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Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

INGRID V. HILARIO, Petitioner,	**G.R. No. 196499**
- versus -	Present: BERSAMIN, *CJ.*, *Chairperson*,
THELMA V. MIRANDA and IRENEA BELLOC, Respondents.	DEL CASTILLO, JARDELEZA, TIJAM,* and GESMUNDO, *JJ.*
	Promulgated: NOV 28 2018

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DECISION

JARDELEZA, *J.*:

This is a petition for review on *certiorari*[1] assailing the October 13, 2009 Decision[2] and April 4, 2011 Resolution[3] of the Court of Appeals (CA) in CA-G.R. CV No. 01703. The assailed Decision reversed and set aside the January 25, 2006 Decision[4] of Branch 26 of the Regional Trial Court, Argao, Cebu (RTC) in Special Proceeding (SP) Nos. A-522 and A-523, and declared respondent Irenea Belloc (Irenea) as sole heir of Antonio Belloc (Antonio) and Dolores Retiza (Dolores).[5] The assailed Resolution, on the other hand, denied petitioner's motion for reconsideration of the assailed Decision, ordered petitioner to surrender the letters of administration issued in her favor and render an account within 30 days from notice, and issued new

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* On official business.

1 *Rollo*, pp. 3-15.

2 *Id.* at 17-31; penned by Acting Executive Justice Franchito N. Diamante, with Associate Justices Edgardo L. Delos Santos and Samuel H. Gaerlan, concurring.

3 *Id.* at 33-35; penned by Associate Justice Edgardo L. Delos Santos, with Associate Justices Eduardo B. Peralta, Jr. and Gabriel T. Ingles, concurring.

4 *Id.* at 50-57; rendered by Judge Maximo A. Perez.

5 *Id.* at 30.

letters of administration in favor of Ramon Belloc, Jr., the legal representative of Irenea's estate.[6]

Petitioner Ingrid V. Hilario (Ingrid) filed two petitions[7] for the issuance of letters of administration with urgent application for appointment of a special administratrix, both dated June 22, 2001, involving the properties of Antonio and Dolores, respectively. The petitions, docketed as SP Nos. A-522 and A-523, contained similar allegations except for the names of the decedents. Pertinently, they alleged that Ingrid is the daughter of Magdalena Varian (Magdalena), who, in turn, is the heir of Antonio and Dolores, who both died intestate and left real properties located in Sibonga, Cebu. Petitioner prayed for her appointment as special administratrix of the properties of the decedents, and to be issued letters of administration after notice, publication, and hearing, pursuant to the Rules of Court.

Ingrid anchored the filing of the said petitions on the May 31, 2000 Decision[8] rendered by the same RTC in Civil Case No. AV-929 filed by Magdalena against respondent Thelma Varian-Miranda (Thelma) and Santiago Miranda (Miranda spouses). The case sought the declaration of nullity of five deeds of sale involving Dolores' properties, allegedly executed by either all of Magdalena, Dolores, Silveria Retiza, and Teresito Belloc, or Dolores alone, in favor of the Miranda spouses, which deeds Magdalena claimed were simulated or fictitious.[9]

The RTC made the following pronouncements in the said May 31, 2000 Decision:

> The evidence on record disclosed that plaintiff Magdalena Varian is an illegitimate daughter of the deceased Antonio Belloc with Balbina dela Cruz. Aside from the plaintiff Magdalena Varian, the deceased Antonio Belloc has another illegitimate child named Dolores Retiza whose mother is Silveria Retiza and another illegitimate child Alberto whose mother is a certain Hipolita, whose surname probably is Flamor. This child Alberto, predeceased the deceased Antonio Belloc and is survived by his

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6 *Id.* at 35.

7 SP No. A-522 entitled *Intestate Estate of Deceased Antonio Belloc, Ingrid V. Hilario, Petitioner*, records (SP No. A-522), pp. 1-4; and SP No. A-523 entitled *Intestate Estate of Deceased Dolores Retiza, Ingrid V. Hilario, Petitioner*, records (SP No. A-523), pp. 1-4.

8 *Rollo*, pp. 42-49.

9 *Id.* at 43-44. The action, entitled *Magdalena B. Varian v. Thelma Varian-Miranda and Santiago Miranda*, sought the declaration of nullity of the following, the award of damages, and other remedies:

1. Extrajudicial Declaration of Heirs with Deed of Sale dated April 4, 1975;
2. Deed of Absolute Sale dated February 24, 1976;
3. Deed of Absolute Sale dated March 3, 1976;
4. Deed of Absolute Sale dated November 24, 1976; and
5. Deed of Absolute Sale dated November 30, 1976.

only son, x x x named Teresito Flamor, x x x. Antonio Belloc x x x died on August 20, 1974 at 4:25 P.M. in Cebu City at Cebu Community Hospital while Dolores Retiza and her mother Silveria Retiza died sometime in 1995 and on December 30, 1994, respectively.[10]

x x x x

With respect to defendants' claim or assertion, to the effect that the deceased Antonio Belloc was, during his lifetime, married to his live-in partner Silveria Retiza on August 20, 1974 as shown in a marriage contract presented by the defendants x x x, the same does not inspire acceptance upon the mind of the court. While the marriage contract between the deceased Antonio Belloc and Silveria Retiza shown by the defendants during the hearing is a public record, that does not standing alone necessarily prove the fact of marriage by and between the deceased Antonio Belloc and his live-in partner Silveria Retiza, because the circumstances and facts of their alleged marriage appears highly suspicious and seriously doubtful upon the mind of the court with respect to the validity of the alleged marriage for the following reasons, viz:

Evidence on record disclosed, that days before his death on August 20, 1974, Antonio Belloc was already confined in the Cebu Community Hospital in Cebu City. When he was visited by his friend and neighbor, plaintiff's rebuttal witness, Alfredo Bacacao, on August 20, 1974 at about 10:40 A.M., in his death bed, he was not only seriously ill, but was in a comatose condition, could no longer talk and was hovering between life and death or at the point of death so to speak, and in his death bed, was his live-in partner, Silveria Retiza. In the afternoon of the same day, about 4:15 P.M. he expired. Hence, his alleged marriage with his live-in partner is highly doubtful and seriously open to question. There was no iota of evidence in the record, that at anytime during the day, particularly before 10:00 A.M. or thereafter, but before his death in the afternoon, that he was taken out from the hospital and brought to San Nicolas Parish which is very far from the hospital, where the alleged marriage took place and allegedly solemnized by one Rev. Fr. Nicolas Batucan.

Even assuming for the sake of argument, without, however, admitting, that the marriage between deceased Antonio Belloc and his live-in partner Silveria Retiza was done in Articulo Mortis, whether the same took place inside Cebu Community

[10] *Id.* at 45.

> Hospital or in the church of San Nicolas Parish, such marriage could not be considered legally valid for the simple reason that one of the essential elements in valid marriage which is consent, to be freely given, was totally wanting or not present as said Antonio Belloc was then unconscious and under comatose condition and was hovering between life and death. Hence, he cannot give his consent freely. Even again assuming for the sake of argument, without however, admitting, that such marriage in articulo mortis, assuming there was such, the same cannot be considered in evidence as it was not formally offered in evidence, although marked during the hearing x x x. In fact, by defendants' acts, either wittingly or unwittingly, they miserably failed to formally offer any documentary evidence as the records clearly show. The non formal offer of evidence by the defendants was fatal to their cause, because evidence when not formally offered, cannot be considered. x x x. (Underscoring in the original.)
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> x x x x
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> Under the facts and evidence adverted to above, it is very clear that the deceased Antonio Belloc during his lifetime was never married to Silveria Retiza contrary to the claim of the defendants, and therefore, the conclusion is inevitable, that he died single, survived by his two illegitimate children, plaintiff Magdalena Varian, Dolores Retiza and his grandson Teresito Flamor. Accordingly, he died intestate and his intestate estate will pass on and will be inherited by his intestate heirs upon his death.
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> With respect to the properties of the deceased Dolores Retiza, subject matter in the different Deeds of Sale, the same likewise should pass on and be inherited by her intestate heirs because at the time of the alleged sale, she was insane and no showing was made by defendants that she executed the supposed sale during lucid interval; in fact, in 1995 she was placed under guardianship because of her incompetency. Evidence disclosed further that at the time of her death sometime in 1995, her only surviving heir is her half-sister, the plaintiff and her nephew, Teresito Flamor who, under the law on intestate succession will be the ones entitled to inherit her properties.[11]

The dispositive portion of the above Decision in Civil Case No. AV-929 nullified the subject deeds of sale, and among others, declared all the parcels of land subject matter of the deeds to form part of the intestate estate of Antonio and Dolores, which should be inherited by

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[11] *Id.* 47-48.

"the latter's intestate heirs, upon proper showing or proof of filiation/paternity."[12] The Decision became final on May 12, 2001.[13]

As mentioned, this Decision in Civil Case No. AV-929 became the basis of the filing of SP Nos. A-522 and A-523, which were both raffled to the same branch of the RTC. Ingrid eventually filed a motion for issuance of letters of administration[14] dated July 2, 2001, alleging that since the appointment of a special administratrix will take time, there will be no one who can receive delivery of the properties of Antonio and Dolores consisting of seven parcels of coconut and corn land with an aggregate area of 147,653 square meters which the RTC ordered returned to the estates of the decedents in Civil Case No. AV-929.[15] On September 10, 2001, after finding that both Antonio and Dolores died without leaving any will and left several properties, and that Ingrid is qualified and entitled to the issuance of letters of administration, the RTC ordered the issuance of letters of administration to Ingrid upon posting of an administrator's bond in the aggregate sum of ₱100,000.00.[16] The letters of administration were issued to Ingrid on October 3, 2001.[17]

On July 31, 2002, Magdalena, notwithstanding the fact that she was not a party to SP Nos. A-522 and A-523, filed an *ex-parte* motion to be declared sole heir of both Antonio and Dolores.[18] This was opposed[19] by Thelma, Magdalena's other daughter, and one of the defendants in Civil Case No. AV-929. Thelma alleged that Magdalena is not the sole heir of Antonio and that she could not be an heir of Dolores. Purportedly, Antonio begot three children in his lifetime, namely, Magdalena, Dolores, and Alberto Flamor (Alberto). Magdalena and Alberto were illegitimate children of Antonio. Alberto and Dolores are already deceased. Dolores died without issue, but Alberto is survived by his son, Teresito Flamor, who, in turn, is entitled to inherit from the estate of Antonio in representation of his father. Moreover, Thelma asserted that since the status of Dolores was elevated from illegitimate to legitimate child by the subsequent marriage of her mother, Silveria Retiza, with Antonio, Magdalena, an illegitimate child, cannot inherit from Dolores under Article 992[20] of the Civil Code.

On August 26, 2002, Magdalena filed an amended *ex-parte* motion for declaration as heir of both Antonio and Dolores,[21] insisting

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[12] *Id.* at 49.
[13] *Id.* at 58-59.
[14] Records (SP No. A-522), pp. 7-13.
[15] *Id.* at 8.
[16] *Id.* at 58-59.
[17] *Id.* at 66.
[18] *Id.* at 67-70.
[19] *Id.* at 72-74.
[20] Art. 992. An illegitimate child has no right to inherit *ab intestato* from the legitimate children and relatives of his father or mother; nor such children or relatives inherit in the same manner from the illegitimate child.
[21] Records (SP No. A-522), pp. 76-79.

that Antonio did not have any other heir except her and Dolores, and that upon the latter's death, she became the sole heir of her half-sister. Magdalena stated that she did not furnish Thelma a copy of the motion since the latter did not show any legal interest in the estates under administration. She then prayed to be declared an heir (no longer "sole" heir) of Antonio and Dolores.[22] Magdalena also filed a motion to strike the opposition filed by Thelma,[23] which the latter subsequently opposed.[24]

On February 27, 2003, the RTC issued an Order[25] denying the motion to strike opposition and declaring the need for a trial to determine the lawful heirs of the decedents.

On June 9, 2003, Magdalena died.[26] Upon their motion,[27] the following were declared as legal representatives of Magdalena: 1) Violet V. Miller; 2) Joseph Varian, Jr.; 3) Elizabeth V. Tongson; 4) Ingrid V. Hilario; and 5) Lalaine V. Ong.[28]

On August 25, 2004, Irenea filed a motion for leave to intervene[29] and opposition-in-intervention.[30] She claimed that she is the daughter of Teodoro Belloc (Teodoro) and Eugenia Retiza (Eugenia). Teodoro was the brother of Antonio, while Eugenia was the sister of Silveria, the mother of Dolores. Thus, she is the niece both of Antonio on the father side and Silveria on the mother side of Dolores, and the latter was her first cousin. She claimed that Magdalena cannot inherit from Dolores because she (Magdalena) is not a daughter of Antonio. Even granting that Magdalena is Antonio's illegitimate child, she cannot inherit from Dolores pursuant to Article 992 of the Civil Code because Dolores was a legitimate child. Irenea also alleged that since she is the nearest surviving relative of both Antonio and Dolores, she is entitled to be appointed as sole administrator of their estate.[31] The RTC granted the motion for intervention on February 3, 2005.[32]

After joint trial, the RTC rendered a Decision on January 25, 2006, the dispositive portion of which states:

> WHEREFORE, foregoing premises considered, Decision is hereby rendered in favor of the petitioner and against oppositor-intervenor Irenea Belloc by:

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22 *Id.* at 77.
23 *Id.* at 83-84.
24 *Id.* at 85-89.
25 *Id.* at 157-158.
26 *Id.* at 167-169.
27 *Id.* at 171-173.
28 *Id.* at 183.
29 *Id.* at 214-217.
30 *Id.* at 218-222.
31 *Id.* at 219-221.
32 *Id.* at 237.

> 1. Declaring the petitioner Magdalena Varian as heir of decedents Antonio Belloc and Dolores Retiza, to be represented by the following legal representatives: 1) Violet V. Miller; 2) Joseph Varian, Jr.; 3) Elizabeth V. Tongson; 4) Ingrid V. Hilario; 5) Lalaine V. Ong; and 6) Thelma V. Miranda who shall inherit the estate of the said decedents in equal shares; and
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> 2. Denying the claim of intervenor-oppositor Irenea Belloc for declaration as sole heir of decedents Antonio Belloc and Dolores Retiza, and denying her claim for appointment as administratrix of the estate of the said decedents.
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> IT IS SO DECIDED.[33]

The RTC resolved the following issues:

1. Whether or not Magdalena is entitled to be declared heir of decedents Antonio and Dolores; and
2. Whether or not intervenor Irenea is entitled to be declared **sole** heir of decedents Antonio and Dolores.[34]

On the first issue, the RTC held that Magdalena had established sufficient proof to be declared an heir of Antonio and Dolores. Magdalena was the daughter of Antonio and Balbina dela Cruz, who were not married to each other, while Dolores was the daughter of Antonio and Silveria. Antonio and Silveria died intestate before Dolores died on January 2, 1995 without children and without a will. Thus, Magdalena, who is Antonio's illegitimate daughter and Dolores' half-sister, is the relative nearest in degree to Antonio and Dolores.[35]

On the second issue, the RTC did not find that Irenea can be declared sole heir of Antonio and Dolores on the basis of Article 962 of the Civil Code which provides that "[i]n every inheritance, the relative nearest in degree excludes the more distant ones, saving the right of representation when it properly takes place." Irenea is the niece of Antonio and the first cousin of Dolores, and thus related to Dolores within the fourth civil degree. Magdalena being the relative nearest in degree to Antonio and Dolores excludes collateral and distant relatives including Irenea.[36]

The RTC also ruled on the invalidity of the marriage of Antonio and Silveria. It considered the May 31, 2000 Decision of the RTC in Civil Case No. AV-929 to be well-taken, noting that the Decision had

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[33] *Rollo*, p. 57.
[34] *Id.* at 54.
[35] *Id.* at 55.
[36] *Id.* at 55-56.

been affirmed by the CA and this Court.[37] The RTC further noted that Irenea did not categorically state that she personally witnessed the alleged wedding of Antonio and Silveria. She did not present as witness any of those she mentioned who allegedly attended said wedding, and even rested her case without presenting any documentary evidence. Hence, the RTC found that Irenea failed to substantiate her claim that Antonio and Silveria were legally married to each other.[38]

As regards Thelma's opposition, the RTC held that she is one of the heirs of Magdalena, being one of the latter's children.[39] Thus, Thelma is entitled to a share in the subject properties, equal to the share of one of Magdalena's legal representatives.[40]

Dissatisfied with the Decision, Thelma and Irenea filed their respective motions for reconsideration. On April 3, 2006, the RTC issued Orders[41] denying the motions on the ground that the issues raised therein had already been passed upon in the final and executory May 31, 2000 Decision of the RTC in Civil Case No. AV-929, as well as in the January 25, 2006 Decision in SP Nos. A-522 and A-523. Feeling aggrieved, Thelma and Irenea elevated the case to the CA, mainly arguing that the RTC erred in declaring Magdalena as an intestate heir of Antonio and Dolores.

On October 13, 2009, the CA rendered a Decision, the dispositive portion of which states:

> **WHEREFORE**, in the light of the foregoing, the assailed judgment dated January 25, 2006 by the Regional Trial Court, Branch 26, in Argao, Cebu is hereby **REVERSED AND SET ASIDE** and a new one entered **declaring IRENEA BELLOC as the sole heir of Antonio Belloc and Dolores Retiza.**
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> **SO ORDERED.**[42]

The CA held that the RTC erred in declaring Magdalena and her legal heirs as heirs of the estates of Antonio and Dolores since Magdalena's right to inherit depends upon "the acknowledgment or recognition of her continuous enjoyment and possession of the status of child of her supposed father."[43] No evidence was presented to support either premise. Although Magdalena was Antonio's spurious daughter,

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[37] *Id.* at 56. Thelma elevated the Decision in Civil Case No. AV-929 to the Court of Appeals via petition for annulment of judgment, but it was dismissed. She filed a petition for *certiorari* with the Supreme Court, but it was also dismissed. Records (SP No. A-522), p. 301.

[38] *Rollo*, p. 56.

[39] Records show that Thelma is the daughter of Magdalena and Joseph Miranda, *id.* at 30.

[40] *Id.* at 57.

[41] Records (SP No. A-522), p. 335; records (SP No. A-523), p. 291.

[42] *Rollo*, p. 30.

[43] *Id.* at 26.

the CA held that she nevertheless cannot inherit from his estate because she was not recognized by him either voluntarily or by court action.[44]

The CA noted that in actions to establish illegitimate filiation, a high standard of proof is required. If petitions for recognition and support are dismissed for failure to meet such high standard, with more reason that the court cannot declare a person to be an illegitimate heir of a decedent without any evidence to support such declaration in a proceeding for declaration of nullity of documents.[45] Even if proof of filiation of Magdalena to Antonio was presented in a case for declaration of nullity of documents involving the same parties in this case, such proof is not sufficient to confer upon Magdalena any hereditary right in the estates of Antonio and Dolores because it is necessary to allege that her putative father had acknowledged and recognized her as an illegitimate child.[46]

The CA added that Article 887 of the Civil Code, which enumerates who are compulsory heirs, categorically states that "[i]n all cases of illegitimate children, their filiation must be duly proved." Considering that Magdalena's filiation to Antonio was not sufficiently established, she is not entitled to any successional right from him or his daughter, Dolores. For the same reason, Ingrid cannot succeed from the estate of the decedents.[47]

Thus, applying Articles 961[48] and 962[49] of the Civil Code, the CA ruled that Irenea, being the niece of Antonio and first cousin of Dolores who died without issue, is entitled to inherit from the decedents.[50]

Finally, the CA ruled that Thelma is not entitled to inherit from Antonio and Dolores as her filiation with them was not established. Records show that she is the daughter of Magdalena with one Joseph Miranda.[51]

Displeased with the CA Decision, Ingrid filed a motion for reconsideration.[52] On April 4, 2011, the CA issued a Resolution[53]

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[44] *Id.* at 26-27.

[45] *Id.* at 27.

[46] *Id.* at 27-28, citing *Baluyut v. Baluyut*, G.R. No. 33659, June 14, 1990, 186 SCRA 506.

[47] *Id.* at 29.

[48] Art. 961. In default of testamentary heirs, the law vests the inheritance, in accordance with the rules hereinafter set forth, in the legitimate and illegitimate relatives of the deceased, in the surviving spouse, and in the State.

[49] Art. 962. In every inheritance, the relative nearest in degree excludes the more distant ones, saving the right of representation when it properly takes place.

Relatives in the same degree shall inherit in equal shares, subject to the provisions of Article 1006 with respect to relatives of the full and half blood, and of Article 987, paragraph 2, concerning division between the paternal and maternal lines.

[50] *Rollo*, pp. 29-30.

[51] *Id.* at 30.

[52] *Id.* at 36-41.

[53] *Supra* note 3.

denying her motion for lack of grounds sufficient to compel the reversal of its Decision. It also granted: 1) the motion for substitution of party filed by the heirs of Irenea in view of her death; 2) the motion for revocation of letters of administration issued to Ingrid; and 3) the motion for issuance of new letters of administration in favor of the heirs of Irenea.

Ingrid now appeals the Decision and Resolution of the CA before us, arguing that Magdalena's and Dolores' status as illegitimate children of Antonio and his intestate heirs have already been settled by the final and executory judgment in Civil Case No. AV-929. Ingrid claims that this judgment has attained the character of *res judicata* and can no longer be challenged.[54] Concomitantly, she insists that under the Family Code, "final judgment" is a basis for establishing illegitimate filiation.[55]

We grant the petition.

I.

First, we rule on the merits of the CA's Decision to declare Irenea as the sole heir of Antonio and Dolores. On this point, the CA held:

> Herein intervenor-appellant Irenea Belloc is the daughter of Teodoro Belloc and Eugenia Retiza. Her father is the brother of the decedent Antonio Belloc. Her mother Eugenia Retiza also happened to be the sister of Antonio's common-law wife Silveria. Hence, Dolores Retiza is her first cousin. The siblings of decedent Antonio Belloc are all dead as well as his wife Silveria. Dolores also died without issue. In fine, the relative nearest in degree to both decedents is intervenor-appellant Irenea Belloc, who is the niece of decedent Antonio Belloc and first cousin of Dolores Retiza.[56]

There is, however, nothing to support the above finding but the bare declarations of Irenea. The record is bereft of any evidence to support Irenea's allegation that she was a niece of Antonio and first cousin of Dolores. In fact, the RTC held that she rested her case without presenting any documentary evidence.[57] Neither did she present witnesses to corroborate her testimony.[58] It is a basic rule that the party who alleges an affirmative fact has the burden of proving it because mere allegation of the fact is not evidence of it. The party who asserts,

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[54] *Rollo*, pp. 7-8.
[55] *Id.* at 10.
[56] *Id.* at 29-30.
[57] *Id.* at 56.
[58] *Id.*; records (SP No. A-522), p. 249.

not he who denies, must prove.[59] Since Irenea failed to present proof of her relationship with both Antonio and Dolores, there is no ground for the Court to affirm the CA ruling declaring her the sole heir of both decedents.

II.

Second, we dispose of the arguments of respondent Thelma Miranda.

Thelma filed an opposition[60] in SP Nos. A-522 and A-523 not as an heir of Antonio but as someone who has an interest in Antonio's properties. She was one of the defendants in Civil Case No. AV-929, the supposed buyer of parcels of land forming part of Antonio's estate. She raised only two grounds in her opposition, namely: that Magdalena was not the sole heir of Antonio since the latter had a grandchild from a deceased illegitimate son, and Magdalena cannot inherit from Dolores under Article 992 of the Civil Code since the latter had been legitimized by the marriage of Antonio and Silveria, Dolores' mother. In her comment[61] to the instant petition, however, she changed her stance and argued that Magdalena was not a recognized illegitimate daughter of Antonio so that she could not inherit from both Antonio and Dolores. Apparently, Thelma based her comment on the assailed CA Decision.

As a rule, a party who deliberately adopts a certain theory upon which the case is tried and decided by the lower court will not be permitted to change said theory on appeal. It would be unfair to the adverse party who would have no opportunity to present further evidence material to the new theory, which it could have done had it been aware of it at the time of the hearing before the trial court. To permit Thelma to change her theory in this proceeding would not only be unfair to Ingrid, it would also offend the basic rules of fair play, justice, and due process.[62] Thelma is thus estopped from arguing before the Court that Magdalena is not a recognized illegitimate child of Antonio after submitting before the trial court that she is one of Antonio's heirs.

In any event, Thelma's participation in this case has no bearing on the resolution of the main issue. Her interest in the properties forming part of Antonio's estate had been settled in Civil Case No. AV-929 which nullified the deeds of sale in her and her husband's favor. As pointed to above, said Decision has become final.

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[59] *Far East Bank & Trust Company v. Chante*, G.R. No. 170598, October 9, 2013, 707 SCRA 149, 162.

[60] Records (SP No. A-522), pp. 72-74.

[61] *Rollo*, pp. 81-86.

[62] See *Maxicare PCIB Cigna Healthcare v. Contreras*, G.R. No. 194352, January 30, 2013, 689 SCRA 763, 772.

III.

The central issue that we must now resolve is whether Magdalena is an intestate heir of both Antonio and Dolores.

It must be noted that the RTC has consistently found Magdalena to be an illegitimate child of Antonio, and thus his intestate heir. In its Decision in Civil Case No. AV-929, the RTC held that "the conclusion is inevitable, that [Antonio] died single, survived by his two illegitimate children, plaintiff Magdalena Varian, Dolores Retiza and his grandson Teresito Flamor. Accordingly, he died intestate and his intestate estate will pass on and will be inherited by his intestate heirs upon his death."[63] Further, the RTC held in the same Decision that "[e]vidence disclosed x x x that at the time of [Dolores'] death sometime in 1995, her only surviving heir is her half-sister, the plaintiff and her nephew, Teresito Flamor who, under the law on intestate succession will be the ones entitled to inherit her properties."[64] Likewise, the RTC held in its Decision in SP Nos. A-522 and A-523 that "the petitioner had established sufficient proof to be declared heir of decedents Antonio Belloc and Dolores Retiza."[65] The CA itself concluded that Magdalena was a child of Antonio, albeit spurious.

The CA, however, held that Magdalena cannot inherit from Antonio's estate just the same since there is no evidence that she was recognized by Antonio either voluntarily or by court action.[66] In this regard, the CA hammered on the pronunciation of the Court in *Baluyut v. Baluyut* that to be entitled to support and successional rights from his putative or presumed parents, an illegitimate (spurious) child must prove his filiation to them, which may be established by the voluntary or compulsory recognition of the illegitimate child.[67] The CA also cited Article 887 of the Civil Code which states that in all cases of illegitimate children, their filiation must be duly proved.[68] The CA held that mere declaration by the RTC that Magdalena is an illegitimate daughter of Antonio, without evidence to sustain such filiation, is improper and not the kind of recognition contemplated by law.[69]

At the onset, we observe a flaw in the CA ruling, which is that it failed to expound on how it found Magdalena to be a spurious child. Under the Civil Code, there are three kinds of illegitimate children, namely, natural children, natural children by legal fiction, and illegitimate children who belong to neither of the first two

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63 *Rollo*, p. 48.
64 *Id.*
65 *Rollo*, p. 55.
66 *Id.* at 26-27.
67 *Id.* at 27-28.
68 *Id.* at 29.
69 *Id.* at 27.

classifications and are also known as spurious.[70] The Civil Code provides that natural children are those born of parents who had legal capacity to contract marriage at the time of conception,[71] while natural children by legal fiction are those conceived or born of marriages which are void from the beginning.[72] In *De Santos v. Angeles*,[73] we described spurious children as those with doubtful origins. There is no marriage, valid or otherwise, that would give any semblance of legality to the child's existence.[74] Paternity presupposes adultery, concubinage, incest, or murder, among others.[75] These classifications are significant as the Civil Code provides for varying degrees of rights for the use of surname, succession, and support depending on the child's filiation.[76]

Here, there is no evidence that Magdalena was a spurious child. The record shows that Antonio, who begot three children from three different women, never married any of them.[77] Indeed, since Antonio died in 1974, nobody came forward to claim that he or she is Antonio's legitimate child. Moreover, Magdalena had been known in the community as one of Antonio's illegitimate children.[78] The CA itself acknowledged this fact.[79] In light of these circumstances, it may well be concluded that Magdalena was a natural child.[80]

Coming now to the main point, the CA held that it is not enough for Magdalena to prove that she was a child of Antonio. She must also prove that Antonio recognized her as a child before she may inherit from his estate. While Ingrid asserted the final judgment of the RTC in Civil Case No. AV-929 to support her argument that her mother, Magdalena, had duly established her filiation with Antonio, the CA was unconvinced, holding that mere declaration by the RTC of Magdalena's filiation without evidence to support it is not the recognition contemplated by law.[81]

The Family Code[82] provides that illegitimate children may establish their illegitimate filiation in the same way and on the same evidence as legitimate children.[83] The manner in which legitimate

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[70] CIVIL CODE, Art. 287.
[71] CIVIL CODE, Art. 277.
[72] CIVIL CODE, Art. 89.
[73] G.R. No. 105619, December 12, 1995, 251 SCRA 206.
[74] *Id.* at 214.
[75] *Vda. De Clemeña v. Clemeña*, G.R. No. L-24845, August 22, 1968, 24 SCRA 720, 725.
[76] *De Santos v. Angeles*, *supra* at 214-215.
[77] *Rollo*, pp. 45-48.
[78] *Id.* at 51; records (SP No. A-523), pp. 42-43.
[79] *Rollo*, p. 26.
[80] We note, of course, that the Family Code now recognizes only two classes of children: legitimate and illegitimate. See *De Santos v. Angeles*, *supra* at 219.
[81] *Rollo*, pp. 26-27.
[82] Parenthetically, the Family Code has retroactive effect as provided by its Article 256 insofar as it does not prejudice or impair vested or acquired rights in accordance with the Civil Code or other laws.
[83] FAMILY CODE, Art. 175.

children may establish their filiation is laid down in Article 172 of the Family Code, which states:

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

The Code provides that the action by an illegitimate child must be brought within the same period specified in Article 173,[84] 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.[85] This is similar to Article 285 of the Civil Code which provides that the action for the recognition of natural children may be brought only during the lifetime of the presumed parents, except in certain cases.

In *Paulino v. Paulino*,[86] we held that acknowledgment of the putative father is essential and is the basis of an illegitimate child's right to inherit. If there is no allegation of acknowledgment, the action filed by the illegitimate child to be given a share in the estate of the putative father becomes one to compel recognition, which cannot be brought after the death of the putative father.[87]

The rationale for the time limit fixed by law to bring an action for compulsory recognition is to protect the legitimate family. In *Vda. de Clemeña v. Clemeña*[88] we explained:

> Illegitimate paternity, natural or not natural, is not paraded for everyone to see; but it is normally enshrouded in secrecy, and kept hidden from the

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[84] Art. 173. The action to claim legitimacy may be brought by the child during his or her lifetime and shall be transmitted to the heirs should the child die during minority or in a state of insanity. In these cases, the heirs shall have a period of five years within which to institute the action.
The action already commenced by the child shall survive notwithstanding the death of either or both of the parties.

[85] FAMILY CODE, Art. 175.

[86] G.R. No. L-15091, December 28, 1961, 3 SCRA 730.

[87] *Id.* at 734-735.

[88] *Supra* note 75.

> members of the legitimate family. The latter are not in a position to explain or contradict the circumstances surrounding the procreation of the illegitimate progeny. To inquire into those circumstances after the parent has died, when he or she alone has full knowledge thereof, when no one else can fully prove the truth or falsity of the alleged filiation of a claimant, is to penalize unnecessarily the legitimate family that constitutes one of the foundation blocks of society.
>
> x x x Nor can it be denied that by allowing the one who claims illegitimate filiation to wait for the death of the putative parent, when he had opportunity to confront the latter while alive, is to facilitate, if not encourage, blackmailing suits. And as illegitimate not natural paternity presupposes either adultery (concubinage) or incest or murder, the magnitude of the threatened scandal is a weapon that becomes more difficult to resist for the legitimate family that desires to protect the memory of the deceased.[89] (Citation omitted.)

Here, following the enumeration in paragraph 1, Article 172 of the Family Code, the record is bereft of any evidence showing that Magdalena had been recognized by Antonio through a record of birth appearing in the civil registrar, or an admission of legitimate filiation in a public document or a private handwritten instrument signed by Antonio. The CA, too, held that the final judgment rendered by the RTC on Magdalena's filiation has no basis. On the other hand, Magdalena could no longer raise as grounds for recognition the evidence enumerated in paragraph 2, Article 172, since she could only have raised them during the lifetime of her father, who is now deceased.

Will the confluence of these circumstances prevent Magdalena from being declared an heir of Antonio's and Dolores' estates?

We hold that they do not.

The law itself establishes the status of a child from the moment of his birth. Proof of filiation is necessary only when the legitimacy of the child is being questioned.[90] This rule also applies to illegitimate children. In her Handbook on the Family Code of the Philippines, Alicia Sempio-Diy, a member of the Civil Code and Family Code Committees, discussed that like legitimate children, illegitimate children are already given by the Family Code their status as such from the moment of birth.[91] There is, therefore, no need for an illegitimate child to file an action against his parent for recognition if he has in fact

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[89] *Id.* at 725.
[90] *Concepcion v. Court of Appeals*, G.R. No. 123450, August 31, 2005, 468 SCRA 438, 453-454.
[91] 1995 Ed., p. 281.

already been recognized by the latter by any of the evidences mentioned in Article 172 of the Family Code. If, however, the status of the illegitimate child is impugned, or he is required by circumstances to establish his illegitimate filiation, then he can do so in the same way and on the same evidence as legitimate children as provided in Article 172.

It is settled that Magdalena was an illegitimate child of Antonio. Since the law gave her that status from birth, she had no need to file an action to establish her filiation. Looking at the circumstances of the case, she was only compelled by the CA to present a "higher standard of proof" to establish her filiation as a result of an unsubstantiated claim of a better status raised by Irenea.[92] We hold, however, that such unsubstantiated claim is no claim at all. It is not an effective impugnation that shifts to Magdalena the onus to establish her filiation. To rule otherwise will only embolden and encourage unscrupulous lawsuits against illegitimate children, especially those who enjoyed recognition under paragraph 2, Article 172 of the Family Code, as they can no longer defend their rights after the prescriptive period has set in.

We have held that it is the policy of the Family Code to liberalize the rule on the investigation of the paternity and filiation of children, especially of illegitimate children.[93]

Significantly, the evils that the law seeks to prevent in placing a time limit to prove filiation if the grounds fall under paragraph 2, Article 172 of the Family Code, namely, to protect the legitimate family, does not exist in this case. Antonio had no legitimate family and Dolores died without issue. For more than 20 years since Dolores' death, there had been no claimants to her and Antonio's estates but Magdalena, Thelma, and Irenea. As discussed, Thelma does not even claim to be an heir, and Irenea's claim of legitimate relationship with the decedents remained unsubstantiated.

The Court is also compelled to rule in favor of petitioner on the basis of the final judgment rendered by the RTC in Civil Case No. AV-929 which established Magdalena's filiation. Under paragraph 1, Article 172 of the Family Code, "final judgment" is a means of establishing filiation. It refers to a decision of a competent court finding the child legitimate or illegitimate.[94] We find no need to disturb the RTC's findings which are based on the evidence presented for its consideration in the course of the proceeding. While the subject of Civil Case No. AV-929 is the declaration of nullity of certain documents, the

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[92] *Rollo*, p. 27.

[93] *Aguilar v. Siasat*, G.R. No. 200169, January 28, 2015, 748 SCRA 555, 571-572, citing *Dela Cruz v. Gracia*, G.R. No. 177728, July 31, 2009, 594 SCRA 649, 660.

[94] See *Geronimo v. Santos*, G.R. No. 197098, September 28, 2015, 771 SCRA 508, in relation to Articles 172 and 175 of the Family Code.

ruling on Magdalena's filiation cannot be considered *obiter dictum* since the RTC determinedly discussed and settled that issue as a means to decide the main issue brought for its disposition. Being a final judgment, the Decision in Civil Case No. AV-929 constitutes *res judicata*.

Res judicata literally means "a matter adjudged; a thing judicially acted upon or decided; a thing or matter settled by judgment." It also refers to the rule that a final judgment or decree on the merits by a court of competent jurisdiction is conclusive of the rights of the parties or their privies in all later suits on points and matters determined in the former suit. It rests on the principle that parties should not to be permitted to litigate the same issue more than once. When a right or fact has been judicially tried and determined by a court of competent jurisdiction, or an opportunity for such trial has been given, the judgment of the court, so long as it remains unreversed, should be conclusive upon the parties and those in privity with them in law or estate.[95]

This judicially-created doctrine exists as an obvious rule of reason, justice, fairness, expediency, practical necessity, and public tranquillity. Moreover, public policy, judicial orderliness, economy of judicial time, and the interest of litigants, as well as the peace and order of society, all require that stability should be accorded judgments, that controversies once decided on their merits shall remain in repose, that inconsistent judicial decision shall not be made on the same set of facts, and that there be an end to litigation which, without the doctrine of *res judicata*, would be endless.[96]

The CA held that the declaration of nullity of the marriage of Antonio and Silveria in Civil Case No. AV-929 is settled by *res judicata*.[97] There is no reason why the same principle will not apply with respect to the issue of Magdalena's filiation which has been settled by the same Decision.

WHEREFORE, the petition is **GRANTED**. The assailed October 13, 2009 Decision and April 4, 2011 Resolution of the Court of Appeals in CA-G.R. CV No. 01703 are **REVERSED and SET ASIDE**. The Decision dated January 25, 2006 of Branch 26 of the Regional Trial Court, Argao, Cebu, in Special Proceeding Nos. A-522 and A-523 is **REINSTATED**.

SO ORDERED.

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[95] *Degayo v. Magbanua-Dinglasan*, G.R. No. 173148, April 6, 2015, 755 SCRA 1, 8-9.
[96] *Id.* at 9.
[97] *Rollo*, p. 26.

FRANCIS H. JARDELEZA
Associate Justice

WE CONCUR:

LUCAS P. BERSAMIN
Chief Justice
Chairperson

MARIANO C. DEL CASTILLO
Associate Justice

(On Official Business)
NOEL GIMENEZ TIJAM
Associate Justice

ALEXANDER G. GESMUNDO
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I hereby 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's Division.

LUCAS P. BERSAMIN
Chief Justice