# Republic of the Philippines
# Supreme Court
## Manila

**EN BANC**

**AMADEA ANGELA K. AQUINO,**
Petitioner,

-versus-

**RODOLFO C. AQUINO and ABDULAH C. AQUINO,**
Respondents.

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**RODOLFO C. AQUINO,**
Petitioner,

-versus-

**AMADEA ANGELA K. AQUINO**
Respondent.

x----------x

**G.R. No. 208912**

**G.R. No. 209018**

Present:

GESMUNDO, *CJ*,
PERLAS-BERNABE,
LEONEN,
CAGUIOA,
HERNANDO,
CARANDANG,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M.,
GAERLAN,
ROSARIO,
LOPEZ, J.,
DIMAAMPAO,* and
MARQUEZ, *JJ.*

**Promulgated:**

December 7, 2021

X----------X

* On official leave.

**DECISION**

**LEONEN, *J.*:**

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

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

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

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

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

2 Whenever practicable and not required by direct reference to statute and jurisprudence, the term "nonmarital child" is used in place of "illegitimate child" to refer to the status of a child whose parents who are not married to each other. *See Gocolay v. Gocolay*, G.R. No. 220606, January 11, 2021, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67250> [Per J. Leonen, Third Division].
Similarly, "marital child" is used in place of "legitimate child." Various sources have discouraged the use of the term "illegitimate" to refer to children because it is a pejorative term that perpetuates a historical stigma. *See, for example*, Edward Schumacher-Matos, *Start the Debate: Language, Legitimacy and a "Love Child"*, available at <https://www.npr.org/sections/publiceditor/2011/07/12/137792538/start-the-debate-language-legitimacy-and-a-love-child>, (last accessed on December 6, 2021); Edward Schumacher-Matos, *Stylebook Survey: Newsroom Policy on "Illegitimate Children"*, available at <https://www.npr.org/sections/publiceditor/2011/07/18/137861815/stylebook-survey-newsroom-policy-on-illegitimate-children>, (last accessed on December 6, 2021); Mallary Jean Tenore, *AP Stylebook adds entry for "illegitimate child," advises journalists not to use it*, available at <https://www.poynter.org/reporting-editing/2012/ap-stylebook-adds-entry-for-illegitimate-child-advises-journalists-not-to-use-it/>, (last accessed on December 6, 2021).
Nonetheless, it is likewise acknowledged that even the terms "marital" and "nonmarital" children carry connotations regarding the perceived desirability of traditional two-person opposite-sex marriage, even though our laws and norms recognize other family configurations (e.g., single-parent households, unmarried cohabitation, foster care, adoptive families, and families of choice). At every opportunity, this Court ought to promote the dignity of every person in our choices of words and language.

3 *Rollo* (G.R. No. 208912), pp. 12–35.

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

5 Id. at 58.

6 *Rollo* (G.R. No. 209018), pp. 4–34.

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

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

against forum shopping and the principle of *res judicata*.[9]

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

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

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

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

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

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

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9 Id. at 40–46, Court of Appeals Decision in CA-G.R. SP No. 02269-MIN.
10 *Rollo* (G.R. No. 208912), p. 42, Court of Appeals Decision in CA-G.R. CV No. 01633.
11 Id. at 42–43.
12 Id. at 44, Court of Appeals Decision in CA-G.R. CV No. 01633, and 89–96, Motion to be Included in the Distribution and Partition of the Estate.
13 Id. at 44 and 89.
14 Id. at 98.
15 Id. at 60, April 22, 2005 Regional Trial Court Order in Spl. Proc. No. 6972-2003.
16 Id. at 97, Death Certificate of Arturo C. Aquino.
17 Id. at 44 and 89–90.
18 Id. at 44 and 90.
19 Id.
20 Id. at 44–45 and 90.
21 Id. at 60 and 90.
22 Id. at 45, 60, and 90.
23 Id. at 60, 90, and 99.

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

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

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

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

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

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

On March 7, 2005, Angela filed a Motion for Distribution of Residue of Estate or for Allowance to the Heirs.[40] She alleged that as Arturo's natural

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24 Id. at 99, Baptismal Certificate of Amadea Angela Aquino.
25 Id. at 45, 60, and 91.
26 Id.
27 Id. at 100.
28 Id. at 60.
29 Id. at 45 and 91.
30 Id. at 101–107.
31 Id. at 46, 60; and 102, Opposition to Claimant's Motion to be Included in the Distribution and Partition of the Estate.
32 Id. at 60 and 103.
33 Id.
34 Id. at 61.
35 Id. at 111–115.
36 Id. at 43 and 114.
37 Id. at 142–149.
38 Id. at 61 and 148.
39 Id. at 44.
40 Id. at 150–151.

child, she has a legal right to a monthly allowance like those given to Miguel's other heirs.[41] Rodolfo opposed,[42] while Abdulah commented[43] on this motion.[44]

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

> ACCORDINGLY, Amadea Angela K. Aquino is hereby considered and declared an acknowledged natural child or legitimated child of Arturo C. Aquino, for purposes of determining her share in the estate of her grandfather, Miguel T. Aquino, in representation of her father Arturo, and pending the distribution of the residual estate, the Administrator is hereby directed to immediately give her a monthly allowance of P64,000.00, upon the latter's posting a bond of P100,000.00.
>
> SO ORDERED.[49]

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

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

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

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41 Id. at 46 and 150.
42 Id. at 153–155.
43 Id. at 156–158.
44 Id. at 46.
45 Id. at 60–65. The Order was penned by Judge William M. Layague of Branch 14, Regional Trial Court, Davao City.
46 Id. at 47 and 64.
47 Id. at 48 and 63.
48 Id. at 63.
49 Id. at 64.
50 Id. at 48.
51 Id. at 49.
52 Id. at 66–68.
53 *Rollo* (G.R. No. 209018), pp. 54–68.
54 Id. at 67.
55 Id. at 36–47.
56 Id. at 40–46.
57 Id. at 49–52.

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

Rodolfo argued that Angela was already barred from claiming her nonmarital filiation to Arturo, since she was born after his death.[61] Even if she were Arturo's nonmarital child, Rodolfo noted that she cannot represent him in Miguel's estate under Article 992 of the Civil Code.[62] Moreover, assuming that she was Miguel's granddaughter, she was still not entitled to the grant of ₱64,000.00 monthly allowance since, says Rodolfo, the Civil Code limits the provision of an allowance to the decedent's widow and children.[63]

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

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

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

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

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58 Id. at 4–33.
59 Id. at 31.
60 Id. at 4–34.
61 Id. at 10–14.
62 Id. at 14–18.
63 Id. at 18–19.
64 Id. at 19–23.
65 Id. at 28–30.
66 Id. at 23–28.
67 Id. at 31.
68 *Rollo* (G.R. No. 208912), pp. 41–42.
69 Id. at 49–50.

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

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

The dispositive portion of the Court of Appeals decision reads:

> WHEREFORE, premises considered, the Order dated April 22, 2005 of the Regional Trial Court, Branch 14, Davao City as well as it's the [sic] Order dated March 6, 2008 are hereby REVERSED AND SET ASIDE. Movant-appellee Amadea Angela K. Aquino's, (1) July 2, 2003 Motion to be Included in The Distribution and Partition of the Estate, and (2) February 22, 2005 Motion for Distribution of Residue of Estate or for Allowance to the Heirs are DENIED for her failure to prove her filiation with Arturo Aquino. Accordingly, movant-appellee Amadea Angela K. Aquino is hereby declared disqualified to inherit from the intestate estate of decedent Miguel T. Aquino.
>
> SO ORDERED.[74]

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

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

Angela argued that since she enjoyed the same love and support from her grandfather and his family, as they would to marital children, the principle

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70 Id. at 41–58.
71 Id. at 57–58.
72 Id. at 53–56.
73 Id. at 56–57.
74 Id. at 57–58.
75 Id. at 69–75.
76 Id. at 79–81.
77 Id. at 12–35.
78 Id. at 33.
79 Id. at 12–35.

of estoppel should apply. She claimed that the Aquino clan's acknowledgment of her status as her father's natural child should stop them from questioning her filiation.[80]

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

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

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

> In G.R. 208912, the CA did not commit any reversible error in holding that petitioner Amadea Angela Aquino is disqualified to inherit from the intestate estate of decedent Miguel T. Aquino. Jurisprudence has consistently held that Article 992 of the Civil Code bars the illegitimate child from inheriting *ab intestato* from the legitimate children and relatives of his father or mother.
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> In G.R. 209018, the CA did not err in dismissing the petition. A petition for *certiorari* may only be availed of when there is no adequate, plain, or speedy remedy in the ordinary course of law. Petitioner Rodolfo C. Aquino is also guilty of forum shopping and *litis pendentia* for pursuing different remedies for a single objective. Moreover, the petition lacked proof that its copy was served on the lower court concerned in violation of Section 3, Rule 45 in relation to Section 5 of the same rule as well as Section 5(d) of Rule 59 of the 1997 Rules of Civil Procedure.[88]

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

> ART. 992 SHOULD NOT BE APPLIED IN A VACUUM. IN THE CASE OF IN THE MATTER OF THE INTESTATE ESTATE OF CRISTINA

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80 Id. at 23–30.
81 Id. at 31–32.
82 Id. at 32.
83 Id.
84 Id. at 33.
85 Id. at 204–205.
86 Id. at 204.
87 Id. at 206–207.
88 Id. at 206.
89 Id. at 208–221.

> AGUINALDO-SUNTAY; EMILIO A.M. SUNTAY III, *petitioner, vs.* ISABEL COJUANGCO-SUNTAY, *respondent,* IT HAS BEEN HELD THAT ART. 992 SHOULD BE CONSTRUED TOGETHER WITH THE OTHER PROVISIONS OF THE CIVIL CODE.
>
> THERE IS NO REMEDY IN LAW FOR A PERSON LIKE PETITIONER WHO WAS BORN AFTER THE DEATH OF HER FATHER TO BE LEGALLY RECOGNIZED AS HIS CHILD. IN FACT, THERE IS ALSO NO REMEDY FOR A PERSON SAME AS PETITIONER WHO WAS BORN OUT OF WEDLOCK TO A FATHER WHO HAS NEVER BEEN MARRIED TO ANOTHER. THUS, SINCE THE COURT IS A COURT OF EQUITY, JUSTICE AND FAIRNESS DICTATES[sic] THAT THE PRINCIPLE OF ESTOPPEL SHOULD BE APPLIED TO GRANT RECOGNITION TO PETITIONER AS A DAUGHTER OF ARTURO AQUINO WHO IS A LEGITIMATE CHILD OF THE DECEDENT, FOR WHICH REASON, SHE CAN INHERIT *AB INTESTATO* FROM HER GRANDFATHER.[90] (Citation omitted)

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

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

On May 30, 2014, Angela filed a Supplemental Motion for Reconsideration[97] arguing that the interpretation that grandparents are included in the prohibition under Article 992 of the Civil Code is unconstitutional for violating the equal protection clause.[98] The law allows nonmarital descendants to inherit from a nonmarital child, putting nonmarital descendants of marital children, like Angela, at a more disadvantageous position.[99]

On September 2, 2014, this Court issued a Resolution[100] granting

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90 Id. at 208–209.
91 Id. at 233–238.
92 261 Phil. 542 (1990) [Per J. Paras, En Banc].
93 Id. at 552.
94 *Rollo* (G.R. No. 208912), p. 235, Motion to Refer the Case to the Honorable Court En Banc.
95 Id. at 237.
96 Id. at 249.
97 Id. at 259–264.
98 Id. at 260.
99 Id.
100 Id. at 268.

Angela's Motion for Reconsideration, reinstating the Petitions, and requiring Abdulah and Rodolfo to submit their comment.

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

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

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

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

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

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101 Id. at 272–297.
102 Id. at 306–332.
103 Id. at 370–386.
104 Id. at 389–390.
105 Id. at 405–436.
106 Id. at 410–423.
107 Id. at 423.
108 Id. at 444–491.
109 Id. at 459.
110 Id. at 461.
111 Id. at 462.
112 Id. at 466.
113 Id.
114 208 Phil. 95 (1983) [Per J. Makasiar, Second Division].

Meanwhile, Angela failed to present evidence to prove her allegations.[115]

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

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

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

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

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

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

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115 *Rollo* (G.R. No. 208912), pp. 472–477, Abdulah Aquino's Memorandum.
116 Id. at 477–489.
117 Id. at 478.
118 Id. at 481–489.
119 Id. at 510–560.
120 Id. at 524–541.
121 Id. at 541–546.
122 Id. at 541.
123 Id. at 546–554.
124 Id. at 552.

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

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

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

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

This Court resolves the following issues:

First, whether or not Amadea Angela K. Aquino (the alleged nonmarital child of Arturo C. Aquino, who was a marital child of Miguel T. Aquino) can

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125 *Rollo* (G.R. No. 209018), pp. 490–512.
126 Id. at 502.
127 Id. at 502–507.
128 Id. at 626.
129 Id.
130 *Rollo* (G.R. No. 208912), pp. 944–991.
131 Id. at 1052–1108.
132 Id. at 1136–1177.
133 Id. at 1014–1042. On September 2, 2019, Professor Aguiling-Pangalangan submitted a Memorandum for the oral arguments (Id. at 739–761).
134 Id. at 1043–1051.
135 Id. at 844–869.
136 Id. at 1263–1333.
137 Id. at 1056–1063.
138 Id. at 1077–1098; 1156–1171; and 1215–1247.

inherit from her grandfather's estate; and

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

I

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

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

> A constitution is a system of fundamental laws for the governance and administration of a nation. It is supreme, imperious, absolute and unalterable except by the authority from which it emanates. It has been defined as the fundamental and paramount law of the nation. It prescribes the permanent framework of a system of government, assigns to the different departments their respective powers and duties, and establishes certain fixed principles on which government is founded. The fundamental conception in other words is that it is a supreme law to which all other laws must conform and in accordance with which all private rights must be determined and all public authority administered. Under the doctrine of constitutional supremacy, if a law or contract violates any norm of the constitution that law or contract whether promulgated by the legislative or by the executive branch or entered into by private persons for private purposes is null and void and without any force and effect. Thus, since the Constitution is the fundamental paramount and supreme law of the nation, it is deemed written in every statute and contract.[139] (Citations omitted)

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

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

> Fundamentally, for this Court to exercise the immense power that enables it to undo the actions of the other government branches, the

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

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

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

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

> It is against this yardstick of heightened or immediate scrutiny that we ought to gauge the validity of subcategorizing illegitimate children based on the legitimacy of their parents. Following the edict in the seminal case of *Clark v. Jeter*, decided by the United States Supreme Court, a statutory classification must be substantially related to an important governmental objective in order to withstand heightened scrutiny. Consequently they have invalidated classifications that burden illegitimate children for the sake of punishing the illicit relations of their parents, but acknowledged that it might be appropriate to treat illegitimate children differently in the support context.
>
> Such "important governmental objective", however, is wanting in this case. Petitioner respectfully contents that there is no apparent and legitimate purpose behind prohibiting an illegitimate issue of a legitimate child from representing the latter in intestate succession while at the same time allowing the illegitimates of an illegitimate child to do so. It cannot be said that an apparent state interest rationally related to the prohibition set against the illegitimate issues of legitimates exist when illegitimate children are not themselves set to suffer the same prohibition. To rule otherwise would be patently discriminatory as the Civil Code and Family Code would favor more the illegitimate children of illegitimate children themselves over illegitimate issues of legitimate children. Moreover, it cannot be successfully argued that the prohibition is expected to promote and preserve institution of marriage or discourage illicit recourse.[143] (Citation omitted)

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

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

142 *Rollo* (G.R. No. 208912), pp. 510–556.

143 Id. at 550.

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

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

phrases.

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

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

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

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

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

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

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

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

149 Associate Justice Caguioa's Concurring and Dissenting Opinion, pp. 7–9.

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

deceased's estate.

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

> Besides, granting *arguendo* that Amadea has indeed proven that she is an illegitimate child of Arturo, still as argued by appellants and to which we agree, Amadea cannot inherit from the decedent Miguel T. Aquino because of the prohibition laid down in Art. [992] of the New Civil Code or what is so commonly referred to in the rules on succession as the "principle of absolute separation between the legitimate family and the illegitimate family" . . .
>
> . . . .
>
> Hence, even if indeed Amadea is an illegitimate child of Arturo, the law however prohibits her from inheriting through intestate succession from her father Arturo's legitimate relative, in this case the latter's father, the decedent Miguel T. Aquino. While the provision of the law may seem to be partial to illegitimate children, the law as it is however should be applied.[151]

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

## II

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

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

This is in line with what this Court had considered as the regime under the Spanish Civil Code: The "legitimate" relationship is the general rule, and exceptions made for nonmarital ascendants or descendants, which would allow properties of the marital family to pass to nonmarital relatives, must be expressly stated.[152]

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

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

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

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

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153 CIVIL CODE (1889), art. 119 states:
Article 119. Only natural children can be legitimated.
Natural children are those born out of wedlock of parents who, at the time of the conception of such children, could have married with or without dispensation.

154 CIVIL CODE (1889), art. 121 states:
Article 121. Children shall be considered as legitimated by a subsequent marriage only when they have been acknowledged by the parents before or after the celebration thereof.

155 CIVIL CODE (1889), art. 120 states:
Article 120. Legitimation may be effected:
1. By the subsequent marriage of the parents.
2. By royal concession.

156 CIVIL CODE (1889), arts. 134 and 844, in relation to art. 846, state:
Article 134. An acknowledged natural child is entitled:
1. To bear the surname of the person acknowledging it.
2. To receive support from such person, in accordance with Article 143.
3. To receive the hereditary portion, if available, determined by this Code.
Article 844. The hereditary portion of children legitimated by royal concession shall be the same as that established by law in favor of acknowledged natural children.
Article 846. The right of succession which the law grants natural children pertains reciprocally in the same cases to the natural father or mother.

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

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

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

160 CIVIL CODE, art. 89 states:
Article 89. Children conceived or born of marriages which are void from the beginning shall have the same status, rights and obligations as acknowledged natural children, and are called natural children by legal fiction.
Children conceived of voidable marriages before the decree of annulment shall be considered as legitimate; and children conceived thereafter shall have the same status, rights and obligations as acknowledged natural children, and are also called natural children by legal fiction.

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

> The fine distinctions among the various types of illegitimate children have been eliminated in the Family Code. Now, there are only two classes of children — legitimate (and those who, like the legally adopted, have the rights of legitimate children) and illegitimate. All children conceived and born outside a valid marriage are illegitimate, unless the law itself gives them legitimate status.
>
> Article 54 of the Code provides these exceptions: "Children conceived or born before the judgment of annulment or absolute nullity of the marriage under Article 36 has become final and executory shall be considered legitimate. Children conceived or born of the subsequent marriage under Article 53 shall likewise be legitimate."
>
> Under Article 176 of the Family Code, all illegitimate children are generally placed under one category, without any distinction between natural and spurious. The concept of "natural child" is important only for purposes of legitimation. Without the subsequent marriage, a natural child remains an illegitimate child.[162] (Citations omitted)

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

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

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

> Verily, the interpretation of the law desired by the petitioner may be more humane but it is also an elementary rule in statutory construction that when the words and phrases of the statute are clear and unequivocal, their meaning must be determined from the language employed and the statute must be taken to mean exactly what it says. (Baranda v. Gustilo, 165 SCRA 758-759 [1988]).The courts may not speculate as to the probable intent of the legislature apart from the words (Aparri v. CA, 127 SCRA 233 [1984]). When the law is clear, it is not susceptible of interpretation. It must be applied regardless of who may be affected, even if the law may be harsh or onerous. (Nepomuceno, et al. v. RFC, 110 Phil. 42). And even granting that exceptions may be conceded, the same as a general rule, should be strictly but reasonably construed; they extend only so far as their language fairly warrants, and all doubts should be resolved in favor of the general provisions rather than the exception. Thus, where a general rule is established by statute, the court will not curtail the former nor add to the latter by implication (Samson v. C.A. 145 SCRA 654 [1986]).
>
> Clearly the term "illegitimate" refers to both natural and spurious.
>
> Finally under Article 176 of the Family Code, all illegitimate

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

children are generally placed under one category, which undoubtedly settles the issue as to whether or not acknowledged natural children should be treated differently, in the negative.

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

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

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

. . . .

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

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

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

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

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

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

> "ART. 992. (New Civil Code) An illegitimate child has no right to inherit an intestate from the legitimate children and relatives of his father or mother; nor shall such children or relatives inherit in the same manner from the illegitimate child."
>
> And the disqualification of Luciano to succeed Gavino Villota extended under these articles to Luciano's own progeny, Zoilo and Andres and Martin Macatangay, since they could not represent him[.]
>
> In conclusion, we hold:
>
> . . . .
>
> (3) That a natural child, not recognized as required by the law XI of Toro, is not legitimated by the subsequent marriage for his parents; and therefore, he is barred from succeeding to the legitimate issue of said parents.
>
> (4) That such disqualification to inherit extends to the descendants of the unrecognized natural child.[165] (Citations omitted)

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

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

> As stated above, petitioners contend that Severino Abenojar is not a legal heir of Teodoro Abenojar, he being only an acknowledged natural child of Guillerma Abenojar, the mother of petitioners, whom they claim to be the sole legitimate daughter in first marriage of Teodoro Abenojar. If this claim is correct, Severino Abenojar has no rights of legal succession from

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165 Id. at 665–668.

166 The pertinent provisions of the Civil Code are:
Article 970. Representation is a right created by fiction of law, by virtue of which the representative is raised to the place and the degree of the person represented, and acquires the rights which the latter would have if he were living or if he could have inherited.
Article 971. The representative is called to the succession by the law and not by the person represented. The representative does not succeed the person represented but the one whom the person represented would have succeeded.
Article 972. The right of representation takes place in the direct descending line, but never in the ascending.
In the collateral line, it takes place only in favor of the children of brothers or sisters, whether they be of the full or half blood.
Article 973. In order that representation may take place, it is necessary that the representative himself be capable of succeeding the decedent.
Article 974. Whenever there is succession by representation, the division of the estate shall be made per stirpes, in such manner that the representative or representatives shall not inherit more than what the person they represent would inherit, if he were living or could inherit. (926a)
Article 975. When children of one or more brothers or sisters of the deceased survive, they shall inherit from the latter by representation, if they survive with their uncles or aunts. But if they alone survive, they shall inherit in equal portions. (927)
Article 976. A person may represent him whose inheritance he has renounced.
Article 977. Heirs who repudiate their share may not be represented.

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

Teodoro Abenojar in view of the express provision of Article 992 of the Civil Code, which reads as follows:

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

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

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

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

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

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

The prohibition in Article 992 is so restrictive that this Court has

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168 Id. at 444–445.
169 205 Phil. 781 (1983) [Per J. De Castro, Second Division].
170 Id. at 788.

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

> It is therefore clear from Article 992 of the New Civil Code that the phrase "legitimate children and relatives of his father or mother" includes Simona Pamuti Vda. de Santero as the word "relative" is broad enough to comprehend all the kindred of the person spoken of (Comment, p. 139 Rollo citing p. 2862 Bouvier's Law Dictionary vol. II, Third Revision, Eighth Edition)[.] The record reveals that from the commencement of this case the only parties who claimed to be the legitimate heirs of the late Simona Pamuti Vda. de Santero are Felisa Pamuti Jardin and the six minor natural or illegitimate children of Pablo Santero. Since petitioners herein are barred by the provisions of Article 992, the respondent Intermediate Appellate Court did not commit any error in holding Felisa Pamuti Jardin to be the sole legitimate heir to the intestate estate of the late Simona Pamuti Vda. de Santero.
>
> It is Our shared view that the word "relatives" should be construed in its general 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: *Ubi lex non distinguit, nec nos distinguera debemus.* Escriche, in his *Diccionario de Legislacion y Jurisprudencia* defines *parientes* as *"los que estan relacionados por los vinculos de la sangre, ya sea por proceder unos de otros, como los descendientes y ascendientes, ya sea por proceder de una misma raiz o tronco, como los colaterales."*(cited in Scaevola, op. cit., p. 457).(p. 377, Rollo)
>
> According to Prof. Balane, to interpret the term relatives in Article 992 in a more restrictive sense than it is used and intended is not warranted by any rule of interpretation. Besides, he further states that when the law intends to use the term in a more restrictive sense, it qualifies the term with the word collateral, as in Articles 1003 and 1009 of the New Civil Code.
>
> Thus, the word "relatives" is a general term and when used in a statute it embraces not only collateral relatives but also all the kindred of the person spoken of, unless the context indicates that it was used in a more restrictive or limited sense — which, as already discussed earlier, is not so

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

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

in the case at bar.

To recapitulate, We quote this:

> "The lines of this distinction between legitimates and illegitimates, which goes back very far in legal history, have been softened but not erased by present law. Our legislation has not gone so far as to place legitimate and illegitimate children on exactly the same footing. Even the Family Code of 1987 (EO 209) has not abolished the gradation between legitimate and illegitimate children (although it has done away with the subclassification of illegitimates into natural and 'spurious'). It would thus be correct to say that illegitimate children have only those rights which are expressly or clearly granted to them by law (vide Tolentino, Civil Code of the Philippines, 1973 ed., vol. III, p. 291). (Amicus Curiae's Opinion by Prof. Ruben Balane, p. 12).
>
> In the light of the foregoing, We conclude that until Article 992 is suppressed or at least amended to clarify the term "relatives", there is no other alternative but to apply the law literally. Thus, We hereby reiterate the decision of June 17, 1987 and declare Felisa Pamuti-Jardin to be the sole heir to the intestate estate of Simona Pamuti Vda. de Santero, to the exclusion of petitioners.[173] (Emphasis in the original, citations omitted)

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

> ARTICLE 989. If, together with illegitimate children, there should survive descendants of another illegitimate child who is dead, the former shall succeed in their own right and the latter by right of representation.
>
> ARTICLE 990. The hereditary rights granted by the two preceding articles to illegitimate children shall be transmitted upon their death to their descendants, who shall inherit by right of representation from their deceased grandparent.

Because of this, the reciprocity in intestate succession of nonmarital children now depends on their parents' marital status. The parity granted to nonmarital children is more illusory than real. This disparity of treatment was not left unnoticed. Justice Jose B.L. Reyes, in his *Reflections on the Reform of Hereditary Succession*, stated:

> In the Spanish Civil Code of 1889 the right of representation was admitted only within the legitimate family; so much so that Article 943 of that Code prescribed that an illegitimate child can not inherit *ab intestato* from the legitimate children and relatives of his father and mother. The Civil Code of the Philippines apparently adhered to this principle since it reproduced Article 943 of the Spanish Code in its own Art. 992, but with

[173] Id. at 551–552.

> fine inconsistency, in subsequent articles (990, 995 and 998) our Code allows the hereditary portion of the illegitimate child to pass to his own descendants, whether legitimate or illegitimate. So that while Art. 992 prevents the illegitimate issue of a legitimate child from representing him in the intestate succession of the grandparent, the illegitimates of an illegitimate child can now do so. *This difference being indefensible and unwarranted*, in the future revision of the Civil Code we shall have to make a choice and decide either that the illegitimate issue enjoys in all cases the right of representation, in which case Art. 992 must be suppressed; or contrariwise maintain said article and modify Articles 995 and 998. The first solution would be more in accord with an enlightened attitude vis-a-vis illegitimate children.[174] (Emphasis supplied)

## II (A)

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

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

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

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

177 While strides have been made in equitable treatment of nonmarital children, they are often granted fewer rights and privileges than marital children. Some of these areas include custody, use of surnames, legitimes, and the Social Security Law. (*See, for example*, Sandra M.T. Magalang, *Legitimizing Illegitimacy: Resisting Illegitimacy in the Philippines and Arguing for Declassification of Illegitimate Children as a Statutory Class*, 88 PHIL. L.J. 467, 490–492, 495–497 (2014); and Republic Act No. 11199 (2019), section 8(k), which states that dependent nonmarital children are entitled to 50% of the share of the legitimate, legitimated or legally adopted children.)

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

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

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

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

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

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

It is our State policy to protect the best interests of children,[181] referring to the "totality of the circumstances and conditions which are most congenial to the survival, protection and feelings of security of the child and most encouraging to the child's physical, psychological and emotional development."[182] Article XV, Section 3(2) of the Constitution states:

> SECTION 3. The State shall defend:

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179 Id. at 543–544.

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

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

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

. . . .

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

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

Preamble

The States Parties to the present Convention,

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

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

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

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

. . . .

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

. . . .

Have agreed as follows:

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

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

. . . .

Article 2

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

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

Article 3

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

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

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

SECTION 2. Declaration of State Policy and Principles. — It is hereby declared to be the policy of the State *to provide special protection to children from all forms* of abuse, neglect, cruelty, exploitation and *discrimination, and other conditions, prejudicial to their development*

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

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

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

> including child labor and its worst forms; provide sanctions for their commission and carry out a program for prevention and deterrence of and crisis intervention in situations of child abuse, exploitation and discrimination. The State shall intervene on behalf of the child when the parent, guardian, teacher or person having care or custody of the child fails or is unable to protect the child against abuse, exploitation and discrimination or when such acts against the child are committed by the said parent, guardian, teacher or person having care and custody of the same.
>
> It shall be the policy of the State to protect and rehabilitate children gravely threatened or endangered by circumstances which affect or will affect their survival and normal development and over which they have no control.
>
> *The best interests of children shall be the paramount consideration in all actions concerning them, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities, and legislative bodies, consistent with the principle of First Call for Children as enunciated in the United Nations Convention on the Rights of the Child. Every effort shall be exerted to promote the welfare of children and enhance their opportunities for a useful and happy life.* (Emphasis supplied)

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

> 29. The Court has anchored several decisions on the Convention on the Rights of the Child in a long line of cases, to wit:
>
> 29.1. *Perez v. CA* [G.R. No. 118870, March 29, 1996] where the Court awarded the custody to the mother petitioner Nerissa Pere[z] as this was for the best interest of the child and held that: "It has long been settled that in custody cases, the foremost consideration is always the welfare and best interest of the child. In fact, no less than an international instrument, the Convention on the Rights of the Child provides: 'In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.'"
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> 29.2. *In the Matter of the Adoption of Stephanie Astorga Garcia*

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

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

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

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

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

> [G.R. No. 148311, March 31, 2005] in deciding the issue of the name of an adopted child, the Court held that: "The modern trend is to consider adoption not merely as an act to establish a relationship of paternity and filiation, but also as an act which endows the child with a legitimate status. This was, indeed, confirmed in 1989, when the Philippines, as a State Party to the Convention of the Rights of the Child initiated by the United Nations, accepted the principle that adoption is impressed with social and moral responsibility, and that its underlying intent is geared to favor the adopted child. Republic Act No. 8552, otherwise known as the 'Domestic Adoption Act of 1998,' secures these rights and privileges for the adopted."
>
> 29.3. *Gamboa-Hirsch v. CA* [G.R. No 174485, July 11, 2007] where the Court stated: "The Convention on the Rights of the Child provides that 'in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.' The Child and Youth Welfare Code, in the same way, unequivocally provides that in all questions regarding the care and custody, among others, of the child, his/her welfare shall be the paramount consideration." The Court held that "the mother was not shown to be unsuitable or grossly incapable of caring for her minor child. All told, no compelling reason has been adduced to wrench the child from the mother's custody."
>
> 29.4. *Thornton v. Thornton* [G.R. No. 154598, August 16, 2004] where the Court cited the UN CRC as basis for its ruling that RA 8369 did not divest the Court of Appeals of jurisdiction despite RA 8369 explicitly stating that family courts have exclusive original jurisdiction over petitions for habeas corpus. The Court stated that "... a literal interpretation of the word 'exclusive' will result in grave injustice and negate the policy 'to protect the rights and promote the welfare of children' under the Constitution and the United Nations Convention on the Rights of the Child [...]."
>
> 30. *These decisions, having referred to the CRC, are part of the legal system in accordance with Article 8 of the Civil Code [R.A. 386, Civil Code of the Philippines, 1949] that states that: "Judicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines."*[193] (Emphasis supplied)

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

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

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

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

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

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

**II (B)**

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

> Under article 943 of the Civil Code, the oppositors, as natural children of Ramon Fabie y Gutierrez, cannot succeed ab intestate their deceased cousin Rosario Fabie y Grey. Said article reads:
>
> > "ART. 943. A natural or legitimated child has no right to succeed ab intestate the legitimate children and relatives of the father or mother who has acknowledged it; nor shall such children or relatives so inherit from the natural or legitimated child."
>
> Commenting on the aforequoted article, Manresa has this to say:
>
> > "Between the natural child and the legitimate relatives of the father or mother who acknowledged it, the Code denies any right of succession. They cannot be called relatives and they have no right to inherit. Of course, there is a blood tie, but the law does not recognize it. In this, article 943 is based upon the reality of the facts and upon the presumptive will of the interested parties; the natural child is

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194 261 Phil. 542 (1990) [Per J. Paras, En Banc].
195 795 Phil. 529 (2016) [Per J. Leonen, En Banc].
196 Id. at 610.
197 68 Phil. 128 (1939) [Per J. Concepcion, First Division].

> disgracefully looked down upon by the legitimate family; the legitimate family is, in turn, hated by the natural child; the latter considers the privileged condition of the former and the resources of which it is thereby deprived; the former, in turn, sees in the natural child nothing but the product of sin, a palpable evidence of a blemish upon the family. Every relation is ordinarily broken in life; the law does no more than recognize this truth, by avoiding further grounds of resentment." (7 Manresa, 3d ed., p. 110.)[198]

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

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

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

If there is a legal impediment, it does not necessarily follow that the impediment is that either or both parents are married to another person. It is

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198 Id. at 130–131.

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

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

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

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

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

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

205 FAMILY CODE, art. 165 states:
Article 165. Children conceived and born outside a valid marriage are illegitimate, unless otherwise provided in this Code. (n)

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

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

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

entirely possible that one or both of them are below marriageable age.[209] The Philippine Statistics Authority also reported that in 2017, 196,478 children were born to adolescent—19 years old and under—mothers and 52,342 children were sired by adolescent fathers.[210]

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

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

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

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

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

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

> Manresa explains the basis for the rules on intestate succession:
>
> > The law [of intestacy] is founded . . . on the presumed will of the deceased . . . Love, it is said, first descends, then

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209 *See* FAMILY CODE, art. 5, which states:
Article 5. Any male or female of the age of eighteen years or upwards not under any of the impediments mentioned in Articles 37 and 38, may contract marriage.

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

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

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

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

> ascends, and, finally, spreads sideways. Thus, the law first calls the descendants, then the ascendants, and finally the collaterals, always preferring those closer in degree to those of remoter degrees, on the assumption that the deceased would have done so had he manifested his last will . . . Lastly, in default of anyone called to succession or bound to the decedent by ties of blood or affection, it is in accordance with his presumed will that his property be given to charitable or educational institutions, and thus contribute to the welfare of humanity.
>
> Indeed, the factual antecedents of this case accurately reflect the basis of intestate succession, i.e., love first descends, for the decedent, Cristina, did not distinguish between her legitimate and illegitimate grandchildren. Neither did her husband, Federico, who, in fact, legally raised the status of Emilio III from an illegitimate grandchild to that of a legitimate child. The peculiar circumstances of this case, painstakingly pointed out by counsel for petitioner, overthrow the legal presumption in Article 992 of the Civil Code that there exist animosity and antagonism between legitimate and illegitimate descendants of a deceased.[214]

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

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

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

> 53. This interpretation of Article 992 is also supported by the Family Code. Particularly, it is consistent with the provisions of the Family Code on support.
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> 54. Article 195 of the Family Code identifies the persons who are

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[214] Id. at 149–150.

obliged to support each other. It provides that parents and their children and the children of the latter, whether legitimate or illegitimate, are obliged to support each other.

> "Family Code. Article 195. Subject to the provisions of the succeeding articles, the following are obliged to support each other to the whole extent set forth in the preceding article:
>
> 1) The spouses;
> 2) Legitimate ascendants and descendants;
> 3) Parents and their legitimate children and the legitimate and illegitimate children of the latter;
> 4) Parents and their illegitimate children and the legitimate and illegitimate children of the latter; and
> 5) legitimate brothers and sisters, whether of full or half blood.

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

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

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

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

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

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

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

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

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

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

## III

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

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

The Office of the Solicitor General, Abdulah, and Rodolfo insist that Angela failed to prove her filiation to Arturo under Article 175,[217] in relation

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

[217] FAMILY CODE, art. 175 states:
Article 175. Illegitimate children may establish their illegitimate filiation in the same way and on the same evidence as legitimate children.
The action must be brought within the same period specified in Article 173, except when the action is based on the second paragraph of Article 172, in which case the action may be brought during the lifetime of the alleged parent.

to Article 172,[218] of the Family Code. Even if the provisions under the Civil Code[219] were applied, they say that Angela's claim will not prosper since she did not file any action for recognition within four years from the time she attained the age of majority, when she turned 18 years old in 1996.

They are mistaken.

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

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

> Under the new law [Family Code], an action for the recognition of an illegitimate child must be brought within the lifetime of the alleged parent. The Family Code makes no distinction on whether the former was still a minor when the latter died. Thus, the putative parent is given by the new Code a chance to dispute the claim, considering that "illegitimate children are usually begotten and raised in secrecy and without the legitimate family being aware of their existence. . . . The putative parent should thus be given the opportunity to affirm or deny the child's filiation, and this, he or she cannot do if he or she is already dead."
>
> Nonetheless, the Family Code provides the caveat that rights that have already vested prior to its enactment should not be prejudiced or impaired as follows:
>
> > "ART. 255. This Code shall have retroactive effect insofar as it does not prejudice or impair vested or acquired rights in accordance with the Civil Code or other laws."
>
> The crucial issue to be resolved therefore is whether Adrian's right to an action for recognition, which was granted by Article 285 of the Civil Code, had already vested prior to the enactment of the Family Code. Our answer is affirmative.
>
> A vested right is defined as "one which is absolute, complete and unconditional, to the exercise of which no obstacle exists, and which is immediate and perfect in itself and not dependent upon a contingency . . . ." Respondent however contends that the filing of an action for recognition is

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218 FAMILY CODE, art. 172 states:
Article 172. The filiation of legitimate children is established by any of the following:
(1) The record of birth appearing in the civil register or a final judgment; or
(2) An admission of legitimate filiation in a public document or a private handwritten instrument and signed by the parent concerned.
In the absence of the foregoing evidence, the legitimate filiation shall be proved by:
(1) The open and continuous possession of the status of a legitimate child; or
(2) Any other means allowed by the Rules of Court and special laws.

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

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

procedural in nature and that "as a general rule, no vested right may attach to [or] arise from procedural laws."

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

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

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

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

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

. . . .

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

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

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[221] Id. at 940–944.

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

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

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

> Petitioners' contention is tenable. We are bound by the finding of the Court of Appeals in its decision that said respondents are the natural children of Justo Magallanes, that the petitioners do not deny their status as such, and that it can be inferred from the records that they enjoyed such status during the lifetime of their deceased father. Nonetheless, we are also bound by its finding that the record fails to adequately show that said respondents were ever acknowledged as such natural children. Under article 840 of the old Civil Code, above quoted, the natural children entitled to inherit are those legally acknowledged. In the case of *Briz vs. Briz*, 43 Phil. 763, the following pronouncement was made: ". . . the actual attainment of the status of a legally recognized natural child is a condition precedent to the realization of any rights which may pertain to such child in

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222 CIVIL CODE, art. 283 states:
Article 283. In any of the following cases, the father is obliged to recognize the child as his natural child:
(1) In cases of rape, abduction or seduction, when the period of the offense coincides more or less with that of the conception;
(2) When the child is in continuous possession of status of a child of the alleged father by the direct acts of the latter or of his family;
(3) When the child was conceived during the time when the mother cohabited with the supposed father;
(4) When the child has in his favor any evidence or proof that the defendant is his father.

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

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

> the character of heir. In the case before us, assuming that the plaintiff has been in the uninterrupted possession of the status of natural child, she is undoubtedly entitled to enforce legal recognition; but this does not in itself make her a legally recognized natural child." It being a fact, conclusive in this instance, that there was no requisite acknowledgment, the respondents' right to inherit cannot be sustained.[225]

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

> Of course, the overwhelming evidence found by respondent Court of Appeals conclusively shows that respondents Amado, Ricardo, Cresenciano and Norberto have been in continuous possession of the statue of natural, or even legitimated, children. Still, it recognizes the fact that such continuous possession of status is not, per se, a sufficient acknowledgment but only a ground to compel recognition (*Alabat vs. Alabat*, 21 SCRA 1479; *Pua vs. Chan*, 21 SCRA 753; *Larena vs. Rubio*, 43 Phil. 1017).
>
> Be that as it may, WE cannot but agree with the liberal view taken by respondent Court of Appeals when it said:
>
> > ". . . It does seem equally manifest, however, that defendants-appellants stand on a purely technical point in the light of the overwhelming evidence that appellees were natural children of Francisco Tongoy and Antonina Pabello, and were treated as legitimate children not only by their parents but also by the entire clan. Indeed, it does not make much sense that appellees should be deprived of their hereditary rights as undoubted nature children of their father, when the only plausible reason that the latter could have had in mind when he married his second wife Antonina Pebello just over a month before his death was to give legitimate status to their children. It is not in keeping with the more liberal attitude taken by the New Civil Code towards illegitimate children and the more compassionate trend of the New Society to insist on a very literal application of the law in requiring the formalities of compulsory acknowledgment, when the only result is to unjustly deprive children who are otherwise entitled to hereditary rights. From the very nature of things, it is hardly to be expected of appellees, having been reared as legitimate children of their parents and treated as such by everybody, to bring an action to compel their parents to acknowledge them. In the hitherto cited case of *Ramos vs. Ramos, supra*, the Supreme Court showed the way out of patent injustice and inequity that might result in some cases simply because of the implacable insistence on the technical amenities for acknowledgment.

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225 *Magallanes v. Court of Appeals*, 95 Phil. 795, 798 (1954) [Per C.J. Paras, En Banc].
226 208 Phil. 95 (1983) [Per J. Makasiar, Second Division].

Thus, it held —

> 'Unacknowledged natural children have no rights whatsoever (*Buenaventura vs. Urbano*, 5 Phil. 1; *Siguiong vs. Siguiong*, 8 Phil. 5, 11; *Infante vs. Figueras*, 4 Phil. 738; *Crisolo vs. Macadaeg*, 94 Phil. 862). The fact that the plaintiffs, as natural children of Martin Ramos, received shares in his estate implied that they were acknowledged. Obviously, defendants Agustin Ramos and Granada Ramos and the late Jose Ramos and members of his family had treated them as his children. Presumably, that fact was well-known in the community. Under the circumstances, Agustin Ramos and Granada Ramos and the heirs of Jose Ramos, are estopped from attacking plaintiffs' status as acknowledged natural children (See Arts. 283 [4] and 2666 [3], New Civil Code). [*Ramos vs. Ramos, supra*].'
>
> "With the same logic, estoppel should also operate in this case in favor of appellees, considering, as already explained in detail, that they have always been treated as acknowledged and legitimated children of the second marriage of Francisco Tongoy, not only by their presumed parents who raised them as their children, but also by the entire Tongoy-Sonora clan, including Luis D. Tongoy himself who had furnished sustenance to the clan in his capacity as administrator of Hacienda Pulo and had in fact supported the law studies of appellee Ricardo P. Tongoy in Manila, the same way he did with Jesus T. Sonora in his medical studies. As already pointed out, even defendants-appellants have not questioned the fact that appellees are half-brothers of Luis D. Tongoy. As a matter of fact, that are really children of Francisco Tongoy and Antonina Pabello, and only the technicality that their acknowledgment as natural children has not been formalized in any of the modes prescribed by law appears to stand in the way of granting them their hereditary rights. But estoppel, as already indicated, precludes defendants-appellants from attacking appellees' status as acknowledged natural or legitimated children of Francisco Tongoy. In addition to estoppel, this is decidedly one instance when technicality should give way to conscience, equity and justice (cf. Vda. de Sta. Ana vs. Rivera, L-22070, October 29, 1966, 18 SCRA 588)" [pp. 196-198, Vol. I, rec.].

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

Similarly, in *Pactor v. Pestaño*,[228] a nonmarital child was permitted to

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[227] Id. at 120–121.

[228] 107 Phil. 685 (1960) [Per J. Labrador, En Banc].

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

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

> From the foregoing, it can be said that the death of the petitioner does not ipso facto negate the application of DNA testing for as long as there exist appropriate biological samples of his DNA.
>
> As defined above, the term "biological sample" means any organic material originating from a person's body, even if found in inanimate objects, that is susceptible to DNA testing. This includes blood, saliva, and other body fluids, tissues, hairs and bones.
>
> Thus, even if Rogelio already died, any of the biological samples as enumerated above as may be available, may be used for DNA testing. In this case, petitioner has not shown the impossibility of obtaining an appropriate biological sample that can be utilized for the conduct of DNA testing.
>
> And even the death of Rogelio cannot bar the conduct of DNA testing. In *People v. Umanito*, citing *Tecson v. Commission on Elections*, this Court held:
>
> > The 2004 case of *Tecson v. Commission on Elections* [G.R. No. 161434, 3 March 2004, 424 SCRA 277] likewise reiterated the acceptance of DNA testing in our jurisdiction in this wise: "[i]n case proof of filiation or paternity would be unlikely to satisfactorily establish or would be difficult to obtain, DNA testing, which examines genetic codes obtained from body cells of the illegitimate child and any physical residue of the long dead parent could be resorted to."
> >
> > It is obvious to the Court that the determination of whether appellant is the father of AAA's child, which may be accomplished through DNA testing, is material to the fair

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229 *Agustin v. Court of Appeals*, 499 Phil. 307 (2005) [Per J. Corona, Third Division].

230 DNA EVID. RULE, sec. 3(e). A.M. No. 06-11-5-SC.

231 DNA EVID. RULE, sec. 3 (a).

232 See *People v. Adalia*, G.R. No. 235990, January 22, 2020, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66026> [Per J. Lazaro-Javier, First Division].

233 565 Phil. 215 (2007) [Per J. Chico-Nazario, Third Division].

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

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

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

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

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

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234 Id. at 231–232.
235 DNA EVID. RULE, sec. 3(f).
236 *Lucas v. Lucas*, 665 Phil. 795 (2011) [Per J. Nachura, Second Division].
237 *Herrera v. Alba*, 499 Phil. 185 (2005) [Per J. Carpio, First Division].
238 *Abella v. Cabanero,* 816 Phil. 466 (2017) [Per J. Leonen, Second Division].
239 *Pascual v. Burgos*, 776 Phil. 167 (2016) [Per J. Leonen, Second Division].
240 *Blanco v. Quasha*, 376 Phil. 480, 491 (1999) [Per J. Ynares-Santiago, First Division].
241 *Social Security System v. Court of Appeals*, 401 Phil. 132 (2000) [Per J. Ynares-Santiago, First Division]; *Basilio v. Court of Appeals*, 400 Phil. 120 (2000) [Per J. Pardo, Second Division].
242 *Rollo* (G.R. No. 208912), p. 63.

provided by law."[243]

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

## IV

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

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

As early as 1967, the United Nations Commission on Human Rights and the United Nations Economic and Social Council appointed a special rapporteur to study discrimination against nonmarital children, then called as "persons born out of wedlock," across different member-nations, including the Philippines.[245] One outcome of this study was a set of draft general principles submitted by the Sub-Committee on Prevention of Discrimination and Protection of Minorities[246] "to enable all members of society, including persons born out of wedlock, to enjoy the equal and inalienable rights to which they are entitled,"[247] including inheritance rights:

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243 Id. at 54.

244 *In re Intestate Estate of Cristina Aguinaldo-Suntay*, 635 Phil. 136 (2010) [Per J. Nachura, Second Division].

245 Vieno Voitto Saario, *Study of Discrimination against Persons born out of wedlock*, U.N. Doc. E/CN.4/Sub.2/265/Rev.1 (1967).

246 United Nations Economic and Social Council, *Report Of The Nineteenth Session Of The Sub-Commission On Prevention Of Discrimination And Protection Of Minorities To The Commission On Human Rights*, E/CN.4/930 (1967).

247 Id. at 59.

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

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

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

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

> Article 9
> A child born out of wedlock shall have the same right of succession in the estate of its father and its mother and of a member of its father's or mother's family, as if it had been born in wedlock.

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

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248 Id. at 61.

249 *See* Ruben F. Balane, *The Spanish Antecedents of the Philippine Civil Code*, 54 PHIL. L.J. 1 (1979).

250 José Manuel de Torres Perea, *A Different Approach To The Study Of "Forced Shares" Or "Legitimas", Based On A Comparative Study Of Spanish And Philippine Succession Law*, 2019, available at <https://revista-estudios.revistas.deusto.es/article/view/1718/2092> (last accessed on December 6, 2021).

251 Id.

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

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

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

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

All children are deserving of support, care, and attention. They are entitled to an unprejudiced and nurturing environment free from neglect, abuse, and cruelty. Regardless of the circumstances of their birth, they are all without distinction entitled to all rights and privileges due them. The principle of protecting and promoting the best interest of the child applies equally, and without distinction, to all children. As observed by Justice Gregory Perfecto in *Malonda v. Malonda*:[258]

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

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

255 Id. at 770.

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

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

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

259 Id. at 153–154.

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

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

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

**SO ORDERED.**

**MARVIC M.V.F. LEONEN**
Associate Justice

WE CONCUR:

See separate opinion

**ALEXANDER G. GESMUNDO**
Chief Justice

Please see Separate Concurring Opinion

**ESTELA M. PERLAS-BERNABE**
Associate Justice

See Concurring & Dissenting

**ALFREDO BENJAMIN S. CAGUIOA**
Associate Justice

**RAMON PAUL L. HERNANDO**
Associate Justice

**ROSMARI D. CARANDANG**
Associate Justice

P/s. see Separate Opinion

**AMY C. LAZARO-JAVIER**
Associate Justice

**HENRI JEAN PAUL B. INTING**
Associate Justice

With Separate Concurring Opinion

**RODIL V. ZALAMEDA**
Associate Justice

**MARIO V. LOPEZ**
Associate Justice

**SAMUEL H. GAERLAN**
Associate Justice

**RICARDO R. ROSARIO**
Associate Justice

**JHOSEP Y. LOPEZ**
Associate Justice

(On Official Leave)
**JAPAR B. DIMAAMPAO**
Associate Justice

**JOSE MIDAS P. MARQUEZ**
Associate Justice

## CERTIFICATION

I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the court.

**ALEXANDER G. GESMUNDO**
Chief Justice