your Honor, please.

x x x x

[CHIEF] JUSTICE GESMUNDO:

Based on this statement in the certification, since no evidence was presented at the trial court, where will the Court [get] its factual bearing to resolve the instant petition?

ATTY. ANASTACIO:

I understand, Your Honor, the certification, but what I'm saying is that there was a judicial admission by Abdulah.

x x x x

[CHIEF] JUSTICE GESMUNDO:

Because your main argument is that the Aquinos are in estoppel because of their acts?

ATTY. ANASTACIO:

Yes, Your Honor.

[CHIEF] JUSTICE GESMUNDO:

And what are those acts?

ATTY. ANASTACIO:

The acts, Your Honor, that were admitted, Your Honor.[129] (Emphasis supplied; original emphasis omitted)

Clearly, no trial had been conducted for the reception of evidence. As such, there is absolutely no basis to accept as "proven" disputed facts (i.e., that Miguel treated Amadea as a natural child of Arturo)[130] that have not been established in the crucible of trial.

Second. It is also evident from the records that the RTC dispensed with the need for trial when it purportedly "found" that the allegations in Amadea's Motion for Inclusion regarding her status as a child of Arturo were "all admitted by [Abdulah] in his Comment to the Petition [filed] on November 17, 2003"[131] (Comment). Indeed, Amadea claimed during the September 3, 2019 oral arguments that purported "judicial admissions" contained in a Comment to the Petition dated November 14, 2003 filed before the RTC prove that the decedent Miguel and the rest of the Aquino clan treated her as a child of Arturo.[132]

I have scoured Abdulah's Comment dated November 14, 2003 and filed on November 17, 2003 and I find absolutely nothing therein which can even remotely suggest that Abdulah had judicially admitted Amadea's factual allegations. Abdulah's Comment stated that "[Abdulah] admits the allegations in paragraphs 1, 2, 3 and 5 of the Petition, on the personal circumstances of petitioner, the names of the deceased parents, the date of death and residence of decedent [Miguel] and the date of death and settlement of the estate of the late Amadea C. Aquino[, Miguel's first wife]"[133] — it bears emphasis, however, that the "petitioner" before the RTC was Rodolfo and not Amadea. As such, Abdulah admitted the allegations of Rodolfo and not the allegations of Amadea in her Motion for Inclusion.[134]

Neither is there any basis to suggest that Abdulah admitted the factual allegations in Amadea's motion simply because she was identified as one of the persons that Miguel wanted to bequeath property to before he died. The Comment is clear that the persons identified were the "heirs and/or 'devisees and legatees'"[135] of Miguel. An heir is a person called to the succession either by the provision of a will or by operation of law while devisees and legatees are persons to whom gifts of real and personal property are respectively given by virtue of a will.[136] Had Miguel's instructions been formalized in a will, Angela would have been a devisee. This, however, would not, without more, prove that she was an Aquino. More importantly, this does not at all prove that Abdulah "judicially admitted" Amadea's factual allegations. Notably, "[a] judicial admission is a deliberate, clear, unequivocal statement of a party about a concrete fact within that party's peculiar knowledge, not a matter of law. x x x In order to constitute a judicial admission, the statement must be one of fact, not opinion. To be a judicial admission, a statement must be contrary to an essential fact or defense asserted by the person giving the testimony; it must be deliberate, clear and unequivocal." [137] Abdulah does not deliberately, clearly, unequivocally, or even remotely admit Amadea's allegations.

In fact, when actually ordered to comment on the issue of Amadea's filiation, Abdulah "respectfully submitted that, until and unless the issue of [Amadea's] filiation or lack thereof, to [Arturo] is determined, and the nature of such filiation (whether legitimate or illegitimate), if any, is resolved, the present motion cannot be acted upon by the Honorable Court." [138] Indeed, Justice Perlas-Bernabe's own appreciation of the proceedings before the RTC is that "a particular oppositor cannot simply judicially admit the claimant's civil status x x x since an admission thereof is tantamount to compromising one's civil status which is statutorily prohibited"[139] under Article 2035[140] of the Civil Code.

Third. Aside from the fact that the documents attached to Amadea's Motion for Inclusion were never properly presented in accordance with the Rules of Evidence, they do not even support her action for compulsory recognition.

Notably, the Baptismal Certificate[141] which purportedly states that she is the daughter of Arturo[142] and the goddaughter of Abdulah[143] is not the record of birth referred to in Article 278[144] as it was executed without the participation of Arturo. Further, it is settled that a baptismal certificate, without more, is "evidence only to prove the administration of the sacraments on the dates therein specified, but not the veracity of the statements or declarations made therein with respect to [ones'] kinsfolk." [145]

The same can be said of the Certification from the Davao Doctors Hospital dated July 5, 2003[146] which purportedly states that "Angela Amadea Kuan Aquino was born in this institution last October 9, 1978" and that "as per hospital record, her mother[']s name is Susan Kuan and her father[']s name is Arturo Aquino." [147] Having been executed after the death of Arturo, said Certification cannot be considered a record of birth or authentic writing to warrant a finding of voluntary recognition under Article 278 of the Civil Code. In this regard, I find it proper to mention that Abdulah attached to his own Comment on Amadea's Petition,[148] a similar Certification dated August 23, 2013[149] issued by the very same hospital, stating the opposite: that while "Aquino, Angela Amadea/Maggie, was admitted at Davao Doctors Hospital on October 9-12, 1978 with the diagnosis of "Term Birth Living Female Child: Conjunctivitis," "as per record, the parents of the said child cannot be identified." [150]

At the end of the day, the questions of which of the two Certifications should be given credence and whether the foregoing documents sufficiently support Amadea's claims are wholly irrelevant at this stage and are in fact premature, since none of these documents have been marked, identified, authenticated, testified to or offered before the RTC in accordance with the Rules of Evidence.[151]

As already discussed, jurisprudence has consistently held that to be entitled to support and successional rights, the child must sufficiently prove his or her filiation through the modes set forth under the Civil Code (i.e., voluntary or compulsory recognition).[152] Even cases interpreting the Family Code recognize the importance of establishing filiation with sufficient certainty. The cases of *Cabatanian v. Court of Appeals* [153] and *Perla v. Baring*[154] rejected birth and baptismal certificates together with testimonial evidence as insufficient to prove paternity and held that "[t]ime and again, this Court has ruled that a high standard of proof is required to establish paternity and filiation. An order for recognition and support may create an unwholesome situation or may be an irritant to the family or the lives of the parties so that it must be issued only if paternity or filiation is established by clear and convincing evidence." [155]

The foregoing cases clearly show that proof entails the presentation of sufficient testimonial and documentary evidence which can only be done through a full-blown trial. Interestingly, the body of evidence presented in the foregoing cases was found to be insufficient to prove the fact of recognition and/or paternity. This is in clear contrast with the instant case where no evidence whatsoever has been offered to prove or to disprove the facts claimed.

In view of the foregoing, the inescapable and irrefutable conclusion is that there is absolutely no factual basis for holding that Amadea should be recognized as the natural daughter of Arturo because of the direct acts of decedent Miguel and the rest of the Aquino clan. By declaring, without an iota of evidence, that Amadea is the recognized natural daughter of Arturo, the RTC accepted as true and incontrovertible facts that were vigorously and vehemently disputed and which had never been established through trial.

In contrast to the manifest lack of evidence to prove that Amadea should be compulsorily recognized as a child of Arturo, the submission of Amadea's Certificate of Live Birth gives rise to the real question now of whether compulsory recognition is proper or even possible.

(c)

During the oral arguments, Amadea recognized the existence of a Certificate of Live Birth, which suggests that she had been voluntarily recognized as the natural child of a certain "Enrique A. Ho".

The Certificate of Live Birth which respondent Abdulah appended to his Comment on Amadea's Petition creates serious doubt with respect to Amadea's claim of filiation.

This purported Certificate of Live Birth^[156] states that: (i) Amadea's name is "Maria Angela Kuan Ho"; (ii) she was born on "October 9, 1978"; (iii) to "Enrique A. Ho, 22 years old, and Susan Saludes Kuan, 18 years old"; (iv) in Davao City.^[157] Note that this "Enrique A. Ho", who has never been impleaded and cannot be impleaded in the instant case, signed Amadea's Certificate of Live Birth not only as "father", but also as "Informant", and "Attendant at Birth."^[158]

In addition, attached to said Certificate is an "Affidavit to be Accomplished in Case of an Illegitimate Child" dated April 12, 1982 executed by Amadea's mother and registered father, "Enrique A. Ho" in accordance with Act No. 3753,^[159] which states that "I, Susan S. Kuan, mother, and I, Enrique A. Ho, father, of the child described in this Birth Certificate, do hereby swear that the data contained therein are true and correct to the best of our knowledge."^[160]

In her Memorandum filed before the Court, Amadea seeks to exclude the aforementioned Certificate of Live Birth on the ground that it was never offered in evidence nor admitted before the RTC.^[161] As such, she claims that it cannot be given any evidentiary weight.^[162] In fact, she even claims that it is a "forged document unworthy of belief."^[163]

However, while it is true that the Certificate of Live Birth was indeed offered for the first time before this Court, Amadea expressly admitted the existence of said Certificate during the oral arguments last September 3, 2019. In fact, she unequivocally admitted that she has been using the same for her official transactions. Again, Chief Justice Gesmundo's interpellation is invaluable:

[CHIEF] JUSTICE GESMUNDO:

x x x There was an issue earlier because of the mention of the birth certificate purportedly indicating that you have a father by the name of Enrique Ho, is that right?

Ms. AMADEA AQUINO:

Yes, there was an issue raised. Correct.

[CHIEF] JUSTICE GESMUNDO:

Do you know this Enrique Ho?

Ms. AMADEA AQUINO:

Yes, I do.

[CHIEF] JUSTICE GESMUNDO:

How did you come to know him?

Ms. AMADEA AQUINO:

He is the second husband of my mom.

x x x x

Ms. AMADEA AQUINO:

He is... after my mom met my dad, after four years, he married my mom.

[CHIEF] JUSTICE GESMUNDO:

So this is the present... (interrupted)

Ms. AMADEA AQUINO:

So this is the ex-husband of my mom.

x x x x

[CHIEF] JUSTICE GESMUNDO:

And your mother contracted marriage with Enrique Ho, when?

Ms. AMADEA AQUINO:

When I was three (3) years old, four (4) years old.

x x x x

[CHIEF] JUSTICE GESMUNDO:

Now x x x you are presently residing in the United States, is that correct?

Ms. AMADEA AQUINO:

Right. I'm living in New York, Your Honor.

[CHIEF] JUSTICE GESMUNDO:

And what passport are you using?

Ms. AMADEA AQUINO:

Right now I'm using my U.S. passport.

[CHIEF] JUSTICE GESMUNDO:

And prior to that you had Philippine passport, is that correct?

Ms. AMADEA AQUINO:

I have my Philippine passport, correct.

[CHIEF] JUSTICE GESMUNDO:

And what birth certificate did you use in obtaining that Philippine passport?

Ms. AMADEA AQUINO:

You Honor, I used the one for the... my step...

[CHIEF] JUSTICE GESMUNDO:

Your stepfather?

Ms. AMADEA AQUINO:

The one, the husband, the ex-husband of my mother now, correct.

[CHIEF] JUSTICE GESMUNDO]:

Are you referring to the birth certificate that was shown to the Court today?

Ms. AMADEA AQUINO:

Yes.

[CHIEF] JUSTICE GESMUNDO:

Can you show it to the counsel for Abdulah Aquino to show it to the petitioner?

Ms. AMADEA AQUINO:

Yes, Your Honor. This birth certificate, Your Honor, was made by my mom when I was younger because for the reason that she wanted to protect me from people teasing me and she wanted to bring me in a school. And this was a requirement. She didn't want people to tease me that I have different, you know, I have a different father to my future family...

x x x x

[CHIEF] JUSTICE GESMUNDO:

And the one who caused that birth certificate to be registered is your mother?

Ms. AMADEA AQUINO:

Yes, Your Honor.

[CHIEF] JUSTICE GESMUNDO:

Okay. And since then you have been using that birth certificate for your official transactions, is that correct?

Ms. AMADEA AQUINO:

Yes, Your Honor, as a matter of fact the Aquinos know about this. They know about this. It was not a secret with them. We even asked permission from my Tata when this happened because they wanted to, to try to protect me from... (interrupted).[164] (Emphasis supplied; original emphasis omitted)

In view of the foregoing statements, one cannot but agree with Abdulah's observation that it is curious that Amadea never attached a copy of her own Certificate of Live Birth despite having knowledge of its existence and despite having admitted to using the same in her official transactions.[165] In this regard, Amadea's attempt to suppress her own birth record appears to give rise to the presumption that it is indeed adverse to her cause.[166]

It is likewise worthy to note that Rodolfo questioned Amadea's identity when the case was still pending with the RTC. In his Opposition to the Motion for Distribution of Residue of Estate or for Allowance to the Heirs dated April 1, 2005,[167] he alleged that Amadea had been using various unauthorized names and "aliases."

Rodolfo alleged that, in what appears to be a subscription receipt, Amadea used the name "Maria Angela Kuan Ho." [168] In a Barangay Clearance issued by Barangay Wilfredo Aquino, Amadea was purportedly referred to as

"Miss Ma. Angela K. Ho." [169] In another Certification issued by Barangay Agdao Proper, Amadea was referred to as "Amadea Angela Aquino" [170] while in a Certification to File Action issued by the Office of the Lupong Tagapamayapa of Barangay Wilfredo Aquino, she was referred to as "Magie Angela Kuwan." [171]

Despite what appears to be heavily disputed factual issues however, no reason has been proffered as to why the RTC failed or refused to conduct trial or to allow either of the parties to present evidence to substantiate their contrary claims.

Unlike the Baptismal Certificate [172] and the Certification dated July 5, 2003 [173] attached to Amadea's Motion for Inclusion, her Certificate of Live Birth, if proven to be authentic, would precisely constitute the "record of birth" referred to in Article 278 of the Civil Code.

In *Berciles v. Government Service Insurance System*, [174] the Court explained the evidentiary value of a birth certificate in proving that a putative parent has voluntarily recognized a child, viz.:

The evidence considered by the Committee on Claims Settlement as basis of its finding that Pascual Voltaire Berciles is an acknowledged natural child of the late Judge Pascual Berciles is the birth certificate of said Pascual Voltaire Berciles marked Exh. "6". We have examined carefully this birth certificate and We find that the same is not signed by either the father or the mother; We find no participation or intervention whatsoever therein by the alleged father, Judge Pascual Berciles. Under our jurisprudence, if the alleged father did not intervene in the birth certificate, the putting of his name by the mother or doctor or registrar is null and void. Such registration would not be evidence of paternity. (*Joaquin P. Roces et al. vs. Local Civil Registrar of Manila*, 102 Phil. 1050). The mere certificate by the registrar without the signature of the father is not proof of voluntary acknowledgment on his part (*Dayrit vs. Piccio*, 92 Phil. 729). A birth certificate does not constitute recognition in a public instrument. (*Pareja vs. Pareja, et al.*, 95 Phil. 167). A birth certificate, to evidence acknowledgment, must, under Section 5 of Act 3753, bear the signature under oath of the acknowledging parent or parents. (*Vidaurrazaga vs. Court of Appeals and Francisco Ruiz*, 91 Phil. 492). In the case of *Mendoza, et al. vs. Mella*, 17 SCRA 788, the Supreme Court speaking through Justice Makalintal who later became [C]hief Justice, said:

"It should be noted, however, that a Civil Registry Law was passed in 1930 (Act No. 3753) containing provisions for the registration of births, including those of Illegitimate parentage; and the record of birth under such law, if sufficient in contents for the purpose, would meet the requisites for voluntary recognition even under Article 131. Since Rodolfo was born in 1935, after the registry law was enacted, the question here really is whether or not his birth certificate (Exhibit 1), which is merely a certified copy of the registry record, may be relied upon as sufficient proof of his having been voluntarily recognized. No such reliance, in our judgment, may be placed upon it. While it contains the names of both parents, there is no showing that they signed the original, let alone swore to its contents as required in Section 5 of Act No. 3753 (*Vidaurrazaga vs. Court of Appeals*, 91 Phil. 493; *In re Adoption of Lydia Duran*, 92 Phil. 729). For all that might have happened, it was not even they or either of them who furnished the data to be entered in the civil register. Petitioners say that in any event the birth certificate is in the nature of a public document wherein voluntary recognition of a natural child may also be made, according to the same Article 131. True enough, but in such a case there must be a clear statement in the document that the parent recognizes the child as his or her own (*Madrideo vs. De Leon*, 55 Phil. 1); and in Exhibit 1 no such statement appears. The claim of voluntary recognition is without basis." [175] (Emphasis supplied)

The purported Certificate of Live Birth in the instant case appears to comply with the standards set forth in the afore-cited case. The Certificate bears the signatures under oath of the acknowledging parents unequivocally stating that they are indeed the parents of "Maria Angela Kuan Ho." It likewise contains a statement under oath that the data contained in the Certificate of Live Birth "are true and correct to the best of [their] knowledge."

Further, Enrique A. Ho signed the Certificate of Live Birth not only as "father" but also as the "Informant" and as

an "Attendant at Birth", which suggests that he was the one who furnished the data to be entered in the civil register. As the record of birth appears to have been executed in accordance with Act No. 3753, it appears to meet the requisites for voluntary recognition under the Civil Code.

Indeed, "[t]he books making up the civil register and all documents relating thereto shall be considered public documents and shall be prima facie evidence of the facts therein contained." [176] As such, said Certificate, if authentic, would be prima facie evidence that Enrique A. Ho is the father of Amadea. The Affidavit executed by Amadea's purported parents itself recognizes that the "[b]irth certificates x x x [are proof] of family relations (paternity, maternity, and filiation)" [177] and that "[s]uch proof is required when claiming for succession or inheritance, pension and other rights incidental to family relations." [178]

As mentioned, although Amadea now claims that the certificate is "forged," [179] she candidly admitted before this Court during the oral arguments that she readily used the same in her official transactions and even in the acquisition of a passport. Further, it does not appear that she ever took steps to rectify the entries stated therein despite having known of their existence for the past years.

Finally, during the oral arguments, Amadea questioned the veracity of the entries referring to "Enrique A. Ho" as her father and claimed that they were "made by [her] mom when [she] was younger because x x x [her mom] wanted to protect [her] from people teasing [her]." [180] In so doing, Amadea attempts to indirectly impugn her recognition as the natural child of Enrique A. Ho. This situation squarely falls under Article 281 of the Civil Code. In *Gapusan-Chua v. Court of Appeals*, [181] the Court explained:

The matter of whether or not judicial approval is needful for the efficacy of voluntary recognition is dealt with in Article 281 of the Civil Code.

ART. 281. A child who is of age cannot be recognized without his consent.

When the recognition of a minor does not take place in a record of birth or in a will, judicial approval shall be necessary.

A minor can in any case impugn the recognition within four years following the attainment of his majority.

In other words, judicial approval is not needed if a recognition is voluntarily made—

1)

of a person who is of age, only his consent being necessary; or

2)

of a minor whose acknowledgment is effected in a record of birth or in a will.

On the other hand, judicial approval is needful if the recognition of the minor is effected, not through a record of birth or in a will but through a statement in a court of record or an authentic document. In any case the individual recognized can impugn the recognition within four years following the attainment of his majority. [182] (Emphasis supplied)

If Amadea had indeed been voluntarily recognized by Enrique A. Ho during her minority in a record of birth, she had the right to impugn said voluntary recognition within four years following the attainment of her majority. [183] However, there is no showing that Amadea ever availed of this remedy, i.e., file an action to impugn the recognition of Enrique A. Ho within the prescribed period. Should it be determined that the Certificate of Live Birth in question is, in fact, authentic, said certificate would be fatal to her case.

For obvious reasons, the issue of whether Enrique A. Ho validly recognized Amadea cannot be threshed out in the

instant case in view of the RTC's limited jurisdiction as what is before it is the settlement of estate proceedings of Miguel. Common sense suggests that Amadea must first file an action to impugn the voluntary recognition of Enrique A. Ho before seeking recognition as a putative child of Arturo. Any other conclusion would allow Amadea to concurrently hold the status of a recognized natural child of Enrique A. Ho and a recognized natural child of Arturo Aquino — a legal impossibility and absurdity.

Verily, there is a paramount urgent need to determine the authenticity and evidentiary value of Amadea's purported Certificate of Live Birth in a full-blown trial as the same appears to be determinative of the core issues in the case at bar.

Upon the foregoing facts and considerations, this case must be remanded for trial to afford the parties the full opportunity to thresh out the many factual issues involved in the instant case.

This case should be remanded for trial on the merits

Once more, I stress that the right of illegitimate children to succeed is subject to the requirement that their filiation be duly proved. Thus, before any determination can be made with respect to Amadea's right to represent Arturo for the purpose of participating in Miguel's estate, the question of Amadea's filiation must be established not merely on the basis of unsubstantiated allegations, but on the basis of documentary and testimonial evidence duly presented, examined, and appreciated in the course of a full-blown trial. As emphasized by Chief Justice Gesmundo through his interpellation during the oral arguments, the records of this case are bereft of any evidence on which the Court may base its resolution of the consolidated petitions. The necessity of conducting trial on the merits is further underscored by the need to determine the evidentiary value of the Certificate of Live Birth which indicates that Amadea is the recognized illegitimate daughter of another man.

Hence, as a matter of fairness, and in the interest of speedy disposition, I vote that the case should be forthwith remanded to the RTC for the conduct of a full-blown trial. Amadea should be given the opportunity to substantiate her factual allegations. In like manner, due process dictates that Rodolfo and Abdulah should also be given the opportunity to present countervailing evidence.

Certainly, the RTC would be in a better position to determine the authenticity and veracity of not only the purported Certificate of Live Birth, but also any other evidence to be presented. A remand would not only be prudent, but consistent with precedent, as well.

Particularly in the case of *Guy v. Court of Appeals*,^[184] the Court resolved to remand the case to the trial court for reception of evidence for the determination of respondents' filiation, as private respondents therein had yet to establish their filiation in connection with the petition for letters of administration they filed for the purpose of settling their alleged father's estate. The same course of action should be adopted here.

Conclusion

The ponencia believes that the Court may pass upon the proper application of Article 992 notwithstanding the absence of any factual determination on Amadea's filiation in order to guide the trial court in the event that Amadea's filiation is proven.

Again, I disagree.

To reiterate, this Court has stressed that the judicial power granted to the courts under Section 1, Article VIII of the Constitution entails the power to settle actual controversies involving rights which are legally demandable and enforceable. Thus, courts can only exercise judicial power in the face of an actual controversy, or one which

involves a conflict of legal rights, and an assertion of legal claims susceptible of judicial resolution.[185] This constitutional limitation prohibits courts from issuing advisory opinions based on conjectural or hypothetical facts. To stress, courts cannot sit to adjudicate mere academic questions to satisfy scholarly interest, however intellectually challenging.[186] In my view, the absence of an actual case or controversy with respect to Article 992 is glaring in this case, and the very remand of this case demonstrates that the facts necessary to trigger the application of said provision have not been established in a full-blown trial.

Equally important is the Certificate of Live Birth which came to fore during the oral arguments. This certificate suggests that the settlement court may not even possess the jurisdiction to proceed with the determination of Amadea's filiation, as it ostensibly appears that she had already been recognized as the illegitimate child of one Enrique Ho. After reception of evidence therefore, it is entirely possible that Article 992 and any reinterpretation thereof may prove to be wholly inapplicable and irrelevant to the instant case.

In addition, I note that the interpretation of Article 992, as set forth in the ponencia,[187] drastically departs from that established by prevailing jurisprudence, particularly, in *Diaz v. Intermediate Appellate Court*[188] (*Diaz*).

Time and again, this Court has ruled that it is duty-bound to abide by precedents, based on the time-honored principle of *stare decisis et non quieta movere*. *Stare decisis* had been adopted from American case law into the Philippine legal system. In this jurisdiction, *stare decisis* is well-entrenched in jurisprudence.[189] Further, it has been explicitly adopted as part of statutory law, particularly under Article 8 of the Civil Code:

ART. 8. Judicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines.

In this regard, the ponencia emphasizes that *stare decisis* is not an inflexible rule. In fact, in the early case of *Philippine Trust Co. and Smith, Bell & Co. v. Mitchell*,[190] the Court held that "idolatrous reverence for precedent, simply as precedent, no longer rules":[191]

x x x The rule of *stare decisis* is entitled to respect. Stability in the law, particularly in the business field, is desirable. But idolatrous reverence for precedent, simply as precedent, no longer rules. More important than anything else is that the court should be right. And particularly is it not wise to subordinate legal reason to case law and by so doing perpetuate error when it is brought to mind that the views now expressed conform in principle to the original decision and that since the first decision to the contrary was sent forth there has existed a respectable opinion of non-conformity in the court. Indeed, on at least one occasion has the court broken away from the revamped doctrine, while even in the last case in point the court was as evenly divided as it was possible to be and still reach a decision.[192]

However, while adherence to precedent is not an absolute rule, departure therefrom is warranted only on the basis of compelling circumstances. Far from an "idolatrous reverence", faithful adherence to precedents is the norm that this Court is called upon to uphold for as long as departure from it is not merited. Otherwise, the legal structure would be in disarray if the Court maintains no compunction with respect to overturning precedents, and the legal framework will effectively be placed in the hands of a handful of appointed officers of the Court, instead of in the powers of the elected representatives of the people, where such power is constitutionally vested. Once more, the Court cannot arrogate unto itself the power to rewrite the law by the mere expediency of legal reinterpretations and unwarranted abandonment of precedents. After all, a legal system characterized by judicial stability requires that all cases similarly situated be decided in the same manner. As held by the Court:

x x x [T]he Court has held that it is a very desirable and necessary judicial practice that when a court has laid down a principle of law as applicable to a certain state of facts, it will adhere to that principle and apply it to all future cases in which the facts are substantially the same. *Stare decisis et non quieta movere*. Stand by the decisions and disturb not what is settled. *Stare decisis* simply means that for the sake of certainty, a conclusion

reached in one case should be applied to those that follow if the facts are substantially the same, even though the parties may be different. It proceeds from the first principle of justice that, absent any powerful countervailing considerations, like cases ought to be decided alike. Thus, where the same questions relating to the same event have been put forward by the parties similarly situated as in a previous case litigated and decided by a competent court, the rule of stare decisis is a bar to any attempt to relitigate the same issue.[193] (Emphasis supplied)

In American jurisprudence, these "powerful countervailing considerations" translate to circumstances of grave necessity, hence:

"x x x The rule of stare decisis is not so imperative or inflexible as to preclude a departure therefrom in any case, but its application must be determined in each case by the discretion of the court, and previous decisions should not be followed to the extent that grievous wrong may be the result. Accordingly, the courts will not adhere to a doctrine which, although established by previous decisions, they are convinced is erroneous, unless it has become so well established that it may fairly be considered to have become a rule of property. However, an established rule will not be departed from except in case of grave necessity, and on the fullest conviction that the law has been settled wrongly, and that less injury will result from overruling than from following the earlier decisions. But where the occasion requires the review of a rule of law not so well settled by authority as to preclude such examination, a state court of last resort will review it." [194] (Emphasis supplied)

The existence of compelling circumstances that would determine whether departure from established precedent is proper thus requires a close examination of the established facts attendant in the case.

As exhaustively discussed, the facts necessary to trigger the application of Article 992 have not been established. There are simply no facts upon which the Court may determine whether "powerful countervailing circumstances" and/or "grave necessity" exists to warrant a departure from established precedent. To my mind, the reexamination of Article 992 at this stage, where the application of the provision is at best hypothetical, is dangerously premature.

In Diaz, Justice Jose B.L. Reyes, former Justice Minister Ricardo C. Puno, Dr. Arturo Tolentino, former Justice Eduardo P. Caguioa, and Professor Ruben Balane were invited specifically to address the question — whether or not Article 992, specifically, the term "relatives" used therein, can be interpreted to include the legitimate parents of the father or mother of the illegitimate children.[195]

Albeit couched in a different form, the central question in Diaz delves into the same issue which the ponencia preemptively resolves in these consolidated petitions, that is, whether Article 992 can be interpreted to allow illegitimate children to inherit from legitimate children and/or relatives of his or her parents.

In Diaz, the Court resolved this issue in this wise:

Articles 902, 989, and 990 [of the Civil Code] clearly speak of successional rights of illegitimate children, which rights are transmitted to their descendants upon their death. The descendants (of these illegitimate children) who may inherit by virtue of the right of representation may be legitimate or illegitimate. In whatever manner, one should not overlook the fact that the persons to be represented are themselves illegitimate. The three named provisions are very clear on this matter. The right of representation is not available to illegitimate descendants of legitimate children in the inheritance of a legitimate grandparent. It may be argued, as done by petitioners, that the illegitimate descendant of a legitimate child is entitled to represent by virtue of the provisions of Article 982, which provides that "the grandchildren and other descendants shall inherit by right of representation." Such a conclusion is erroneous. It would allow intestate succession by an illegitimate child to the legitimate parent of his father or mother, a situation which would set at naught the provisions of Article 992. Article 982 is inapplicable to instant case because Article 992 prohibits absolutely a succession ab intestato between the illegitimate child and the legitimate children and relatives of the father or mother. It may

not be amiss to state that Article 982 is the general rule and Article 992 the exception.

"The rules laid down in Article 982 that 'grandchildren and other descendants shall inherit by right of representation' and in Article 902 that the rights of illegitimate children x x x are transmitted upon their death to their descendants, whether legitimate or illegitimate are subject to the limitation prescribed by Article 992 to the end that 'an illegitimate child has no right to inherit ab intestato from the legitimate children and relatives of his father or mother.'" (Amicus Curiae's Opinion by former Justice Minister Ricardo C. Puno, p. 12)

x x x x

x x x Petitioners further argue that the consistent doctrine adopted by this Court in the cases of Llorente vs. Rodriguez, et al., 10 Phil., 585; Centeno vs. Centeno, 52 Phil. 322, and Oyao vs. Oyao, 94 Phil. 204, cited by former Justice Minister Justice Puno, Justice Caguioa, and Prof. Balane, which identically held that an illegitimate child has no right to succeed ab intestato the legitimate father or mother of his natural parent (also a legitimate child himself), is already abrogated by the amendments made by the New Civil Code and thus cannot be made to apply to the instant case.

Once more, We decline to agree with petitioner. We are fully aware of certain substantial changes in our law of succession, but there is no change whatsoever with respect to the provision of Article 992 of the Civil Code. Otherwise, by the said substantial change, Article 992, which was a reproduction of Article 943 of the Civil Code of Spain, should have been suppressed or at least modified to clarify the matters which are now the subject of the present controversy. While the New Civil Code may have granted successional rights to illegitimate children, those articles, however, in conjunction with Article 992, prohibit the right of representation from being exercised where the person to be represented is a legitimate child. Needless to say, the determining factor is the legitimacy or illegitimacy of the person to be represented. If the person to be represented is an illegitimate child, then his descendants, whether legitimate or illegitimate, may represent him; however, if the person to be represented is legitimate, his illegitimate descendants cannot represent him because the law provides that only his legitimate descendants may exercise the right of representation by reason of the barrier imposed in Article 992. x x x

Equally important are the reflections of the Illustrious Hon. Justice Jose B.L. Reyes which also find support from other civilists. We quote:

"In the Spanish Civil Code of 1889 the right of representation was admitted only within the legitimate family; so much so that Article 943 of that Code prescribed that an illegitimate child can not inherit ab intestato from the legitimate children and relatives of his father and mother. The Civil Code of the Philippines apparently adhered to this principle since it reproduced Article 943 of the Spanish Code in its own [Article] 992, but with fine inconsistency, in subsequent articles (990, 995 and 998) our Code allows the hereditary portion of the illegitimate child to pass to his own descendants, whether legitimate or illegitimate. So that while [Article] 992 prevents the illegitimate issue of a legitimate child from representing him in the intestate succession of the grandparent, the illegimates of an illegitimate child can now do so. This difference being indefensible and unwarranted, in the future revision of the Civil Code we shall have to make a choice and decide either that the illegitimate issue enjoys in all cases the right of representation, in which case [Article] 992 must be suppressed; or contrariwise maintain said article and modify Articles 992 and 998. The first solution would be more in accord with an enlightened attitude vis-a-vis illegitimate children. x x x

x x x x

It is Our shared view that the word "relatives" should be construed in its general acceptance. Amicus curiae Prof. Ruben Balane has this to say:

"The term relatives, although used many times in the Code, is not defined by it. In accordance therefore with the canons of statutory interpretation, It should be understood to have a general and inclusive scope, inasmuch as the term is a general one. Generalia verba sunt generaliter intelligenda. That the law does not make a

distinction prevents us from making one[.]" x x x

According to Prof. Balane, to interpret the term relatives in Article 992 in a more restrictive sense than it is used and intended is not warranted by any rule of interpretation. Besides, he further states that when the law intends to use the term in a more restrictive sense, it qualifies the term with the word collateral, as in Articles 1003 and 1009 of the New Civil Code.

Thus, the word "relatives" is a general term and when used in a statute it embraces not only collateral relatives but also all the kindred of the person spoken of, unless the context indicates that it was used in a more restrictive or limited sense—which, as already discussed earlier, is not so in the case at bar.

To recapitulate, We quote this:

"The lines of this distinction between legitimates and illegitimates, which goes back very far in legal history, have been softened but not erased by present law. Our legislation has not gone so far as to place legitimate and illegitimate children on exactly the same footing. Even the Family Code of 1987 (EO 209) has not abolished the gradation between legitimate and illegitimate children (although it has done away with the subclassification of illegitimates into natural and 'spurious'). It would thus be correct to say that illegitimate children have only those rights which are expressly or clearly granted to them by law (vide Tolentino, Civil Code of the Philippines, 1973 ed., vol. III, p. 291). (Amicus Curiae's Opinion by Prof. Ruben Balane, p. 12).

In the light of the foregoing, We conclude that until Article 992 is suppressed or at least amended to clarify the term "relatives", there is no other alternative but to apply the law literally. x x x[196] (Emphasis and underscoring supplied; italics in the original)

It is well to note that even as Justice J.B.L. Reyes viewed the distinctions drawn by Article 992 as "unwarranted" — an observation that I share — still, he clearly maintained that the decision to retain or otherwise eradicate these distinctions lies solely with the Legislature, and may be implemented only through the revision of the Civil Code.

Thus, taking the views of the amici curiae into account, the Court[197] resolved to apply Article 992 literally, as it is written. Simply put, the Court refused to reinterpret the plain words of the statute to accord the provision a liberal meaning. In so ruling, the Court recognized that the decision to abolish the distinctions between legitimate and illegitimate children, insofar as intestate succession is concerned, lies not with the Judiciary but with the Legislature, where such decision still lies today.

I disagree with the ponencia's view that in recasting Article 992, the Court is merely affirming the Philippines' international commitments "that are in harmony with our constitutional provisions and have already been codified in our domestic legislation." [198] To my mind, this position precariously glosses over the fact that the distinctions between legitimate and illegitimate children under the Civil Code and Family Code have been left by the Legislature as they are, notwithstanding the Philippines' adherence to treaty obligations that require children to be treated in equal measure. To repeat, a Decision which sanctions judicial legislation in order to adhere to international commitments effectively leaves the Court with an avenue to rewrite legislation and cause a possibly indiscriminate eradication of the distinctions between legitimate and illegitimate children under the Civil Code and Family Code.

To be sure, a finding that a revisit of Article 992 is premature is not a conclusion that Article 992 is a perfect provision that needs no reexamination. The Court is certainly not conflicted with the need for equity and fairness in the area of successional rights. The ponencia imagines that if Article 992 merely recognizes the attending conditions surrounding the circumstances it governs, then it should similarly take into account the different changes in the dynamics of families. [199] While this may be true, and even as I may personally agree with such sentiment, any perceived changes in the social moorings for Article 992, or any contemplated vices in its wisdom,

may only be winnowed in the halls of Congress, and may not be construed by or speculated upon in the chambers of this Court, especially not in an attempt at preemptive resolution of what is yet a non-issue in the instant case.

Despite being criticized, Article 992 remains indelible in the Civil Code. In fact, the Family Code, despite removing certain distinctions among illegitimate children, saw fit not to shatter the iron curtain rule set forth in Article 992. Thus, the iron curtain should remain until the Legislature resolves to eradicate it through subsequent legislation.

Based on the foregoing premises, I vote to REMAND the consolidated petitions to the court of origin for the reception of evidence on (i) the veracity of the factual allegations made by Amadea Angela K. Aquino; (ii) the veracity of the defenses raised by Rodolfo Aquino and Abdulah Aquino; (iii) the evidentiary value of the Certificate of Live Birth indicating that Amadea Angela K. Aquino is the illegitimate daughter of one Enrique A. Ho; and (iv) such other facts as the said court may determine to be relevant in the resolution of the pending "Motion to be Included in the Distribution and Partition of Estate". Thereafter, said motion should be resolved by the court of origin in accordance with the prevailing interpretation of Article 992.

[1] Ponencia, pp. 2, 33.

[2] Id. at 34-35. Article 982 states:

ART. 982. The grandchildren and other descendants shall inherit by right of representation, and if any one of them should have died, leaving several heirs, the portion pertaining to him shall be divided among the latter in equal portions.

[3] Id. at 46.

[4] Id.

[5] Rollo (G.R. No. 209018), Vol. 1, pp. 86-93.

[6] Ponencia, p. 46.

[7] See ponencia, p. 15.

[8] Alvarez v. PICOP Resources, Inc., G.R. Nos. 162243, 164516 & 171875, November 29, 2006, 508 SCRA 498, 552.

[9] Id. at 552.

[10] Ponencia, p. 30.

[11] Moldex Realty, Inc. v. Housing and Land Use Regulatory Board, G.R. No. 149719, June 21, 2007, 525 SCRA 198, 206-207.

[12] VIENNA CONVENTION ON THE LAW OF TREATIES, Art. 26 states: "Every treaty in force is binding upon the parties to it and must be performed by them in good faith."

[13] UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD, Art. 3(1) states: "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."

[14] G.R. No. 91332, July 16, 1993, 224 SCRA 576.

[15] Id. at 593. Citation omitted.

[16] Under the Constitution, international law can become part of the sphere of domestic law either by transformation or incorporation. The transformation method requires that an international law be transformed into a domestic law through a constitutional mechanism such as local legislation. The incorporation method applies when, by mere constitutional declaration, international law is deemed to have the force of domestic law. Treaties become part of the law of the land through transformation pursuant to Section 21, Article VII of the Constitution.

[17] Dixon, M. TEXTBOOK ON INTERNATIONAL LAW, 1996, Clarendon Press, New York, 65.

[18] Id.; see also Malcolm, S., INTERNATIONAL LAW, 4[th] Ed., 1998, Cambridge University Press, 100.

[19] VIENNA CONVENTION ON THE LAW OF TREATIES, Art. 27 states: "A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty. This rule is without prejudice to article 46."

[20] Id.

[21] See Vereshchetin, V.S., "New Constitutions and the Old Problem of the Relationship Between International Law and National Law", 7 European Journal of International Law (1996) 29-41, accessed at <<http://www.ejil.org/pdfs/7/1/1354.pdf>>.

[22] Exchange of Greek and Turkish Populations, P.C.I.J. Advisory Opinion No. 10, Series B, February 21, 1925, p. 20, accessed at <https://www.icj-cij.org/public/files/permanent-court-of-international-justice/serie_B/B_10/01_Echange_des_populations_grecques_et_turques_Avis_consultatif.pdf>.

[23] See RA 9262, Sec. 2. The Convention on the Elimination of all Forms of Discrimination Against Women was signed by the Philippines on July 15, 1980 and deposited the instrument of ratification on August 5, 1981.

[24] G.R. No. 139465, January 18, 2000, 322 SCRA 160.

[25] Id. at 196-197.

[26] 101 Phil. 1155 (1957).

[27] Id. at 1191.

[28] No. L-21897, October 22, 1963, 9 SCRA 230.

[29] Id. at 243.

[30] Ponencia, p. 29.

[31] Id.

[32] Id. at 15.

[33] Id. at 16.

[34] Id. at 15.

[35] Biraogo v. Philippine Truth Commission of 2010, G.R. Nos. 192935 & 193036, December 7, 2010, 637 SCRA 78, 148.

[36] UDK-15143, January 21, 2015, 746 SCRA 352.

[37] Id. at 359.

[38] G.R. No. 202275, July 17, 2018, 872 SCRA 50.

[39] Id. at 97-100. Citations omitted.

[40] CONSTITUTION, Art. VIII, Sec. 1.

[41] Association of Medical Clinics for Overseas Workers, Inc. (AMCOW) v. GCC Approved Medical Centers Association, Inc., G.R. Nos. 207132 & 207205, December 6, 2016, 812 SCRA 452, 480. Citation omitted.

[42] G.R. Nos. 224834 & 224871, March 15, 2017, 820 SCRA 585.

[43] Id. at 596, citing Land Bank of the Philippines v. Santos, G.R. Nos. 213863 & 214021, January 27, 2016, 782 SCRA 441, 460.

[44] RULES OF COURT, Rule 72, Sec. 2.

[45] See Section 2, Rule 2, 1997 Rules of Civil Procedure, as amended by A.M. No. 19-10-20-SC-2019.

[46] Selerio v. Bancasan, G.R. No. 222442, June 23, 2020, p. 9.

[47] CIVIL CODE, Art. 278. See also Gapusan-Chua v. Court of Appeals, G.R. No. 46746, March 15, 1990, 183 SCRA 160, 166.

[48] 109 Phil. 522 (1960).

[49] Id. at 525-526.

[50] Barles v. Ponce Enrile, No. L-12894, January 28, 1961, 1 SCRA 148-149.

[51] Barles v. Ponce Enrile, *supra* note 48, at 525.

[52] As explained in Barles, natural children were granted the right to establish their filiation through an action for recognition under Article 285 of the Civil Code, while spurious children were granted the right to file an action for investigation of paternity or maternity under Article 289 of the same statute Barles v. Ponce Enrile, *supra* note 50, at 148.

[53] De Jesus v. Estate of Decedent Juan Gamboa Dizon, G.R. No. 142877, October 20, 2001, 366 SCRA 499, 503.

[54] Id. at 503.

[55] CIVIL CODE, Art. 269.

[56] Rollo (G.R. No. 208912), Vol. I, pp. 55-56.

[57] G.R. No. 140500, January 21, 2002, 374 SCRA 180.

[58] Id. at 186-187. Citations omitted.

[59] Id. at 181.

[60] See Rodolfo's Memorandum, rollo (G.R. No. 209018), Vol. I, p. 313; Abdulah's Memorandum, *id.* at 366.

[61] See *id.*

[62] Barles v. Ponce Enrile, *supra* note 48, at 525.

[63] 43 Phil. 763 (1922).

[64] Id. at 768-769.

[65] G.R. No. 206647, August 9, 2017, 836 SCRA 453.

[66] Id. at 464-470. Some citations omitted.

[67] G.R. No. 232579, September 8, 2020.

[68] Id. at 30.

[69] See *Briz v. Briz and Remigio*, supra note 63, at 768.

[70] *Macias v. Uy Kim*, No. L-31174, May 30, 1972, 45 SCRA 251, 259, citing *Mañingat v. Castillo*, 75 Phil. 532, 535 (1945).

[71] CIVIL CODE, Art. 402.

[72] The provision states, in part:

ART. 234. Emancipation takes place by the attainment of majority. Unless otherwise provided, majority commences at the age of twenty-one years.
x x x x (Emphasis supplied)

[73] AN ACT LOWERING THE AGE OF MAJORITY FROM TWENTY-ONE TO EIGHTEEN YEARS, AMENDING FOR THE PURPOSE EXECUTIVE ORDER NUMBERED TWO HUNDRED NINE, AND FOR OTHER PURPOSES, December 13, 1989.

[74] Ponencia, p. 38.

[75] See J. Perlas-Bernabe, Separate Concurring Opinion, p. 3.

[76] Adm. Case No. 4758, April 30, 1999, 306 SCRA 487.

[77] Id. at 492.

[78] G.R. No. 132223, June 19, 2001, 358 SCRA 707.

[79] Id. at 711.

[80] Ponencia, p. 38.

[81] No. L-45645, June 28, 1983, 123 SCRA 99.

[82] See ponencia, pp. 39-40.

[83] See J. Perlas-Bernabe, Separate Concurring Opinion, p. 4.

[84] 549 Pa. 241 (1997).

[85] Id. at 249-250.

[86] Vedder, J.J and Miller, B.M., Presumptions in Paternity Cases: Who Is the Father in the Eyes of the Law? Family Advocate, Vol. 40, No. 4 (Spring 2018), accessed at <<https://www.lawmoss.com/publication-presumptions-in-paternity-cases-who-is-the-father-in-the-eyes-of-the-law>> .

[87] Id.

[88] See Melanie B. Jacobs, When Daddy Doesn't Want to Be Daddy Anymore: An Argument Against Paternity Fraud Claims, *Yale Journal of Law and Feminism*, Vol. 16: 193 2004, at 194.

[89] No. L-33442, October 23, 1984, 132 SCRA 590.

[90] *Id.* at 592.

[91] *Tongoy v. Court of Appeals*, *supra* note 81, at 126.

[92] G.R. No. 86302, September 24, 1991, 201 SCRA 675.

[93] *Id.* at 683. Citations omitted.

[94] *Ponencia*, p. 38.

[95] See *Barles v. Ponce Enrile*, *supra* note 48, at 526.

[96] A.M. No. 06-11-5-SC, October 2, 2007.

[97] *Ponencia*, p. 41.

[98] *Id.* Citations omitted.

[99] *Id.* at 42.

[100] *Id.* Citation omitted.

[101] RULE ON DNA EVIDENCE, Sec. 3.

[102] *Ponencia*, p. 43.

[103] See Paras, E. L. *CIVIL CODE OF THE PHILIPPINES ANNOTATED* (16th Ed. 2008) p. 69, citing *Cruz v. Pahati*, 98 Phil. 788 (1956).

[104] Jurado, D. P., *COMMENTS AND JURISPRUDENCE ON OBLIGATIONS AND CONTRACTS* (1987 9th Rev. Ed) p. 620, citing Report of the Code Commission, p. 59.

[105] *Republic v. Sandiganbayan*, G.R. Nos. 108292, 108368, 108548-49 & 108550, September 10, 1993, 226 SCRA 314, 327.

[106] See *id.* at 326-327.

[107] *Ponencia*, p. 42.

[108] *Rollo* (G.R. No. 208912), Vol. I, p. 92.

[109] ART. 278. Recognition shall be made in the record of birth, a will, a statement before a court of record, or in any authentic writing.

[110] *Rollo* (G.R. No. 208912), Vol. I, p. 92.

[111] *Reyes v. Court of Appeals*, No. L-39537, March 19, 1985, 135 SCRA 439, 449, citing *Alabat v. Vda. De Alabat*, No. L-22169, December 29, 1967, 21 SCRA 1479, 1481; *Mise v. Rodriguez*, 95 Phil. 396 (1954); *Magallanes v. CA*, 95 Phil. 795 (1954); *Canales v. Arrogante*, 91 Phil. 6 (1952); *Malonda v. Malonda*, 81 Phil. 149 (1948); *Buenaventura v. Urbano*, 5 Phil. 1 (1905).

[112] *Cruz v. Castillo*, No. L-27232, June 30, 1969, 28 SCRA 719, 722.

[113] Rollo (G.R. No. 209018), Vol. I, p. 96.

[114] Id.

[115] See id. at 87, 96.

[116] Id. at 95.

[117] Id. Emphasis omitted.

[118] Id. at 87-88.

[119] Id. at 71-75.

[120] Id. at 75.

[121] Rollo (G.R. No. 208912), Vol. I, p. 180. Emphasis and underscoring omitted.

[122] Id. Emphasis and underscoring omitted.

[123] See id.

[124] Id. at 397. Attached to Memorandum of Abdulah as Annex 1.

[125] RULES OF COURT, Rule 132, Sec. 34 states:

SEC. 34. Offer of evidence. — The court shall consider no evidence which has not been formally offered. The purpose for which the evidence is offered must be specified.

[126] Rollo (G.R. No. 209018), Vol. I, pp. 87-88, i.e., that decedent Miguel (1) provided for the medical expenses of her mother while the latter was pregnant, (2) allowed the Aquino family doctor, Dr. Rizalina Pangan, to attend to her mother, (3) allowed her to live in the ancestral home of the Aquino family, (4) allowed her to be baptized as Amadea Angela Aquino, (5) visited her, provided for her needs, and spent for her education, and (6) instructed his son and grandson, shortly before his death, to give her a commercial lot.

[127] RULES OF COURT, Rule 130, Sec. 36 states:

SEC. 36. Testimony generally confined to personal knowledge; hearsay excluded. — A witness can testify only to those facts which he knows of his personal knowledge; that is, which are derived from his own perception, except as otherwise provided in these rules.

[128] See rollo (G.R. No. 208912), Vol. I, pp. 178-188 and 189-202.

[129] TSN, September 3, 2019, pp. 106-110.

[130] See rollo (G.R. No. 209018), Vol. I, pp. 87-88.

[131] RTC Order dated March 6, 2008, id. at 78.

[132] See id. at 87-88.

[133] Rollo (G.R. No. 208912), Vol. I, p. 111.

[134] See id.

[135] Id. at 112-113.

[136] CIVIL CODE, Art. 782.

[137] Agbayani v. Lupa Realty Holding Corporation, G.R. No. 201193, June 10, 2019, p. 13. Citation omitted.

[138] Rollo (G.R. No. 208912), Vol. I, p. 157.

[139] See J. Perlas-Bernabe, Separate Concurring Opinion, p. 7.

[140] CIVIL CODE, Art. 2035 states:

ART. 2035. No compromise upon the following questions shall be valid:

- (1) The civil status of persons;
- (2) The validity of a marriage or a legal separation;
- (3) Any ground for legal separation;
- (4) Future support;
- (5) The jurisdiction of courts;
- (6) Future legitime. (Underscoring supplied)

[141] Rollo (G.R. No. 209018), Vol. I, p. 96.

[142] Id.

[143] Id.

[144] See Republic v. Workmen's Compensation Commission, No. L-19946, February 26, 1965, 13 SCRA 272, 275.

[145] Reyes v. Court of Appeals, supra note 111, at 450.

[146] Rollo (G.R. No. 209018), Vol. I, p. 95.

[147] Id. Emphasis omitted; italics supplied.

[148] Id. at 206-234.

[149] Id. at 236.

[150] Id.

[151] See RULES OF COURT, Rule 132.

[152] See Republic v. Workmen's Compensation Commission, supra note 144, at 275. See also Paulino v. Paulino, No. L-15091, December 28, 1961, 3 SCRA 730, 733; Noble v. Noble, No. L-17742, December 17, 1966, 18 SCRA 1104, 1110.

[153] G.R. No. 124814, October 21, 2004, 441 SCRA 96.

[154] G.R. No. 172471, November 12, 2012, 685 SCRA 101.

[155] Cabatania v. Court of Appeals, supra note 153, at 102-103; Perla v. Baring, id. at 111-112. Emphasis supplied; citations omitted.

[156] Rollo (G.R. No. 209018), Vol. I, p. 237.

[157] Id.

[158] Id.

[159] AN ACT TO ESTABLISH A CIVIL REGISTER, November 26, 1930. Section 5 thereof states:

SECTION 5. Registration and Certification of Births. — The declaration of the physician or midwife in attendance at the birth or, in default thereof, the declaration of either parent of the newborn child, shall be sufficient for the registration of a birth in the civil register. Such declaration shall be exempt from the documentary stamp tax and shall be sent to the local civil registrar not later than thirty days after the birth, by the physician, or midwife in attendance at the birth or by either parent of the newly born child.

In such declaration, the persons above mentioned shall certify to the following facts: (a) date and hour of birth; (b) sex and nationality of infant; (c) names, citizenship, and religion of parents or, in case the father is not known, of the mother alone; (d) civil status of parents; (e) place where the infant was born; (f) and such other data may be required in the regulation to be issued.

In the case of an exposed child, the person who found the same shall report to the local civil registrar the place, date and hour of finding and other attendant circumstances.

In case of an illegitimate child, the birth certificate shall be signed and sworn to jointly by the parents of the infant or only the mother if the father refuses. In the latter case, it shall not be permissible to state or reveal in the document the name of the father who refuses to acknowledge the child, or to give therein any information by which such father could be identified.

Any foetus having human features which dies after twenty four hours of existence completely disengaged from the maternal womb shall be entered in the proper registers as having been born and having died. (Emphasis supplied)

[160] Rollo (G.R. No. 209018), Vol. I, p. 238.

[161] Id. at 440.

[162] Id.

[163] Id. at 441.

[164] TSN, September 3, 2019, pp. 100-104.

[165] Rollo (G.R. No. 209018), Vol. I, pp. 361-362.

[166] RULES OF COURT, Rule 131, Sec. 3 states:

SEC. 3. Disputable presumptions. — The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence:

x x x x

(e) That evidence willfully suppressed would be adverse if produced;

x x x x

[167] Rollo (G.R. No. 209018), Vol. I, pp. 119-121.

[168] Id. at 122.

[169] Id. at 123.

[170] Id. at 124.

[171] Id. at 125.

[172] Id. at 96.

[173] Id. at 95.

[174] No. L-57257 and Adm. Matter Nos. 1337-Ret. & 10468-CFI, March 5, 1984, 128 SCRA 53.

[175] *Id.* at 77-78.

[176] CIVIL CODE, Art. 410.

[177] *Rollo* (G.R. No. 209018), Vol. I, p. 238.

[178] *Id.*

[179] *Id.* at 441.

[180] TSN, September 3, 2019, p. 103.

[181] *Supra* note 47.

[182] *Id.* at 167.

[183] *See id.*

[184] G.R. No. 163707, September 15, 2006, 502 SCRA 151.

[185] Provincial Bus Operators Association of the Philippines (PBOAP) v. Department of Labor and Employment (DOLE), *supra* note 38, at 98.

[186] *See J. Mendoza, Dissenting Opinion in Roy III v. Herbosa*, G.R. No. 207246, November 22, 2016, 810 SCRA 1, 145.

[187] That is, that Article 992 should be accorded an interpretation that qualifies children, regardless of the circumstances of their births, to inherit from their direct ascendants by right of representation. *See ponencia*, p. 33.

[188] G.R. No. 66574, February 21, 1990, 182 SCRA 427. In *Diaz*, the Court held that "until Article 992 is suppressed or at least amended to clarify the term 'relatives', there is no other alternative but to apply the law literally." (*Id.* at 436.) The Court further quoted *amicus curiae* Professor Ruben Balane, as follows: "[t]he lines of this distinction between legitimates and illegitimates, which goes back very far in legal history, have been softened but not erased by present law. Our legislation has not gone so far as to place legitimate and illegitimate children on exactly the same footing. Even the Family Code of 1987 (EO 209) has not abolished the gradation between legitimate and illegitimate children (although it has done away with the subclassification of illegitimates into natural and 'spurious'). It would thus be correct to say that illegitimate children have only those rights which are expressly or clearly granted to them by law." (*Id.* at 435-436. Citation omitted.)

[189] *See generally* *Ting v. Velez-Ting*, G.R. No. 166562, March 31, 2009, 582 SCRA 694, 705-708, citing *Lambino v. Commission on Elections*, G.R. Nos. 174153 & 174299, October 25, 2006, 505 SCRA 160, 308-312.

[190] 59 Phil. 30 (1933).

[191] *Id.* at 36.

[192] *Id.*

[193] *Republic v. Rosario*, G.R. No. 186635, January 27, 2016, 782 SCRA 271, 286-287, citing *Commissioner of Internal Revenue v. The Insular Life Assurance Co., Ltd.*, G.R. No. 197192, June 4, 2014, 725 SCRA 94, 96-97.

[194] *J. Villa-Real, Dissenting Opinion in People v. Moreno*, 60 Phil. 674, 682 (1934), citing *Encyclopedia of American Jurisprudence (Corpus Juris)*, vol. 15, p. 956.

[195] *Diaz v. Intermediate Appellate Court*, *supra* note 188, at 429-430.

[196] Id. at 431-436.

[197] In Diaz, the ponencia was written by Associate Justice Paras and was concurred in by Chief Justice Feman, and Associate Justices Narvasa, Melencio-Herrera, Cruz, Feliciano, Gancayco, Cortes, Griño-Aquino, Medialdea, and Regalado.

[198] Ponencia, p. 29.

[199] Id. at 32.

CONCURRING OPINION

LAZARO-JAVIER, J.:

I concur in the ponencia of the learned Associate Justice Marvic M.V.F. Leonen. There are only some matters though which I wish to amplify and stress, both being the logical and affirmative consequences of his enlightened reasoning.

One. I agree with the ponente that these cases are all about abandoning prejudicial stereotypes that have no other purpose but to fuel the cruelties, oppression, and regressive ideas about family life. To emphasize further, family life is not all about marital relationships as it should include all other typologies of bonding, support, love, respect, care, and concern. While marriage is an important social institution, this does not mean that it is the only foundation of one's dignity and self-worth as a person. There are other arrangements worthy of the law's protection because they, as much, give foundation and stability to our society. I must admit though that this recognition is an important issue of policy that the Court is not competent to determine and impose at first instance.

Two. I also agree with the ponencia that the interpretation and application of Article 992, Civil Code must be revisited so that it does not lend to ridiculous classifications of children entitled to inherit by right of representation. To amplify, non-marital children should not bear the burden of past indiscretions or failed relationships that they know nothing about and are absolutely innocent of. It should not matter that they were off-springs of allegedly illicit relations or the by-products of legal impediments to a valid marriage. Stereotypical characterizations only stunt the debate towards a more inclusive Philippine family and personal law.

Three. Too, I join the ponente's ruling that the Court should now abandon the twin presumptions of ill-will and hostility between marital and non-marital families and of non-marital children as being the unfortunate by-products of illicit relationships. They are not factual because they are sweeping. The cases here clearly illustrate the falsity of these presumptions.

Indeed, the correct presumption is the good-naturedness and adherence of the decedent to the love stream where affection and generosity flow downstream, then up, then sideways.

Hence, from hereon, it is presumed that without any distinction whatsoever, an ascendant would have wanted to be remembered by fondly, not niggardly or disparagingly, and to this end, would have endeavoured to bequeath an estate to a descendant. This is consistent with the presumption that people would act reasonably in the management and dispensation of their affairs.

As a result, Article 992, Civil Code should be read together with Article 982, Civil Code, and Article 195, Family Code so that Article 992 should only refer to the legitimate collateral relatives of the parent of the illegitimate child. This means that children, legitimate or illegitimate, may inherit from their grandparent by right of

representation of their parent who is either a legitimate or an illegitimate child of the grandparent.

Indeed, to continue reading Article 992 as a bar against illegitimate children of a legitimate parent from succeeding their grandparent, when the illegitimate children of an illegitimate parent can succeed their grandparent by representation, is utterly discriminatory.

Discrimination arises when the impugned provision creates a prejudicial distinction affecting the complainant as a member of a group, based on an irrelevant personal and immutable characteristic shared by the group. Here, there is that prejudicial distinction. It affects illegitimate children of a legitimate parent, like petitioner Amadea Angela K. Aquino (Angela). It deprives her of her successional rights that have long been given to her as a result of the settlement of her grandfather's estate. The deprivation affects only this group and distinguishes this group from illegitimate children of an illegitimate parent. The differential treatment is based on an irrelevant personal status – legitimacy of the parent.

Clearly, the interpretation of Article 992, the way it has been read, cannot withstand constitutional scrutiny. The interpretation must, as the ponencia has done, be correctly abandoned and replaced by an inclusive, fair, and equitable reading thereof.

Four. Finally, I agree that the recalibrated interpretation of Article 992 does not automatically entitle Angela to inherit from her supposed grandfather Miguel; she still carries the burden of proving her filiation.

It is laudable that the ponencia is embracing technological advancements such as DNA testing in resolving this lingering issue. Indeed, DNA testing may be the simplest and most expedient process of establishing Angela's pedigree. Indeed, the DNA result is the only fool-proof evidence of filiation beyond any challenge by any of the parties. It is the only evidence which can ultimately write finis to this long drawn legal battle between two waning camps that ironically share the same Aquino surname.

The 2001 case of *Tijing v. Court of Appeals*[1] elucidates:

Parentage will still be resolved using conventional methods unless we adopt the modern and scientific ways available. Fortunately, we have now the facility and expertise in using DNA test for identification and parentage testing. The University of the Philippines Natural Science Research Institute (UP-NSRI) DNA Analysis Laboratory has now the capability to conduct DNA typing using short tandem repeat (STR) analysis. x x x For it was said, that courts should apply the results of science when completely obtained in aid of situations presented, since to reject said result is to deny progress. Though it is not necessary in this case to resort to DNA testing, in [the] future it would be useful to all concerned in the prompt resolution of parentage and identity issues. (Emphases added)

The future is now. In *Herrera v. Alba*,[2] the Court already recognized the reliability of DNA testing, the admissibility of DNA results in evidence, and the validity of court orders compelling DNA testing for purposes of establishing paternity or filiation. This is in recognition of the Court's acceptance of scientific progress and breakthroughs as veritable aids in seeking out judicial truths. Indeed, the modern facilities of science allow courts to obtain decisive evidence and bring our long-drawn judicial investigation to a conclusion.

To recall, the present controversy started on May 7, 2003 when Rodolfo filed a petition before the Regional Trial Court of Davao City for the settlement of Miguel's intestate estate. On July 17, 2003, Angela sought to be included in the distribution and partition of Miguel's properties. About two (2) years later, by Order dated April 22, 2005, the trial court granted Angela's motion. It was only on January 21, 2013 or almost eight (8) years later when the Court of Appeals reversed the trial court's ruling. Thereafter, it has taken this Court eight (8) more years to dispose of the issue due to its novelty and complexity. In fine, Angela's motion to be included in the distribution of Miguel's estate has been pending for eighteen (18) long years. Like a woman who has come of age,

Angela's motion has celebrated its debut.

Angela, Rodolfo, and Abdullah, have all significantly aged from the time the petition was filed before the trial court in 2003. Fortunately, resort to DNA evidence may finally put an end to this protracted controversy. With the aid of scientific advancements, the parties may finally see the settlement of Miguel's estate on the horizon.

ACCORDINGLY, I vote to REMAND the case to the Regional Trial Court of origin for reception of DNA evidence for the resolution of the issue of Amadea Angela K. Aquino's filiation and, consequently, her entitlement to a share in the estate of Miguel Aquino.

[1] 406 Phil. 449, 461 (2001).

[2] 499 Phil. 185 (2005).

SEPARATE CONCURRING OPINION

ZALAMEDA, J.:

This case, at its core, revolves on the issue of whether Amadea Angela K. Aquino (Angela), an illegitimate grandchild, may inherit from her legitimate grandfather, Miguel Aquino (Miguel), by right of representation.

To recall, the ponencia revisited the interpretation and application of Article 992 to illegitimate children and concluded that the provision should be construed to qualify children, regardless of their births, to inherit from their direct ascendants by their right of representation. However, due to unsettled factual questions relating to the filiation of Angela to Arturo Aquino (Arturo), her alleged father, the ponencia remanded the case to the Court of origin for resolution in accordance with the principles espoused therein.

Upon meticulous study of the pertinent laws and jurisprudence, I concur in the result and in the ponente's interpretation of Article 992 of the Civil Code that illegitimate children, may inherit from the legitimate relative-decedent, albeit for a different reason. The conclusion I put forward is based primarily on the proposition that Article 992 merely creates a disputable presumption which may be overturned by clear and convincing evidence.

Article 992 of the Civil Code merely
creates a disputable presumption
which may be overturned by clear
and convincing proof

Article 992 of the Civil Code embodies the iron curtain rule which has been applied to absolutely prohibit a succession ab intestato between the illegitimate child and the legitimate children and relatives of the father or mother of said child. The rule was established because the law presumes that there is an intervening antagonism and incompatibility between the legitimate and illegitimate family.[1]

In *Grey v. Fabie*,[2] the Court, quoting *Manresa*, explained:

Between the natural child and the legitimate relatives of the father or mother who acknowledged it, the Code denies any right of succession. They cannot be called relatives and they have no right to inherit. Of course, there is a blood tie, but the law does not recognize it. In this, Article 943[3] is based upon the reality of the facts and upon the presumptive will of the interested parties; the natural child is disgracefully looked down upon by the legitimate family; the legitimate family in turn, hated by the natural child; the latter considers the

privileged condition of the former and the resources of which it is thereby deprived; the former, in turn, sees in the natural child nothing but the product of sin, a palpable evidence of a blemish upon the family. Every relation is ordinarily broken in life; the law does no more than recognize this truth by avoiding further grounds of resentment.

Article 992 is patently grounded on the presumed animosity and intervening, antagonism and incompatibility between members of the legitimate family and those of the illegitimate family.[4]

According to the Macmillan dictionary, the word "intervening" means "happening between two events or times" or "in the space between two people or things." Hence, the "intervening antagonism" referred to as the basis of the iron curtain rule necessarily pertains to the ensuing animosity between the two families during the legitimate relative-decedent's lifetime - from the birth of the illegitimate child until the death of the legitimate relative-decedent. It is expected that, upon the legitimate ascendant's death, questions on succession will give rise to conflicts, maybe even dissension, among family members. The framers of the law predicted that allowing succession to flow between these two groups of heirs would only exacerbate the uneasy relations between them. Therefore, this impregnable successional barrier was created precisely to forestall such animosity between the two families from arising.

It must be underscored, however, that the "presumed animosity" is exactly that: presumed. And that presumption is predicated on the culture and values prevailing at the time the law was written. Such an animosity is not a fact that was sure to arise in every similar instance – it is merely a presumption.

Presumptions are "inference[s] as to the existence of a fact not actually known, arising from its usual connection with another which is known, or a conjecture based on past experience as to what course human affairs ordinarily take." [5] These presumptions essentially embody values and revealed behavioral expectations under a given set of circumstances.

In law, a presumption is an inference of the existence or non-existence of a fact which courts are permitted to draw from proof of other facts,[6] and is mandatory unless rebutted.[7] At present, the Rules of Court[8] identifies only two (2) kinds of conclusive presumptions which may not be overturned even by the strongest of contrary evidence. These presumptions are made conclusive not because there is an established uniformity in behavior whenever identified circumstances arise,[9] but because they are declared as such under the law.[10] They are based not on the truth of the presumptions, but on the principle of estoppel. Indeed, the term "conclusive presumption" is a legal aberration because it equates a presumption with a fact.

On the other hand, disputable presumptions are presumptions that may be overcome by contrary evidence.[11] They are disputable in recognition of the variability of human behavior.[12] Thus, the application of disputable presumptions on a given circumstance must be based on the existence of certain facts on which they are meant to operate.[13] Since "[p]resumptions are not allegations, nor do they supply their absence[,]"[14] disputable presumptions apply only in the absence of contrary evidence or explanations. They do not apply when there are no facts or allegations to support them. If the facts exist to set in motion the operation of a disputable presumption, courts may accept the presumption. Contrary evidence, however, may be presented to rebut the presumption. In fact, courts cannot disregard contrary evidence offered to rebut disputable presumptions.[15]

As aptly pointed out by Prof. Avelino M. Sebastian, Jr., a respected professor and commentator on Wills and Succession, the Civil Code is silent as to whether or not the "presumed animosity - the heart and basis of Article 992 - is conclusive or disputable.[16] To my mind, the law, as currently worded, does not create a conclusive presumption of animosity.[17] Rather, the successional barrier under Article 992 is anchored on a disputable presumption that may be controverted by clear and convincing evidence.

The theory herein espoused finds support from the fact that case law recognize situations where the presumed animosity does not arise or is not present based on evidence presented.

In testate succession, the presumed animosity between the legitimate and illegitimate family does not arise. It has been held that the successional barrier applies only in cases of succession by operation of law and finds no application in testamentary dispositions.[18] This distinction created by law between succession by will and succession ab intestato stems from the fact that the former is precisely the express design of the decedent, while the latter is predicated on the decedent's presumed will. In executing a will and bequeathing to the illegitimate child a legacy or devise, the legitimate relative-decedent is deemed to have recognized his filiation with the illegitimate child and, in effect, permits succession to cross between the legitimate and illegitimate lines because the decedent has expressly allowed it to do so. Consequently, the need for the successional barrier is dispelled since the presumed animosity – the very basis of the iron curtain rule - never arises. Verily, there would be no basis for allowing a testamentary disposition made by a legitimate grandparent to an illegitimate grandchild if the animosity between legitimate and illegitimate descendants of a deceased were to be conclusively presumed.

The pronouncement in the case of *Suntay v. Cojuangco-Suntay*[19] (*Suntay*) likewise strengthens the disputable presumption proposition. In *Suntay*, this Court essentially ruled that the legal presumption as provided in Article 992 may be overthrown by sufficient proof that there was no animosity between the legitimate and illegitimate family.

Further, human experience proves that such animosity does not necessarily exist between members of the legitimate family and those of the illegitimate family. As the ponente aptly underscored, the cultural and societal norms have already evolved and changed in time, and as such, the reasons for illegitimacy have already varied. Illegitimacy may now ensue from various pretext which may not necessarily result to a divide between the legitimate and illegitimate families. Accordingly, the antagonism and hate towards the illegitimate blood does not automatically exist.

In this vein, it must be underscored that while Manresa's justification for the successional barrier might have been true in his time, it is not necessarily true at present. The rationale for the successional barrier has, therefore, been largely discredited and the presumption of animosity, antagonism, and hate is unwarranted. Indeed, this interpretation is in line with the intent of the framers of the Civil Code to; (1) grant the right of representation to grandchildren, both legitimate and illegitimate; and (2) confer more rights to illegitimate children.[20] As Justice Jose B.L. Reyes eloquently underlined, the delineation between the hereditary rights enjoyed by illegitimate and legitimate children highlighted by Article 992 is indefensible and unwarranted, and must hence be revisited to reflect the enlightened attitude towards illegitimate children.[21]

Ultimately, Article 992 merely creates a disputable presumption of animosity between the legitimate and illegitimate families. Since a mere disputable presumption cannot prevail over clear and convincing evidence to the contrary,[22] the disputable presumption created by Article 992 may therefore be controverted, and illegitimate children may inherit ab intestato from the legitimate children and relatives of his or her mother or father upon sufficient proof of the decedent's intentions or wishes.

Otherwise stated, since the basis for applying the successional barrier to succession ab intestato is the presumed animosity between members of the legitimate and illegitimate families, the successional barrier cannot be upheld if the very basis for creating it does not exist. As such, there is no justification for the exclusion of other evidence that would negate the existence of animosity between the legitimate and illegitimate families. The party against whom the successional barrier is sought to be applied should be given the opportunity to disprove the existence of animosity, and to overturn the presumed, will of the legitimate relative-decedent. As in the previous cases of

Tongoy v. CA[23] and Ramos v. Ramos,[24] the Court is to consider the totality of the legitimate relative-decedent's actions, and their families should be allowed to prove the amicability and established ties between the two families during the decedent's lifetime.

Angela timely filed an action for recognition; however, her allegations are yet to be substantiated by clear and convincing evidence

Considering the foregoing disquisition that illegitimate filiation does not automatically bar succession ab intestato by virtue of the successional barrier under Article 992, Angela should be allowed to present evidence on her filiation. I agree with the ponente that it is Angela's vested right to prove her filiation pursuant to the Civil Code, as in fact she did by timely filing her Motion to be Included in the Distribution and Partition of Miguel Aquino's Estate on 02 July 2003. As correctly underlined by Justice Alfredo Benjamin S. Caguioa, the issue of Angela's filiation may be resolved in the same proceeding for the settlement of Miguel's estate.

Further, I posit that Angela may be recognized as Arturo's natural child in accordance with Article 283 of the Civil Code. The same provides that the father is obliged to recognize the child as his natural child when the latter is "in continuous possession of status of a child of the alleged father by the direct acts of the latter or his family." Therefore, the law itself explicitly allows direct acts of the family, not just of the alleged parent, to be used as basis for claiming illegitimate filiation, in addition to any other evidence or proof. This Court likewise held in Mendoza v. Court of Appeals[25] that the rules of evidence – such as declarations about pedigree, baptismal certificate, common reputation respecting his pedigree – are applicable in proving paternity. Relatedly, the acts and declarations of Angela's relatives may be used to establish and prove her filiation to Arturo Aquino.

In the case at bar, however, I maintain that Angela has not yet proven her filiation to Arturo by clear and convincing evidence.[26] Clear and convincing evidence pertains to standard of proof that is less than proof beyond reasonable doubt (for criminal cases) but greater than preponderance of evidence (for civil cases).[27] It is worthy to note that Angela has yet to submit any evidence regarding the alleged acts of Arturo's family that establish her continuous possession of the status of Arturo's child. Basic is the rule that one who alleges a fact has the burden of proving it by means other than mere allegations.[28] It is elementary in procedural law that bare allegations, unsubstantiated by evidence, are not equivalent to proof under the Rules of Court.[29]

At this juncture, it must be underscored that only questions of law should be raised in petitions filed under Rule 45. This court is not a trier of facts.[30] As aptly discussed by Justice Estela M. Perlas-Bernabe, and as properly adopted in the ponencia, the lower court should have determined the validity and veracity of Angela's allegations regarding her filiation by holding hearings for the reception and authentication of testimonial and/or documentary evidence to support said allegations, in order to decide the case in line with the required quantum of proof.[31] Indeed, said question of fact should have been properly ventilated in the proceedings before the trial court to give the parties ample opportunity to substantiate their claims.[32] Also, the applicability of the doctrine of estoppel will be better determined and ventilated in said proceedings before the lower court.[33] Since no hearings for such purpose were conducted, a remand of the case to the court a quo is in order.[34]

In fine, I agree that the present case must be remanded to the lower court to properly ventilate the factual issue of Angela's filiation. Only upon substantially proving her filiation to Arturo can said court rule on whether or not Angela has successfully controverted the presumed animosity between Miguel's legitimate and illegitimate family in consonance with the pronouncements in the instant case as regards the application of Article 992. Once the aforementioned issues are resolved, the matter of Angela's inheritance may at last be put to rest.

ACCORDINGLY, I vote to REMAND the case to the trial court for the reception of evidence relative to Angela Aquino's claim of filiation, and consequently, for the determination of her right to inherit from Miguel Aquino, upon and in accordance with this Court's ruling on the proper interpretation and application of Article 992 of the Civil Code.

[1] CIVIL CODE (1939) (1985).

[2] 68 Phil. 128 (1939) [Per J. Concepcion].

[3] CIVIL CODE, Art. 992.

[4] Atty. Rosario Jurado-Benedicto and Judge Rolando B. Benedicto, Comments and Jurisprudence on Succession (1991), citing *Cuartico v. Cuartico*, (CA), 52 Off. Gaz. 1489, p. 419.

[5] *University of Mindanao, Inc. v. Bangko Sentral ng Pilipinas*, 776 Phil. 401 (2016) [Per J. Leonen], citing *Martin v. Court of Appeals*, 282 Phil. 610 (1992) [Per J. Cruz].

[6] *Vda. de De la Rosa v. Heirs of Rustia*, 516 Phil. 130 (2006) [Per J. Corona].

[7] *Supra* at note 5.

[8] Rule 131, Section 2: " (a) Whenever a party has, by his own declaration, act, or omission, intentionally and deliberately led another to believe a particular thing true, and to act upon such belief, he cannot, in any litigation arising out of such declaration, act or omission, be permitted to falsify it; (b) The tenant is not permitted to deny the title of his landlord at the time of the commencement of the relation of landlord and tenant between them."

[9] *Supra* at note 5.

[10] *Id.*

[11] RULES OF COURT, Rule 131, Sec. 3.

[12] *Supra* at note 5.

[13] *Id.*

[14] *Id.* citing *De Leon v. Villanueva*, 51 Phil. 676 (1928) [Per J. Romualdez].

[15] *Supra* at note 5.

[16] See Avelino M. Sebastian, Jr., *Wills And Succession*, 2[nd] ed., (2021), p. 1041. See also *Suntay v. Cojuangco-Suntay*, 635 Phil. 136 (2010) [Per J. Nachura].

[17] *Id.*

[18] *Manuel v. Ferrer*, 317 Phil 568 (1995) [Per J. Vitug].

[19] *Supra* at note 16.

[20] Memorandum to the Joint Congressional Committee on Codification, 22 February 1951; see also Congressional Records for Republic Act No. 386, pp. 649-652.

[21] See *Diaz v. Intermediate Appellate Court*, 234 Phil. 636 (1987), citing *Reflections on the Reform of Hereditary Succession*, *Journal of the Integrated Bar of the Philippines*, First Quarter, 1976, Volume 4, Number 1, pp. 40-41.

[22] *People v. Cabiles*, 810 Phil. 969 (2017) [Per J. Tijam].

[23] 208 Phil. 95 (1983) [Per J. Makasiar].

[24] 158 Phil. 935 (1974) [Per J. Aquino].

[25] 278 Phil 687 (1991) [Per J. Cruz].

[26] *Perla v. Baring*, 698 Phil. 323 (2012) [Per J. Del Castillo]; *Paterno v. Paterno*, 262 Phil. 688 (1990) [Per J. Narvasa].

[27] *Magalang v. Spouses Heretape*, G.R. No. 199558, 14 August 2019 [Per J. Lazaro-Javier], citing *Tankeh v. DBP*, 720 Phil. 641 (2013) [Per J. Leonen].

[28] *Social Security System v. Commission on Audit*, G.R. No. 243278, 03 November 2020 [Per J. Caguioa].

[29] *Rosaroso v. Soria*, 711 Phil. 644 (2013) [Per J. Mendoza].

[30] *Pascual v. Burgos*, 776 Phil. 167 (2016) [Per J. Leonen].

[31] See also *supra* at note 1.

[32] *Id.*

[33] See *C & S Fishfarm Corp. v. Court of Appeals*, 442 Phil. 279 (2002) [Per J. Austria-Martinez], and *Philippine Realty Holdings Corporation v. Firematic Philippines, Inc.*, 550 Phil. 586 (2007) [Per J. Callejo, Sr.].

[34] *Id.*

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