

Republic of the Philippines  
Supreme Court  
Manila City

EN BANC

NOTICE

Sirs/Mesdames:

*Please take notice that the Court en banc issued a Resolution dated AUGUST 8, 2023, which reads as follows:*

**“G.R. No. 208912 (AMADEA ANGELA K. AQUINO, Petitioner, v. RODOLFO C. AQUINO AND ABDULAH C. AQUINO, Respondents); G.R. No. 209018 (RODOLFO C. AQUINO, Petitioner, v. AMADEA ANGELA K. AQUINO, Respondent) —** This Court resolves the Motions for Reconsideration of the Court’s December 7, 2021 Decision,<sup>1</sup> filed by Rodolfo C. Aquino (Rodolfo) on August 16, 2022<sup>2</sup> and Abdulah C. Aquino (Abdulah) on August 24, 2022.<sup>3</sup> The December 7, 2021 Decision partially granted Amadea Angela K. Aquino’s (Angela) Motion for Reconsideration and remanded this case to the Regional Trial Court of origin.

In his Motion for Reconsideration, Rodolfo argues that, first, the constitutionality of Article 992 of the Civil Code was not properly raised; second, this Court erred in finding that the word “relatives” in Article 992 did not include ascendants in the direct line; and third, Angela is barred from proving her filiation to Arturo C. Aquino (Arturo).

Specifically, Rodolfo argues that the prevailing interpretation of “relatives” in Article 992 is consistent with the protection of marriage as the foundation of the family in Article XV, Section 2 of the Constitution. Moreover, the legal instruments that protect children are inapplicable here because Angela had already attained the age of majority at the time she sought to be included in the intestate proceedings. He also reasons that reinterpreting “relatives” in Article 992 produces an inconsistency with how “relatives” is used in other provisions of the Civil Code.

<sup>1</sup> G.R. Nos. 208912 & 209018, December 7, 2021 [Per J. Leonen, *En Banc*]. A copy of the Decision is uploaded to the Supreme Court website.

<sup>2</sup> *Rollo* (G.R. No. 208912), pp. 1717–1764.

<sup>3</sup> *Id.* at 1766–1797.

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On the other hand, Abdulah's Motion for Reconsideration argues that the reinterpretation of the term "relatives" in Article 992 of the Civil Code violated the principle of separation of powers. He claims that Article 992 is unambiguous and leaves no room for interpretation. Thus, a constitutional review of the provision is unnecessary. He likewise argues that Angela should be disallowed from proving her filiation to Arturo.

We deny the Motions for Reconsideration, the basic issues raised there already having been passed upon by this Court in its December 7, 2021 Decision.

Both Motions for Reconsideration argue that the requisites for a valid constitutional challenge were not met by Angela.

This argument is irrelevant. Although Angela did raise an equal protection challenge to Article 992's coverage in its December 7, 2021 Decision, this Court declined to deal with that issue substantively. Thus, there was no need to pass upon whether or not these requisites were met. Instead, this Court re-examined the foundation of its previous interpretation of the term "relatives" in Article 992 of the Civil Code for consistency with the Constitution, other statutes, and treaties that have the effect of law in this country:

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

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

Such "important governmental objective," however, is wanting in this case. Petitioner respectfully contents that there is no apparent and legitimate purpose behind prohibiting an illegitimate issue of a legitimate child from representing the latter in intestate succession while at the same time allowing the illegitimates of an illegitimate child



to do so. It cannot be said that an apparent state interest rationally related to the prohibition set against the illegitimate issues of legitimates exist when illegitimate children are not themselves set to suffer the same prohibition. To rule otherwise would be patently discriminatory as the Civil Code and Family Code would favor more the illegitimate children of illegitimate children themselves over illegitimate issues of legitimate children. Moreover, it cannot be successfully argued that the prohibition is expected to promote and preserve institution of marriage or discourage illicit recourse.

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

Hence, even if the attempt to declare a statutory provision as unconstitutional is not properly raised or in its proper form, courts must still interpret the law consistent with the Constitution, other statutes, and treaties that have the effect of law.<sup>4</sup> (Citations omitted)

This Court takes the principle of *stare decisis et non quieta movere* seriously. Certainty in adjudication requires the predictable application of judicial precedents,<sup>5</sup> and whenever possible, potentially conflicting doctrines laid down by this Court are harmonized, read together, subjected to exceptions, or distinguished, rather than outright abandoned.<sup>6</sup>

Yet, there are instances when a nuanced and expansive review of an established doctrine will lead this Court to the conclusion that the continuing reliance on it is fundamentally untenable. In those instances, this Court has been willing to abandon established doctrines when there are strong and compelling reasons to do so, based on changes in law or public policy, evolving conditions, or the most pressing considerations of justice:

In *Villaflor v. Summers*, this Court refused to follow United States cases in deciding the extent of the right to self-incrimination in this country:

<sup>4</sup> G.R. Nos. 208912 & 209018, December 7, 2021 [Per J. Leonen, *En Banc*] at 14–15. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

<sup>5</sup> J. Leonen, Separate Opinion in *Kolin v. Kolin*, G.R. No. 228165, February 9, 2021 [Per J. Caguioa, *En Banc*], citing *Department of Transportation and Communications v. Cruz*, 581 Phil. 602, 610–611 (2008) [Per J. Austra-Martinez, *En Banc*].

<sup>6</sup> J. Leonen, Separate Opinion in *Kolin v. Kolin*, G.R. No. 228165, February 9, 2021 [Per J. Caguioa, *En Banc*].

So much for the authorities. For the nonce we would prefer to forget them entirely, and here in the Philippines, being in the agreeable state of breaking new ground, would rather desire our decision to rest on a strong foundation of reason and justice than on a weak one of blind adherence to tradition and precedent. Moreover, we believe that an unbiased consideration of the history of the constitutional provision will disclose that our conclusion is in exact accord with the causes which led to its adoption.

In *Tan Chong v. Secretary of Labor*, this Court overturned prior cases that bestowed citizenship based on *jus soli* because their application would violate the law which was then in force:


The principle of *stare decisis* does not mean blind adherence to precedents. The doctrine or rule laid down, which has been followed for years, no matter how sound it may be, if found to be contrary to law, must be abandoned. The principle of *stare decisis* does not and should not apply when there is conflict between the precedent and the law. The duty of this Court is to forsake and abandon any doctrine or rule found to be in violation of the law in force.

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Considering that the common law principle or rule of *jus soli* obtaining in England and in the United States, as embodied in the Fourteenth Amendment to the Constitution of the United States, has never been extended to this jurisdiction (section 1, Act of 1 July 1902; sec. 5, Act of 29 August 1916); considering that the law in force and applicable to the petitioner and the applicant in the two cases at the time of their birth is sec. 4 of the Philippine Bill (Act of 1 July 1902), as amended by Act of 23 March 1912, which provides that only those "inhabitants of the Philippine Islands continuing to reside therein who were Spanish subjects on the 11th day of April, 1899; and then resided in said Islands, and their children born subsequent thereto, shall be deemed and held to be citizens of the Philippine Islands," we are of the opinion and so hold that the petitioner in the first case and the applicant in the second case, who were born of alien parentage, were not and are not, under said section, citizens of the Philippine Islands.

In *Urbano v. Chavez*, this Court abandoned a series of cases that had previously authorized the Office of the Solicitor General to represent a public official at any stage of a criminal case. It did so by finding anomalous the consequences of this authority:

However, under the doctrine announced in *Anti-Graft League of the Philippines, Inc. and Garrido*, the Office of the Solicitor General is authorized to enter its appearance as counsel for any public official, against whom a criminal charge had been instituted, during the preliminary investigation stage thereof. Nevertheless, in




the same case, this Court held that once an information is filed against the public official, the Office of the Solicitor General can no longer represent the said official in the litigation. The anomaly in this paradigm becomes obvious when, in the event of a judgment of conviction, the case is brought on appeal to the appellate courts. The Office of the Solicitor General, as the appellate counsel of the People of the Philippines, is expected to take a stand against the accused. More often than not, it does. Accordingly, there is a clear conflict of interest here, and one which smacks of ethical considerations, where the Office of the Solicitor General, as counsel for the public official, defends the latter in the preliminary investigation stage of the criminal case, and where the same office, as appellate counsel of the People of the Philippines, represents the prosecution when the case is brought on appeal. This anomalous situation could not have been contemplated and allowed by the law, its unconditional terms and provisions notwithstanding. It is a situation which cannot be countenanced by the Court.

Otherwise, if the Solicitor General who represents the state on appeal in criminal cases can appear for the accused public official in a preliminary investigation, then by the same token a provincial or city fiscal, his assistant or any government prosecutor who represents the People of the Philippines at the preliminary investigation of a case up to the trial thereof can appear for an accused public official at the preliminary investigation being conducted by another fiscal, prosecutor or municipal judge. The situation would simply be scandalous, to say the least.

There is likewise another reason, as earlier discussed, why the Office of the Solicitor General cannot represent an accused in a criminal case. Inasmuch as the State can speak and act only by law, whatever it does say and do must be lawful, and that which is unlawful is not the word or deed of the State, but is the mere wrong or trespass of those individual persons who falsely speak and act in its name. Therefore, the accused public official should not expect the State, through the Office of the Solicitor General, to defend him for a wrongful act which cannot be attributed to the State itself. In the same light, a public official who is sued in a criminal case is actually sued in his personal capacity inasmuch as his principal, the State, can never be the author of a wrongful act, much less commit a crime.

Thus, the Court rules that the Office of the Solicitor General is not authorized to represent a public official at any stage of a criminal case. For this reason, the doctrine announced in *Anti-Graft League of the Philippines, Inc. v. Hon. Ortega and Solicitor General v. Garrido*, and all decided cases affirming the same; in so far as they are inconsistent with this pronouncement, should be deemed abandoned. The principle of *stare decisis* notwithstanding, it is well-settled that a doctrine which should be abandoned



or modified should be abandoned or modified accordingly. After all, more important than anything else is that this Court should be right.

Thirty years after the promulgation of *Gerona v. Secretary of Education*, this Court overturned the compulsory nature of school flag salutes in *Ebralinag v. The Division of Superintendent of Schools of Cebu* as a recognition of the fundamental right to religious freedom:

Our task here is extremely difficult, for the 30-year-old decision of this Court in *Gerona* upholding the flag salute law and approving the expulsion of students who refuse to obey it, is not lightly to be trifled with.

It is somewhat ironic however, that after the *Gerona* ruling had received legislative cachet by its incorporation in the Administrative Code of 1987, the present Court believes that the time has come to reexamine it. The idea that one may be compelled to salute the flag, sing the national anthem, and recite the patriotic pledge, during a flag ceremony on pain of being dismissed from one's job or of being expelled from school, is alien to the conscience of the present generation of Filipinos who cut their teeth on the Bill of Rights which guarantees their rights to free speech and the free exercise of religious profession and worship[.]

Likewise, this Court in *Ebralinag* also found that the dire situations feared in *Gerona* did not actually occur:

The situation that the Court directly predicted in *Gerona* that:

“[T]he flag ceremony will become a thing of the past or perhaps conducted with very few participants, and the time will come when we would have citizens untaught and uninculcated in and not imbued with reverence for the flag and love of country, admiration for national heroes, and patriotism—a pathetic, even tragic situation, and all because a small portion of the school population imposed its will, demanded and was granted an exemption.”

has not come to pass. We are not persuaded that by exempting the Jehovah's Witnesses from saluting the flag, singing the national anthem and reciting the patriotic pledge, this religious which admittedly comprises a “small portion of the school population” will shake up our part of the globe and suddenly produce a nation “untaught and uninculcated in and unimbued with reverence for the flag, patriotism, love of country and admiration for national heroes[.]” . . . After all, what the petitioners seek only is exemption from the flag ceremony, not exclusion from the public schools where they may study the Constitution, the

democratic way of life and form of government, and learn not only the arts, science, Philippine history and culture but also receive training for a vocation or profession and be taught the virtues of "patriotism, respect for human rights, appreciation for national heroes, the rights and duties of citizenship, and moral and spiritual values["] . . . as part of the curricula. Expelling or banning the petitioners from Philippine schools will bring about the very situation that this Court had feared in *Gerona*. Forcing a small religious group, through the iron hand of the law, to participate in a ceremony that violates their religious beliefs, will hardly be conducive to love of country or respect for duly constituted authorities.


In *Bustamante v. National Labor Relations Commission*, this Court reconsidered its continued application of the 1974 case of *Mercury Drug Co., Inc. v. Court of Industrial Relations* on the extent of an illegally dismissed employee's entitlement to backwages, because of the passage of a 1989 amendment to the Labor Code of the Philippines. Thus:

In sum, during the effectivity of P.D. 442, the Court enforced the Mercury Drug rule and, in effect, qualified the provision under P.D. No. 442 by limiting the award of backwages to three (3) years.

On 21 March 1989, Republic Act No. 6715 took effect, amending the Labor Code. Article 279 thereof states in part:

"ART. 279. Security of Tenure. — . . . An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation is withheld from him up to the time of his actual reinstatement."

In accordance with the above provision, an illegally dismissed employee is entitled to his full backwages from the time his compensation was withheld from him (which as a rule is from the time of his illegal dismissal) up to the time of his actual reinstatement. It is true that this Court had ruled in the case of *Pines City Educational Center vs. NLRC* . . . that "in ascertaining the total amount of backwages payable to them (employees), we go back to the rule prior to the Mercury Drug rule that the total amount derived from employment elsewhere by the employee from the date of dismissal up to the date of reinstatement, if any, should be deducted therefrom." The rationale for such ruling was that, the earnings derived elsewhere by the dismissed employee while litigating the legality of his dismissal, should be deducted from the full amount of backwages which the law grants him upon reinstatement, so as not to unduly or unjustly enrich the employee at the expense of the employer.



The Court deems it appropriate, however, to reconsider such earlier ruling on the computation of backwages as enunciated in said *Pines City Educational Center* case, by now holding that conformably with the evident legislative intent as expressed in Rep. Act No. 6715, above-quoted, backwages to be awarded to an illegally dismissed employee, should not, as a general rule, be diminished or reduced by the earnings derived by him elsewhere during the period of his illegal dismissal. The underlying reason for this ruling is that the employee, while litigating the legality (illegality) of his dismissal, must still earn a living to support himself and family, while full backwages have to be paid by the employer as part of the price or penalty he has to pay for illegally dismissing his employee. The clear legislative intent of the amendment in Rep. Act No. 6715 is to give more benefits to workers than was previously given them under the *Mercury Drug* rule or the "deduction of earnings elsewhere" rule. Thus, a closer adherence to the legislative policy behind Rep. Act No. 6715 points to "full backwages" as meaning exactly that, i.e., without deducting from backwages the earnings derived elsewhere by the concerned employee during the period of his illegal dismissal. In other words, the provision calling for "full backwages" to illegally dismissed employees is clear, plain and free from ambiguity and, therefore, must be applied without attempted or strained interpretation. *Index animi sermo est.*

Therefore, in accordance with R.A. No. 6715, petitioners are entitled to their full backwages, inclusive of allowances and other benefits or their monetary equivalent, from the time their actual compensation was withheld from them up to the time of their actual reinstatement.

In *Carpio-Morales v. Court of Appeals (Sixth Division)*, the textual strengthening of the Constitutional principle that public office is a public trust underpinned this Court's abandonment of the condonation doctrine developed in *Pascual v. Hon. Provincial Board of Nueva Ecija, Aguinaldo v. Santos*, and other cases. A stronger legal norm towards the accountability of public officers made untenable the notion that elections may bestow absolution for administrative offenses:

Reading the 1987 Constitution together with the above-cited legal provisions now leads this Court to the conclusion that the doctrine of condonation is actually bereft of legal bases.

To begin with, the concept of public office is a public trust and the corollary requirement of accountability to the people at all times, as mandated under the 1987 Constitution, is plainly inconsistent with the idea that an elective local official's administrative liability for a misconduct committed during a prior term can be wiped off by the fact that he was elected to a second term of office, or even another elective post. Election is not a mode of



condoning an administrative offense, and there is simply no constitutional or statutory basis in our jurisdiction to support the notion that an official elected for a different term is fully absolved of any administrative liability arising from an offense done during a prior term. In this jurisdiction, liability arising from administrative offenses may be condoned by the President in light of Section 19, Article VII of the 1987 Constitution which was interpreted in *Llamas v. Orbos* to apply to administrative offenses[.]

In reexamining its own doctrines, this Court must actively and judiciously thread the needle between predictable application of established rules, and rejection of those same rules when justice requires. We must base the abandonment of any established doctrine on a nuanced and expansive review of why that doctrine existed in the first place, and now, why our continuing reliance on it is fundamentally untenable.<sup>7</sup>

Here, this Court reviewed the basis of the “iron curtain rule,” as articulated in the cases of *In re Grey v. Fabie*,<sup>8</sup> *Diaz v. Intermediate Appellate Court*,<sup>9</sup> and *In re Intestate Estate of Cristina Aguinaldo-Suntay v. Cojuangco-Suntay*,<sup>10</sup> among others. Particularly, this Court scrutinized the assumption that, because nonmarital children are products of illicit relationships, their existence is profoundly hostile to the marital family, which should legally exclude the parties from inheriting from each other.<sup>11</sup>

In so doing, this Court found that there were strong and compelling reasons to exclude those ascendants and descendants in the direct line from the coverage of the term “relatives” in Article 992. The predictable application of the “iron curtain rule”—founded on archaic prejudices and regressive ideas about the status of children and family life—must give way to an interpretation of Article 992 more in keeping with our evolving legal and social norms. As a result, the doctrine in *In re Grey* and others was abandoned.

In this regard, Abdulah’s claim that this Court violated the principle of separation of powers when it interpreted the term “relatives” in Article 992 misapprehends the December 7, 2021 Decision. It is the power and the duty of courts to interpret laws.<sup>12</sup> The interpretation of laws includes, among others, articulating the definitions of statutory terms when none was provided by Congress or in those statutes’ implementing rules and regulations, or scrutinizing those definitions in light of the prevailing legal system.

<sup>7</sup> *Id.*

<sup>8</sup> 68 Phil. 128 (1939) [Per J. Concepcion, First Division].

<sup>9</sup> 261 Phil. 542 (1990) [Per J. Paras, *En Banc*].

<sup>10</sup> 635 Phil. 136 (2010) [Per J. Nachura, Second Division].

<sup>11</sup> G.R. Nos. 208912 & 209018, December 7, 2021 [Per J. Leonen, *En Banc*] at 33. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

<sup>12</sup> *Id.* at 13.

The term “relatives” in Article 992 is capable of being defined in multiple ways. Recognizing this lexical ambiguity, the Court in *Diaz* resorted to oral arguments on the case, including seeking the opinion of learned experts in civil law to arrive at its broad interpretation of the term “relatives.” Prior to arriving at the conclusions reached in its December 7, 2021 Decision, this Court did the same, soliciting comments and briefs from the Office of the Solicitor General, and civil and family law experts Dean Cynthia del Castillo and Professor Elizabeth Aguilin-Pangalangan, as well as conducting its own extensive scrutiny of relevant laws, international agreements, and contemporary legal and social norms. That this Court reached a conclusion regarding the scope of “relatives” in Article 992 different from the one reached by the Court that promulgated *Diaz* is not an abrogation of judicial power, but an exercise of it.

The present system that classifies persons, usually at birth, based on the marital status of their parents remains intact. The extant disparity of rights and benefits granted to nonmarital children in comparison to their marital counterparts is largely undisturbed, except in the matter of the single situation contemplated in the December 7, 2021 Decision: the right to represent one’s ascendant in intestate succession.<sup>13</sup> In a sense, an exception that already impliedly existed in jurisprudence—that the presumed hostility between the marital and nonmarital members of a family can be disproved<sup>14</sup>—was merely reverted into the general rule by this Court. Even this Court’s call to reduce the use of the terms “legitimate” and “illegitimate” is a matter of nomenclature, not substantive law. Direct references to statutes and jurisprudence continue to use “illegitimate” and “legitimate”:


Whenever practicable and not required by direct reference to statute and jurisprudence, the term “nonmarital child” is used in place of “illegitimate child” to refer to the status of a child whose parents who are not married to each other.

Similarly, “marital child” is used in place of “legitimate child.” Various sources have discouraged the use of the term “illegitimate” to refer to children because it is a pejorative term that perpetuates a historical stigma.

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

<sup>13</sup> *Id.* at 33.

<sup>14</sup> *In re Intestate Estate of Cristina Aguinaldo-Suntay v. Cojuangco-Suntay*, 635 Phil. 136 (2010) [Per J. Nachura, Second Division].



Court ought to promote the dignity of every person in our choices of words and language.<sup>15</sup> (Citations omitted)

To bolster his argument that this Court wrongly interpreted “relatives” in Article 992, Rodolfo claims that the “iron curtain rule” must be preserved to protect the institutions of marriage and family, pursuant to Article XV, Section 2 of the Constitution:

Section 2. Marriage, as an inviolable social institution, is the foundation of the family and shall be protected by the State.

At the outset, the applicability of Article XV, Section 2 in this case is seriously in doubt. No subsisting marriage required protection here. There was no allegation in this case that Angela’s mother and putative father were incapacitated to marry each other at the time of her birth. It appeared that the unfortunate occurrence of Arturo’s death foreclosed any possibility of Angela’s legitimation.

As discussed in the December 7, 2021 Decision, the extensive variety of circumstances that result in a child being considered nonmarital shows that the so-called hostility is not inevitable. Contrary to the popular perception that nonmarital children are only the result of extramarital relationships, this Court’s Decision recognizes that the nonmarital status is equally imposed upon children who were born to parents incapacitated to marry each other by reason of minority; children born as a result of sexual assault where the offended party did not or is not married to the offender; children whose parents’ marriage were declared void *ab initio* by courts, as a result of particular provisions of law; or children whose parents are unmarried by choice.<sup>16</sup>

Marriage as an inviolable social institution is not protected when it is defined by the punitive consequences felt and lived by persons who have no control or capacity to change the status imposed upon them by law because of other people’s actions or inaction.

Even if hostility between a nonmarital child and the nonmarital family could even be considered as a valid reason to retain the “iron curtain rule,” the circumstances availing here demonstrate that hostility is not the natural or conclusive emotion between them. Notwithstanding the issue of blood relationship between Miguel and Angela, the alleged hostility between the two is ill-established even in the allegations propounded before this Court.

<sup>15</sup> G.R. Nos. 208912 & 209018, December 7, 2021 [Per J. Leonen, *En Banc*] at 2, n.2. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

<sup>16</sup> G.R. Nos. 208912 & 209018, December 7, 2021 [Per J. Leonen, *En Banc*] at 31–32. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

Even Rodolfo concedes that Miguel had bequeathed a devise to Angela,<sup>17</sup> which displayed Miguel's inclination towards providing for her, rather than resenting her. Neither was there any allegation of any legal disqualification for Arturo, whom Angela seeks to represent, to be represented in Miguel's estate.

Rather, what Rodolfo's Motion for Reconsideration clearly and blatantly displays is his resentment that his entitlement to a greater share in inherited money and properties was stymied, especially because by reason of the right of representation, Angela's intestate inheritance will equal his. Protection of his so-called rightful share, not the institution of marriage, is the controlling interest:

Thus if the Petitioner asks why is she as an illegitimate child penalized by the acts of her parents over which she had no control? The Respondents could also ask the same thing, why are they being penalized over the alleged indiscretion of their brother over which they had no control?

To apply the re-interpretation of the Honorable Supreme Court will result to inequality because it will result to an anomaly that an illegitimate child who is two degrees away from the decedent would be able to get a share equivalent to the share of each child of Miguel, who, aside from being legitimate, is only one degree away from the decedent.<sup>18</sup>

In essence, his argument is not so much against Article 992, but actually against the operation of the right of representation under Article 970 of the Civil Code,<sup>19</sup> which can and does raise a descendant to the place and degree of the person they are representing.

Giving priority to the direct line in intestate succession is a legal approximation of the assumed priorities of the decedent, to provide first, to those within their direct line.<sup>20</sup> The right of representation in the direct descending line preserves this priority by allowing a person within that line to represent an ascendant who is unable to inherit from the decedent. It has been posited that the right of representation is itself a palliative measure to the rigidity of the principle that nearer representatives exclude the more distant:

Representation is said to be a corrective to the unjust effects of a rigid application of the principle that in succession the nearer relatives exclude those more distant. In intestacy if there should be several heirs,

<sup>17</sup> *Rollo* (G.R. No. 208912), p. 1739.

<sup>18</sup> *Id.* at 1729-1730.

<sup>19</sup> CIVIL CODE, art. 970, which states:

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

<sup>20</sup> *Sayson v. Court of Appeals*, 282 Phil. 332 (1992) [Per J. Cruz, First Division].

and one of them fails to succeed, his share, except for representation, would go to enrich the other heirs of the same rank, to the prejudice of the descendants of the one who did not inherit, and who already had the misfortune of losing a parent or ascendant. The rule of successional representation, that replaces a disqualified heir with his own descendants, even if remoter in degree, was originally provided in the Roman Law only in case of the predecease of an intended heir, in order to partly assuage the double [loss] of a parent and of his prospective hereditary share. Subsequently, the French and Spanish laws extended the remedy to cases of unworthiness and disinheritance as well, on the rationalization that the *de cujus* (decedent) would have so intended had he envisaged the possible disqualification of the instituted heir, or of the person originally named.<sup>21</sup>

Rodolfo's expectation of a greater share in Miguel's estate had been contingent only on Arturo predeceasing their father, and that expectation must be tempered by the application of the right of representation.

Further, Rodolfo's assertion that the legal instruments that protect children cannot apply to this case because Angela had already reached the age of majority at the time she asserted her alleged share in Miguel's estate has also been addressed in the December 7, 2021 Decision. Our Constitution, our laws, and our treaty obligations all extend special protection to children, including in matters of successional rights.<sup>22</sup> The status of being nonmarital is imposed on persons when they are children, and they bear the burden of this classification as children.<sup>23</sup> Thus, it is appropriate to examine the Civil Code's provisions on succession, as they pertain to nonmarital and marital children, against our legal system's growing consciousness on the rights of the child. Indeed, the trend in our legal system—echoing similar developments in other jurisdictions<sup>24</sup>—is for the protection of children, regardless of the marital status of their parents:

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

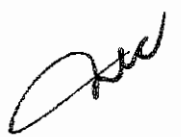
All children are deserving of support, care, and attention. They are entitled to an unprejudiced and nurturing environment free from neglect, abuse, and cruelty. Regardless of the circumstances of their birth, they are

<sup>21</sup> Jose B.L. Reyes, *Reflections on the Reform of Hereditary Succession*, 50 PHIL. L.J. 277, 284 (1975).

<sup>22</sup> G.R. Nos. 208912 & 209018, December 7, 2021 [Per J. Leonen, *En Banc*] at 29. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

<sup>23</sup> *Id.* at 24.

<sup>24</sup> *Id.* at 43–45.



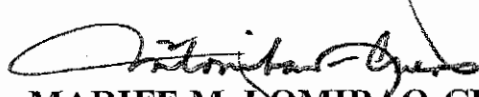
all without distinction entitled to all rights and privileges due them. The principle of protecting and promoting the best interest of the child applies equally, and without distinction, to all children. As observed by Justice Gregory Perfecto in *Malonda v. Malonda*:

All children are entitled to equal protection from their parents. Only a distorted concept of that parental duty, which springs from and is imposed by nature, may justify discriminatory measures to the prejudice of those born out of illicit sexual relations. The legal or moral violations upon which some of our present day legal provisions penalize illegitimate children with social, economic and financial sanctions, are perpetrated by the parents without the consent or knowledge of the children. If the erring parents deserve to have their foreheads branded with the stigma of illegitimacy, it is iniquitous to load the innocent children with the evil consequences of that stigma. There can be illegitimate parents but there should not be any illegitimate children.<sup>25</sup> (Citations omitted)

Finally, this Court finds no compelling reason to reverse its remand of the case to the Regional Trial Court of origin. The claims raised in the Motions for Reconsideration concerning Angela's alleged birth certificate and presumed filiation may be squarely addressed by a trial court that can adequately rule upon their truthfulness and veracity upon reception of evidence. Among the pieces of evidence that the Regional Trial Court may admit is DNA evidence, in accordance with the Rule on DNA Evidence. Unlike this Court which is not a trier of facts, the Regional Trial Court may capably examine any documents and witnesses presented by both parties and order the conduct of DNA testing, should it so find necessary based on the parties' allegations that may be raised therein.<sup>26</sup>

**ACCORDINGLY**, the Motions for Reconsideration filed by Rodolfo C. Aquino and Abdulah C. Aquino are **DENIED WITH FINALITY**. No further pleadings will be entertained. Let entry of judgment be issued immediately." Gesmundo, C.J., maintains his Separate Opinion in the Decision dated December 7, 2021. Caguioa, J., maintains his Concurring and Dissenting Opinion. Rosario, J., on leave. Singh, J., joins J. Caguioa in his Concurring and Dissenting Opinion. (65)

By authority of the Court:

  
**MARIFE M. LOMIBAO-CUEVAS**  
Clerk of Court *MLC*

<sup>25</sup> *Id.* at 45.

<sup>26</sup> *Id.* at 42-43.

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