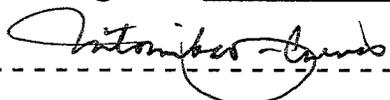


EN BANC

G.R. No. 208912 (*Amadea Angela K. Aquino v. Rodolfo C. Aquino and Abdulah Aquino*);

G.R. No. 209018 (*Rodolfo C. Aquino v. Amadea Angela K. Aquino*).

Promulgated: December 7, 2021

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

SEPARATE OPINION

GESMUNDO, C.J.:

Before the Court are the petitions for *certiorari* filed by Amadea Angela K. Aquino (*Amadea*), in G.R. No. 208912, seeking to reverse and set aside the Decision¹ dated January 21, 2013 of the Court of Appeals (*CA*), and filed by Rodolfo Aquino (*Rodolfo*), in G.R. No. 209018, against the August 23, 2012 Decision² and August 1, 2013 Resolution³ of the *CA*. Amadea essentially claims that she is the illegitimate daughter of deceased Arturo Aquino (*Arturo*), and, in turn, a legal heir of her grandfather, decedent Miguel Aquino (*Miguel*).

On October 21, 2013, the Third Division issued a Resolution⁴ consolidating G.R. Nos. 208912 and 209018. Both petitions were denied by the Court in its November 11, 2013 Resolution.⁵ Hence, Amadea filed a Motion for Reconsideration,⁶ and the Court also granted her motion to refer the case to the Court *En Banc*.⁷

The *ponencia* granted the motion for reconsideration of Amadea on the basis that Article 992 of the Civil Code should be accorded an interpretation that qualifies children, regardless of the circumstances of their birth, to inherit from their direct ascendants by right of representation; and that Abdulah

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

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

³ *Id.* at 49-52.

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

⁵ *Id.* at 206-207.

⁶ *Id.* at 208-221.

⁷ *Id.* at 237.



Aquino (*Abdulah*) and Rodolfo are estopped from claiming that Amadea is not Arturo's child.

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

Judicial review

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

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

Amadea essentially argues that this provision is unfair as it wrongly distinguishes between a legitimate and an illegitimate child regarding their right to inherit, where the illegitimate child shall not have any right to inherit from the legitimate relatives of his or her father or mother. On the other hand, *Abdulah* and Rodolfo counter that Amadea did not even prove that she was an illegitimate child of Arturo in the first place, hence, she is not an heir of her alleged grandfather, Miguel.

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

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

It is a rule firmly entrenched in our jurisprudence that the constitutionality of an act of the legislature will not be determined by the courts unless that question is properly raised and presented in appropriate cases and is necessary to a determination of the case, *i.e.*, the issue of

⁸ Civil Code, Book III, Article 992.

constitutionality must be the very *lis mota* presented. The essential requisites for a successful judicial inquiry into the constitutionality of a law are: (a) the existence of an actual case or controversy involving a conflict of legal rights susceptible of judicial determination, (b) the constitutional question must be raised by a proper party, (c) the constitutional question must be raised at the earliest opportunity, and (d) the resolution of the constitutional question must be necessary to the decision of the case.⁹

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

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

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

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

¹¹ 63 Phil. 139 (1936).

¹² *Id.* at 158.

¹³ 499 Phil. 281 (2005).

¹⁴ *Id.* at 304-305.

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

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

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

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

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

If the Court acts on a case regarding the constitutionality of a particular statute without an actual case or controversy, it will not only violate Sec. 1, Art. VIII, but will also violate the doctrine that laws are constitutionally presumed valid. A challenged law always enjoys the presumption of constitutionality which the Court, at the first instance, cannot disturb in the absence of the clearest showing that there was indeed an infraction of the Constitution, or at the very least, *prima facie* grave abuse of discretion. If the Court were to invalidate the questioned law on the basis of conjectures and

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

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

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

suppositions, then it would be unduly treading questions of policy and wisdom not only of the legislature that passed it, but also of the executive which approved it.¹⁸ Without an actual case or controversy, the Court will only provide an advisory opinion, which is constitutionally proscribed.¹⁹

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

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

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

¹⁸ See *Private Hospitals Association of the Philippines, Inc. v. Medialdea*, supra note 10, at 391.

¹⁹ *Tatad v. Commission on Appointments*, 584 Phil. 332, 335 (2008).

²⁰ See Dissenting Opinion of Justice Kapunan in *Kilosbayan, Inc. v. Guingona, Jr.*, 302 Phil. 107, 211-212 (1994).

²¹ *Id.*

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

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

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

In the recent case of *Falcis III v. Civil Registrar General*,²⁶ the petition, which was assailing the constitutionality of Arts. 1, 2, 46(4), and 55(6) of the Family Code, was dismissed due to lack of *locus standi* because the petitioner's supposed "personal stake in the outcome of this case" is not the direct injury contemplated by jurisprudence as that which would endow him

²² *Southern Hemisphere Engagement Network, Inc. v. Anti-Terrorism Council*, 646 Phil. 452, 471 (2010).

²³ *Anak Mindanao Party-List Group v. Executive Secretary Ermita*, 558 Phil. 338, 351 (2007).

²⁴ *Jumamil v. Cafe*, 507 Phil. 455, 465 (2005).

²⁵ *White Light Corp. v. City of Manila*, 596 Phil. 444, 456 (2009).

²⁶ G.R. No. 217910, September 3, 2019.



with standing. It was emphasized therein that petitioner presented no proof at all of the immediate, inextricable danger that the assailed law poses to him; and that assertions of injury cannot, without sufficient proof, be directly linked to the imputed cause, which is the existence of the Family Code.²⁷ Similarly, anticipation of harm is not equivalent to direct injury. Mere allegation that this injury comes from “the law’s normative impact” is insufficient to establish the connection between the Family Code and his alleged injury. It was also discussed therein that the mere passage of a law does not create an actual case or controversy, and neither can it be a source of direct injury to establish legal standing.²⁸

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

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

Unresolved factual issues; lack of trial

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

Amadea alleges that she is an illegitimate child of Arturo as shown by: (1) a Baptismal Certificate,²⁹ which purportedly proves that Amadea was baptized as the daughter of Susan Kuan and Arturo Aquino;³⁰ and (2) a Certification from the Davao Doctors Hospital dated July 5, 2003, which allegedly proves that “as per hospital record, her mother’s name is Susan Kuan and her father’s name is Arturo Aquino.” Further, Amadea alleges that her

²⁷ Id.

²⁸ Id.

²⁹ *Rollo* (G.R. No. 209018), p. 96.

³⁰ Id. at 86-87.

grandfather, Miguel: (1) provided for the medical expenses of her mother while the latter was pregnant; (2) allowed the Aquino family doctor, Dr. Risalina Pangan, to attend to her mother; (3) allowed her to live in the Ancestral home of the Aquino family; (4) allowed her to be baptized as Amadea Angela Aquino; (5) visited her, provided for her needs, and spent for her education; and (6) instructed his son and grandson, shortly before his death, to give her a commercial lot.³¹

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

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

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

JUSTICE GISMUNDO:

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

³¹ Id. at 87-88.

³² See *Heirs of Reyes v. Calumpang*, 536 Phil. 795, 811 (2006).

³³ *Rollo* (G.R. No. 209018), p. 92.

³⁴ Section 6, Rule 15 of the Rules of Court, as amended: *Notice of Hearing on Litigious Motions; Discretionary*. – The court may, in the exercise of its discretion, and if deemed necessary for its resolution, call a hearing on the motion. The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing.

ATTY. ANASTACIO:

Yes, Your Honor.

JUSTICE GISMUNDO:

And what is your basis in that assertion?

ATTY. ANASTACIO:

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

JUSTICE GISMUNDO:

x x x How was this admission by Abdulah made?

ATTY. ANASTACIO:

In a Comment filed I think with the lower Court.

x x x x

JUSTICE GISMUNDO:

What pleading was that?

ATTY. ANASTACIO:

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

x x x x

JUSTICE GISMUNDO:

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

ATTY. ANASTACIO:

Your Honor, please.

JUSTICE GESMUNDO:

What will be our factual bearing?

x x x x

ATTY. ANASTACIO:

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

(interrupted)

JUSTICE GESMUNDO:

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

x x x x

ATTY. ANASTACIO:

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

JUSTICE GESMUNDO:

And how was the admission made?

ATTY. ANASTACIO:

In a Comment, Your Honor.

x x x x

JUSTICE GESMUNDO:

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

ATTY. ANASTACIO:

Yes, Your Honor, please.

x x x x

JUSTICE GESMUNDO:

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

ATTY. ANASTACIO:

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

x x x x

JUSTICE GESMUNDO:

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

ATTY. ANASTACIO:

Yes, Your Honor.

JUSTICE GESMUNDO:

And what are those acts?

ATTY. ANASTACIO:

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

Evidently, the Certification³⁶ from the RTC stated that “no testimonial and documentary evidence [were] presented and offered both by the petitioner and the movant pertaining to the April 22, 2005 Order of the Court referring to the declaration of the Court” that the petitioner should be entitled to the portion of the estate. Despite such lack of presentation of evidence, Amadea’s allegation that she is an illegitimate child of Arturo was admitted as gospel truth by the trial court. Again, mere allegation is not tantamount to proof. In a civil case, a person who asserts a fact has the burden of proving it as the necessity of proving lies with the person who sues.³⁷

Amadea claims that there was no need to present evidence before the trial court regarding her status as an illegitimate child because there was already judicial admission on the part of Abdulah in his Comment to the Petition³⁸ (*Comment*) dated November 14, 2003.

A judicial admission is a formal statement, either by a party or his or her attorney, in the course of judicial proceedings, which removes an admitted fact from the field of controversy. It is a voluntary concession of fact by a party or a party’s attorney during judicial proceedings. Judicial admissions are

³⁵ TSN, September 3, 2020, pp. 105-110.

³⁶ *Rollo* (G.R. No. 208912), p. 1115.

³⁷ *Watercraft Ventures Corp. v. Wolfe*, G.R. No. 231485, September 21, 2020.

³⁸ RTC Order dated March 6, 2008; *rollo* (G.R. No. 208912), pp. 76-78.

used as a substitute for legal evidence at trial. Admissions made in the course of judicial proceedings or judicial admissions waive or dispense with the production of evidence, and the actual proof of facts by conceding for the purpose of litigation that the proposition of the fact alleged by the opponent is true.³⁹

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

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

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

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

³⁹ *Agabayani v. Lupa Realty Holding Corporation*, G.R. No. 201193, June 10, 2019, 903 SCRA 262, 283.

⁴⁰ *Id.*

⁴¹ Rules on Evidence, as amended by A.M. No. 19-08-15-SC, Rule 129, Sec. 4.

⁴² *Rollo* (G.R. No. 208912), p. 111.

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

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

Trial on the merits

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

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

- (1) In cases of rape, abduction or seduction, when the period of the offense coincides more or less with that of the conception;
- (2) When the child is in continuous possession of status of a child of the alleged father by the direct acts of the latter or of his family;**
- (3) When the child was conceived during the time when the mother cohabited with the supposed father;
- (4) When the child has in his favor any evidence or proof that the defendant is his father.⁴⁴ (emphasis supplied)

⁴³ Id. at 112-113.

⁴⁴ Civil Code, Art. 283.

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

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

JUSTICE GESMUNDO:

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

Ms. AMADEA AQUINO:

Yes, there was an issue raised. Correct.

JUSTICE GESMUNDO:

Do you know this Enrique Ho?

Ms. AMADEA AQUINO:

Yes, I do.

JUSTICE GESMUNDO:

How did you come to know him?

Ms. AMADEA AQUINO:

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

⁴⁵ *Rollo* (G.R. No. 209018), p. 237.

JUSTICE GISMUNDO:

So this is the present... (interrupted)

Ms. AMADEA AQUINO:

So this is the ex-husband of my mom.

x x x x

JUSTICE GISMUNDO:

And your mother contracted marriage with Enrique Ho, when?

Ms. AMADEA AQUINO:

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

x x x x

JUSTICE GISMUNDO:

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

Ms. AMADEA AQUINO:

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

JUSTICE GISMUNDO:

And what passport are you using.

Ms. AMADEA AQUINO:

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

JUSTICE GISMUNDO:

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

Ms. AMADEA AQUINO:

I have my Philippine passport, correct.

JUSTICE GISMUNDO:

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

Ms. AMADEA AQUINO:

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

JUSTICE GISMUNDO:

Your stepfather?

Ms. AMADEA AQUINO:

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

JUSTICE GISMUNDO:

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

Ms. AMADEA AQUINO:

Yes.

JUSTICE GISMUNDO:

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

Ms. AMADEA AQUINO:

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

x x x x

JUSTICE GISMUNDO:

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

Ms. AMADEA AQUINO:

Yes, Your Honor.

JUSTICE GISMUNDO:

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

Ms. AMADEA AQUINO:

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

⁴⁶ TSN, September 3, 2020, pp. 100-105.

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

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

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

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

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

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

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

The registration of a birth goes through a rigorous process. The books making up the civil register are considered public documents and are *prima facie* evidence of the truth of the facts stated there. As a public document, a registered certificate of live birth enjoys the presumption of validity.⁴⁹

⁴⁷ *Remiendo v. People*, 618 Phil. 273, 286 (2009).

⁴⁸ Dated December 18, 1992.

⁴⁹ *Baldos v. Court of Appeals*, 638 Phil. 601, 608 (2010).

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

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

Presumption of antagonism

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

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

The rules laid down in Art. 982⁵³ that “grandchildren and other descendants shall inherit by right of representation” and in Art. 902⁵⁴ that the rights of illegitimate children are transmitted upon their death to their descendants, whether legitimate or illegitimate, are subject to the limitation prescribed by Art. 992 to the end that “an illegitimate child has no right to

⁵⁰ See *Concepcion v. Court of Appeals*, 505 Phil. 529, 543 (2005).

⁵¹ TSN, September 3, 2020, p. 104.

⁵² *Manuel v. Ferrer*, 317 Phil. 568, 575 (1995).

⁵³ Civil Code, Art. 982. The grandchildren and other descendants shall inherit by right of representation, and if any one of them should have died, leaving several heirs, the portion pertaining to him shall be divided among the latter in equal portions.

⁵⁴ Civil Code, Art. 902. The rights of illegitimate children set forth in the preceding articles are transmitted upon their death to their descendants, whether legitimate or illegitimate.

inherit *ab intestato* from the legitimate children and relatives of his father or mother.”⁵⁵

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

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

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

A presumption is defined as an inference as to the existence of a fact not actually known, arising from its usual connection with another which is known, or a conjecture based on past experience as to what course human affairs ordinarily take. It is either a presumption *juris*, or of law, or a presumption *hominis*, or of fact.⁵⁸ A presumption of law exists when there is a law or rule directing the deduction made by the courts from the particular facts presented to them by the parties. Such deduction may be among the conclusive presumptions under Sec. 2 or the disputable presumptions under Sec. 3, Rule 131 of the Rules on Evidence, as amended.⁵⁹ On the other hand, a presumption of fact is the reasonable deduction from the facts proved without an express direction of law to that effect.⁶⁰ The function of a presumption is to dispense with the need for proof.⁶¹

⁵⁵ *Diaz v. Intermediate Appellate Court*, 261 Phil. 542, 548-549 (1990).

⁵⁶ 234 Phil. 636 (1987).

⁵⁷ *Id.* at 641-642.

⁵⁸ *Martin v. Court of Appeals*, 282 Phil. 610, 614 (1992).

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Jereza v. Mondia*, 222 Phil. 375, 378 (1985).

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

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

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

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

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

⁶² *Datumanong v. Malaga*, 810 Phil. 88, 99 (2017).

⁶³ 2019 Amendments to the Revised Rules on Evidence, A.M. No. 19-08-15-SC, August 10, 2019.

⁶⁴ 635 Phil. 136 (2010).

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

x x x x

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

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

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

⁶⁵ Id. at 148-150.

⁶⁶ Id. at 146.

⁶⁷ Id. at 150.

The Court is not a trier of facts

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

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

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

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

This Court is not a trier of facts, and it is beyond its function to make its own findings of certain vital facts different from those of the trial court, especially on the basis of the conflicting claims of the parties and without the evidence being properly [presented] before it. For this Court

⁶⁸ See *Cutaran v. Department of Environment and Natural Resources*, 403 Phil. 654, 662 (2001).

⁶⁹ G.R. No. 217158, March 12, 2019, 896 SCRA 213.

to make such factual conclusions is entirely unjustified — first, because if material facts are controverted, as in this case, and they are issues being litigated before the lower court, the petition for *certiorari* would not be in aid of the appellate jurisdiction of this Court; and, secondly, because it preempts the primary function of the lower court, namely, to try the case on the merits, receive all the evidence to be presented by the parties, and only then come to a definite decision, including either the maintenance or the discharge of the preliminary injunction it has issued.

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

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

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

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

In a *certiorari* and prohibition case, like the instant case, only legal issues affecting the jurisdiction of the tribunal, board or officer involved may be resolved on the basis of undisputed facts. Sections 1, 2 and 3, Rule 65 of the

Rules of Court require that in the verified petition for *certiorari*, *mandamus* and prohibition the petitioner should allege "facts with certainty."

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

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

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

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

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

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

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

⁷⁰ Id. at 264-267.

⁷¹ Rules of Court, Rule 45, Sec. 1.

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

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

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

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

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

The Court gives the highest respect to the RTC’s evaluation of the testimony of the witnesses, considering its unique position in directly observing the demeanor of the witnesses on the stand. From its vantage point, the trial court is in the best position to determine the truthfulness of witnesses. It is established that the evaluation of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court because of its unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct, and attitude under grueling examination. These are important in determining the truthfulness of witnesses and in unearthing the truth, especially in the face of conflicting testimonies. Indeed, the emphasis,

⁷² *Fantastico v. Malicse, Sr.*, 750 Phil. 120, 130 (2015).

⁷³ Internal Rules of the Supreme Court (2010), Rule III, Sec. 2.

⁷⁴ 810 Phil. 172 (2017).

gesture, and inflection of the voice are potent aids in ascertaining the witness's credibility, and the trial court has the best opportunity to take advantage of the same. Said aids, unfortunately, cannot be incorporated in the records. Therefore, all that is left for the appellate courts to utilize are the cold words of the witnesses contained in a transcript, with the risk that some of what the witnesses actually said may have been lost in the process of transcribing. As stated by an American court, there is an inherent impossibility of determining with any degree of accuracy what credit is justly due to a witness from merely reading the words spoken by him, even if there were no doubt as to the identity of the words. However artful a corrupt witness may be, there is generally, under the pressure of a skillful cross-examination, something in his manner or bearing on the stand that betrays him, and thereby destroys the force of his testimony. Many of the real tests of truth by which the artful witness is exposed, in the very nature of things, cannot be transcribed upon the record, and hence, they can never be appreciated and considered by the appellate courts.⁷⁵

Nevertheless, I acknowledge that this case has been dragging before the courts for almost two (2) decades. This dispute arose from the July 2, 2003 Motion for Inclusion filed by Amadea before the RTC on July 17, 2003.⁷⁶ Thus, I find that while the Court must remand the instant petitions before the RTC for the reception of evidence and trial on the merits, where both parties shall present evidence, the RTC shall be ordered to resolve the factual issues expeditiously.

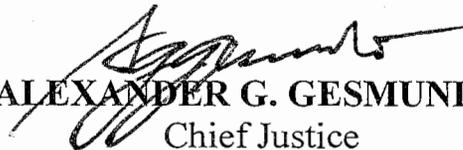
Final Note

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

⁷⁵ *Id.* at 184.

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

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


ALEXANDER G. GESMUNDO
Chief Justice

