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G.R. No. 208912 — AMADEA ANGELA K. AQUINO, *petitioner,* ***versus*** **RODOLFO C. AQUINO and ABDULAH C. AQUINO,** *respondents.*

G.R. No. 209018 — RODOLFO C. AQUINO, *petitioner,* ***versus*** **AMADEA ANGELA K. AQUINO,** *respondent.*

Promulgated:

December 7, 2021

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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**.

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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.

> 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

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4 Id.
5 *Rollo* (G.R. No. 209018), Vol. 1, pp. 86-93.
6 *Ponencia*, p. 46.

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'**

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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.

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

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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.

> 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

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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, 4th 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>.

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).
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> 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

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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.

> 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

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29 Id. at 243.
30 *Ponencia,* p. 29.
31 Id.

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:

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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.

> 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
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> 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.
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> 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
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> x x x x
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> 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:

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[39] Id. at 97-100. Citations omitted.

[40] CONSTITUTION, Art. VIII, Sec. 1.

> 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

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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.

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;

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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.

> (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).

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[47] CIVIL CODE, Art. 278. See also *Gapusan-Chua v. Court of Appeals*, G.R. No. 46746, March 15, 1990, 183 SCRA 160, 166.

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 plaintiff's 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. <u>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.</u>** x x x[50] (Emphasis and underscoring supplied)

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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.

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

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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.

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 further 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:

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[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.

> (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.

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56 *Rollo* (G.R. No. 208912), Vol. I, pp. 55-56.
57 G.R. No. 140500, January 21, 2002, 374 SCRA 180.

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 her 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.

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58 Id. at 186-187. Citations omitted.

59 Id. at 181.

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

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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).

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.

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64 Id. at 768-769.

65 G.R. No. 206647, August 9, 2017, 836 SCRA 453.

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

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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).

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]

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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.

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

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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.

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

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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.

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,

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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.

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

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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.

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

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94 *Ponencia,* p. 38.

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.

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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.

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]

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[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.

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

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[107] *Ponencia,* p. 42.

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

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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).

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]

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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.

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

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[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.

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.

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[129] TSN, September 3, 2019, pp. 106-110.
[130] See *rollo* (G.R. No. 209018), Vol. I, pp. 87-88.

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.**

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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.

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**

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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.

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 *Cabatania 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

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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.

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,

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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**

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)

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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.

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

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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.

"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**

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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.

> **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 (Madridejo 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]

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175 Id. at 77-78.
176 CIVIL CODE, Art. 410.
177 *Rollo* (G.R. No. 209018), Vol. I, p. 238.
178 Id.

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

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179 Id. at 441.
180 TSN, September 3, 2019, p. 103.
181 Supra note 47.
182 Id. at 167.
183 See id.

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.**

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[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.

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**

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[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.

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)

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[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.

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.**

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[195] *Diaz v. Intermediate Appellate Court*, supra note 188, at 429-430.

"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 illegitimates of an illegitimate child can now do so. **This difference being**

> **indefensible and unwarranted, <u>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</u>. The first solution would be more in accord with an enlightened attitude vis-a-vis illegitimate children.** x x x
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> x x x x

It is Our shared view that the word "relatives" should be construed in its general acceptation. *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, **<u>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</u>**. x x x[196] (Emphasis and underscoring supplied; italics in the original)

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[196] Id. at 431-436.

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

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[197] In *Diaz*, the *ponencia* was written by Associate Justice Paras and was concurred in by Chief Justice Fernan, and Associate Justices Narvasa, Melencio-Herrera, Cruz, Feliciano, Gancayco, Cortes, Griño-Aquino, Medialdea, and Regalado.

[198] *Ponencia*, p. 29.

[199] Id. at 32.

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.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice