



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

REPUBLIC OF THE G.R. No. 272006
PHILIPPINES,

Petitioner,

-versus-

Present:

LEONEN, *SAJ*, Chairperson,
LAZARO-JAVIER,
LOPEZ, M.,
LOPEZ, J., and
KHO, JR., *JJ*.

LINNEY JEAN L.
TANGARORANG and RAMER R.
TANGARORANG,
Respondents.

Promulgated:

FFR 05 2025

X-----X

DECISION

LOPEZ, J., *J*:

Legitimated children retain their legitimacy status in the event of a declaration of nullity of their parents' marriage based on psychological incapacity under Article 36 of the Family Code.

This Court resolves the Petition for Review on *Certiorari*¹ filed by petitioner Republic of the Philippines, through the Office of the Solicitor General (OSG), seeking to partially reverse the Decision² and Order³ of the Regional Trial Court (RTC), which declared the marriage between respondents Linney Jean L. Tangarorang (Linney) and Ramer R. Tangarorang

¹ *Rollo*, pp. 10–37.

² *Id.* at 39–47. The August 29, 2023 Decision in Civil Case No. 2021-0141 was penned by Acting Presiding Judge Francis L. Rafil of Branch 1, Regional Trial Court, Butuan City.

³ *Id.* at 48. The February 7, 2024 Order in Civil Case No. 2021-0141 was penned by Acting Presiding Judge Francis L. Rafil of Branch 1, Regional Trial Court, Butuan City.

(Ramer) void *ab initio* on the ground of the latter's psychological incapacity, and Sharemahlyne Librada Tangarorang (Sharemahlyne) to be their illegitimate child.⁴

The Antecedents

The instant case stemmed from the Petition⁵ filed by Linney seeking the declaration of nullity of her marriage with Ramer before the trial court, invoking psychological incapacity under Article 36 of the Family Code.

In her Petition, Linney alleged, among others, that she and Ramer begot a child prior to their marriage. The child, named Sharemahlyne, was born on September 9, 2006. Linney and Ramer were married on April 12, 2007, or shortly after Sharemahlyne's birth.⁶

The Petition also alleged that Linney and Ramer had troubles throughout their relationship. Their problems were caused mainly by Ramer's physical, emotional, and verbal abuse of Linney and Sharemahlyne, and his alcoholism, addiction to gambling, illicit affairs, and financial dependence on his parents. Linney eventually filed a case against Ramer for violation of Republic Act No. 9262 (Anti-Violence Against Women and their Children (VAWC)). This prompted Ramer to take Sharemahlyne away and threaten Linney that he would not return their daughter if she did not drop the VAWC case against him. Eventually, Ramer brought Sharemahlyne back to Linney's mother and apologized. Despite this, Ramer and Linney separated sometime in 2018.⁷

To support her Petition, Linney presented the Certificate of Marriage⁸ of Linney and Ramer; the Certificate of Live Birth⁹ of Sharemahlyne, with attached Affidavit of Acknowledgment/Admission of Paternity signed by Ramer; and the Psychological Report¹⁰ issued by Mita R. Gupana-Lim (Gupana-Lim), a psychologist who found Ramer to be suffering from narcissistic personality disorder with co-occurring signs of impulse disorder, rendering him psychologically incapacitated to assume the essential marital obligations. Linney also submitted the Judicial Affidavits executed by herself,¹¹ Sharemahlyne,¹² and Gupana-Lim.¹³

⁴ *Id.* at 47.

⁵ *Id.* at 56-63.

⁶ *Id.* at 58.

⁷ *Id.* at 57-60.

⁸ *Id.* at 71.

⁹ *Id.* at 69-70.

¹⁰ *Id.* at 93-95.

¹¹ *Id.* at 72-79.

¹² *Id.* at 80-85.

¹³ *Id.* at 86-92.

Linney's Petition prayed that her marriage with Ramer be declared void on the ground of the latter's psychological incapacity.¹⁴

After finding the Petition sufficient in form and substance, the RTC issued an Order¹⁵ directing the issuance of summons in the case. Thus, the OSG filed its Notice of Appearance¹⁶ and deputized the City Prosecutor of Butuan City to appear on its behalf in this case. In another Order,¹⁷ the RTC directed Linney to cause the service of summons on Ramer through publication. As evidenced by her Memorandum of Compliance,¹⁸ Linney complied with such directive.

Subsequently, the RTC directed the Office of the City Prosecutor to investigate whether collusion existed between the parties. In the same Order,¹⁹ the RTC set the case for pre-trial conference. The Office of the City Prosecutor of Butuan City responded by filing an Investigation Report,²⁰ which found no collusion between the parties.

Meanwhile, Linney filed her Pre-Trial Brief,²¹ and submitted the following issues: (1) whether Ramer is psychologically incapacitated to perform his essential marital obligations towards Linney; and (2) whether their marriage must be declared null and void under Article 36 of the Family Code. Accordingly, the RTC issued the Pre-Trial Order,²² which limited the issues to the foregoing enumeration.

Trial on the merits then ensued. Linney testified on behalf of herself, and presented Gupana-Lim, Lalaine Mae Lumantas Librada, and Josephine Sugala-Madrone as witnesses. After Linney rested her case, the OSG manifested that it would not present controverting evidence.²³ On the other hand, Ramer did not participate during trial.

The RTC rendered the assailed Decision,²⁴ which granted Linney's Petition and declared void *ab initio* her marriage with Ramer as follows:

¹⁴ *Id.* at 62.

¹⁵ *Id.* at 96.

¹⁶ *Id.* at 98-100.

¹⁷ *Id.* at 101.

¹⁸ *Id.* at 102-107.

¹⁹ *Id.* at 18.

²⁰ *Id.* at 119.

²¹ *Id.* at 120-124.

²² *Id.* at 125-126.

²³ *Id.* at 13-14.

²⁴ *Id.* at 39-47

WHEREFORE, the court finds the petition meritorious and resolves to –

1. **DECLARE *void ab initio*** the marriage between respondent Ramer R. Tangarorang and petitioner Linney Jean L. Librada solemnized on 12 April 2007 in Biñan, Laguna[,] on the ground of psychological incapacity of the respondent to fulfill the essential obligations of marriage;
2. **DECLARE** Sharemahlyne Librada Tangarorang[,] illegitimate child of the petitioner and respondent pursuant to Art. 165 of the Family Code, as amended;
3. **ORDER** the Local Civil Registrar of Biñan, Laguna[,] and Philippine Statistics Authority (PSA) to cancel the certificate of marriage between the petitioner and the respondent as appearing in the respective Registry of Marriage; and
4. **ALLOW** petitioner to resume the use of her maiden name.

SO ORDERED.²⁵ (Emphasis in the original)

In declaring the marriage of Ramer and Linney void, the RTC held that there was clear and convincing evidence that Ramer was psychologically incapacitated. Linney's position was strengthened by the fact that she was able to interview two people who personally witnessed Ramer's demeanor from his childhood until marriage. However, the RTC did not explain why Sharemahlyne was declared an illegitimate child by virtue of the nullity of the parties' marriage.²⁶

Dissatisfied with the RTC Decision, the OSG filed a Motion for Partial Reconsideration²⁷ to assail only the part of the ruling that declared Sharemahlyne to be illegitimate. In response, Linney filed a Comment to the Motion for Partial Reconsideration,²⁸ claiming that Sharemahlyne is an illegitimate child because she was born before the parties' marriage. With her status as an illegitimate child, Linney averred that Sharemahlyne's custody solely belongs to her.²⁹

The RTC denied the foregoing Motion in the assailed Order,³⁰ ruling that Sharemahlyne remains to be an illegitimate child since she was born prior to the parties' marriage. There was likewise no annotation in her Certificate of Live Birth that she underwent the legitimation process. The RTC thus found

²⁵ *Id.* at 47.

²⁶ *Id.*

²⁷ *Id.* at 49–55.

²⁸ *Id.* at 164–167.

²⁹ *Id.* at 164–166.

³⁰ *Id.* at 48.

Article 165 of the Family Code to be applicable to the case. The dispositive portion of the Order reads:

WHEREFORE, the motion for reconsideration is denied.
Sharemah[ly]ne is the illegitimate child of Linney and Ramer.

SO ORDERED.³¹

Hence, the OSG filed the present Petition for Review on *Certiorari*³² directly before this Court, raising pure questions of law. The Petition argues that: (1) the status of Sharemahlyne as a legitimate child cannot be collaterally attacked in a petition for declaration of nullity of marriage under Article 36 of the Family Code; (2) Linney is not the proper party contemplated under Article 182 of the Family Code to impugn the legitimacy of her daughter, Sharemahlyne; (3) the subsequent marriage of Ramer and Linney *ipso facto* makes Sharemahlyne a legitimate child, without need for an annotation that she underwent legitimation; and (4) the applicable provision governing Sharemahlyne's status is Article 54 of the Family Code, which is an exception to the rule in Article 165 of the Family Code, recognizing that a child conceived or born before marriage is declared void on the ground of psychological incapacity under Article 36, is legitimated.³³

On the other hand, Linney filed a Comment,³⁴ insisting that the RTC was correct in applying Article 165 in conjunction with Articles 177 and 178 of the Family Code. Therefore, reconciling Article 54 with Articles 165, 177, and 178 of the Family Code, she argued that children legitimated by the subsequent marriage of their parents revert to being illegitimate when the subsequent marriage of their parents is declared void. She posits that in a declaration of nullity, marriage does not exist at any point in time. As such, no benefits should arise from such a void marriage.³⁵

Issue

The issue to be resolved is whether the RTC erroneously declared Sharemahlyne L. Tangarorang an illegitimate child of respondents Linney Jean L. Tangarorang and Ramer R. Tangarorang.

³¹ *Id.*

³² *Id.* at 10–37.

³³ *Id.* at 16–30.

³⁴ *Id.* at 178–183.

³⁵ *Id.* at 179–190.

This Court's Ruling

The instant Petition is meritorious. The RTC gravely erred in declaring Sharemahlyne to be an illegitimate child of respondents.

Foremost, to dispel confusion, this Court finds it necessary to clarify that the civil status of children is not a collateral issue that the courts may not resolve in petitions for the declaration of nullity of marriage.

The Petition avers that Sharemahlyne's status was wrongfully attacked in the petition for declaration of nullity of marriage. This supposedly violates Section 22 of A.M. No. 02-11-10-SC³⁶ and Our ruling in *Republic v. Boquiren*,³⁷ which did not allow a collateral attack on the civil status of a child in a petition for correction of entries.³⁸

Case law states that "[u]pon the parties' filing of a petition for the declaration of nullity of marriage, trial courts also acquire jurisdiction over matters incidental and consequential to the marriage."³⁹ Because the civil status of children is generally a legal consequence of the validity of marriage, a question on the child's legitimacy status may be brought forth in a petition for declaration of nullity.

Notably, Section 22 of A.M. No. 02-11-10-SC also directs courts to order the amendment of the child's birth registry to reflect the new civil status of the child affected in cases of declaration of nullity or annulment of marriage, save in instances when the nullity of marriage is based on Article 36 or 53 of the Family Code:

Section 22. *Issuance of Decree of Declaration of Absolute Nullity or Annulment of Marriage.* (a) The court shall issue the Decree after;

(1) Registration of the entry of judgment granting the petition for declaration of nullity or annulment of marriage in the Civil Registry where the marriage was celebrated and in the Civil Registry of the place where the Family Court is located;

(2) Registration of the approved partition and distribution of the properties of the spouses, in the proper Register of Deeds where the real properties are located; and

³⁶ Also known as the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages

³⁷ G.R. No. 250199, February 13, 2023 [Per J. Inting, Third Division].

³⁸ *Rollo*, pp. 17–20.

³⁹ *Tanyag v. Tanyag*, 914 Phil. 150, 150 (2021) [Per J. Leonen, Third Division].

(3) The delivery of the children's presumptive legitimes in cash, property, or sound securities.

(b) The court shall quote in the Decree the dispositive portion of the judgment entered and attach to the Decree the approved deed of partition.

Except in the case of children under Articles 36 and 53 of the Family Code, the court shall order the Local Civil Registrar to issue an amended birth certificate indicating the new civil status of the children affected.
(Emphasis supplied)

Thus, following Section 22 of A.M. No. 02-11-10-SC, a judicial declaration of nullity of marriage of the parents may incidentally result in the declaration of the child's illegitimate status. This would not be considered a collateral attack, which has been frowned upon in *Boquiren*.⁴⁰

Contrary to petitioner's argument, *Boquiren* does not prohibit the courts from determining the legitimate status of the child in a petition for declaration of nullity of marriage. While *Boquiren* applied the proscription against a collateral attack on the legitimacy status of those who have been legitimated, the case involved a Rule 108 petition for correction of entries in the civil registry, and not a petition for declaration of nullity of marriage, as in this case. It was also clear in *Boquiren* that the RTC did not have jurisdiction to rule on the validity of the parties' marriage, which could affect the correction of their children's legitimate status in the latter's birth certificates. *Boquiren* even held that courts may pass upon the validity of the marriage in a case filed to impugn the legitimation of the child, recognizing the interrelation of the two issues:

Therefore, the Court does not agree with the conclusion of the courts *a quo* that the RTC possessed jurisdiction to rule on the validity of Oscar and Rosalinda's marriage to effect the correction of entries pertaining to respondents' status in their respective COLBs. The Court finds misplaced the CA's reliance on the cases of *De Castro* and *Cariño* in its asseveration that the validity of a void marriage may be collaterally attacked. Likewise, the Court finds misplaced the CA's pronouncement that the court may pass upon the validity of a marriage even in a suit not directly instituted to question the validity of said marriage, such as in the instant petition for correction of entries, so long as it is essential to the determination of the case — that is, to determine the propriety of the cancellation of the affidavit of legitimation. Notably, neither *De Castro* nor *Cariño* involved the correction of entries in the civil registry under Rule 108 where the trial court's jurisdiction was called upon to resolve the issues on the validity of marriage and the legitimacy or filiation of children.

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⁴⁰ *Republic v. Boquiren*, G.R. No. 259199, February 13, 2023 [Per J. Inting, Third Division].

Recapitulating on the foregoing disquisitions, the reliefs sought by respondents in the present petition must necessarily fail. Respondents' legitimated status can be impugned only by the proper parties under Article 182 of the Family Code in a direct proceeding filed for the purpose. In that forum, *the trial court can then pass upon the validity of the marriage of respondents, parents Oscar and Rosalinda with the end of determining respondents' legal status as children of their parents.* Any judgment rendered in the action can later serve as basis thereafter for the filing of a special proceeding for correction of entries in the civil registry under Rule 108 to record the fact of nullity of the marriage of respondents' parents and/or to establish respondents' status as illegitimate children.⁴¹ (Emphasis supplied, citations omitted)

Besides, it would not be the first time for this Court to determine the validity of the parents' marriage and rule on the child's legitimacy status in a single action. We have likewise resolved the twin issues of nullity of marriage and legitimacy of children in *Suntay v. Cojuangco-Suntay*,⁴² *De Castro v. Assidao-De Castro*,⁴³ and *Anaban v. Anaban-Alfiler*,⁴⁴ among many other cases. Hence, this Court believes that the RTC has duly acquired jurisdiction on the matter of Sharemahlyne's civil status in the petition for the declaration of nullity of respondents' marriage.

Another preliminary issue We opt to address is petitioner's argument that Linney should not be allowed to impugn the legitimacy of her child because of the express prohibition found under Article 167 of the Family Code, which states:⁴⁵

Art. 167. The child shall be considered legitimate although the mother may have declared against its legitimacy or may have been sentenced as an adulteress.

To recall, Linney's Petition⁴⁶ only prayed that her marriage with Ramer be declared null and void on the ground of the latter's psychological incapacity.⁴⁷ In her Pre-Trial Brief,⁴⁸ she also did not raise Sharemahlyne's legitimacy as one of the issues of the instant case. Neither her Petition nor pre-trial brief even questioned the civil status of Sharemahlyne. The issue only arose when the RTC declared Sharemahlyne to be an illegitimate child in the dispositive portion of its Decision,⁴⁹ believing that her civil status was an

⁴¹ *Id.* at 8–9, 18. This pinpoint citation refers to a copy of this Decision uploaded to the Supreme Court website.

⁴² 360 Phil. 932 (1998) [Per J. Martinez, Second Division].

⁴³ 568 Phil. 724 (2008) [Per J. Tinga, Second Division].

⁴⁴ 898 Phil. 421 (2021) [Per J. Lazaro-Javier, Second Division].

⁴⁵ *Rollo*, pp. 20–23.

⁴⁶ *Id.* at 56–63.

⁴⁷ *Id.* at 62.

⁴⁸ *Id.* at 120–124.

⁴⁹ *Id.* at 47.

incidental and consequential matter over which the RTC acquired jurisdiction in the petition for the declaration of nullity of marriage.

As such, this Court is now confronted with the issue of Sharemahlyne's civil status because of the pronouncement of the RTC rather than Linney's opposition to her child's legitimacy. It is of no moment that, in the present case, it is the mother who argues against her child's legitimacy. Such circumstances shall not prevent this Court from resolving the issue.

In order now to pass upon the substantive issue of the propriety of declaring Sharemahlyne to be illegitimate, We must discuss her legitimacy status prior to the declaration of nullity of respondents' marriage by the trial court.

At the outset, Article 165 of the Family Code provides that "[c]hildren conceived and born outside a valid marriage are illegitimate, unless otherwise provided in [the Family] Code." However, children may be legitimated by a subsequent valid marriage of their parents under Articles 177 and 178 of the same Code, if their parents were not disqualified by any impediment to marry each other at the time of their conception.⁵⁰

Here, it is undisputed that respondents are the biological parents of Sharemahlyne. As shown in her Certificate of Live Birth,⁵¹ she was born on September 9, 2006 to respondents who were not disqualified by any impediment to marry each other. While psychological incapacity was later found to have rendered respondent Ramer incapable of fulfilling his essential marital obligations, such incapacity is not an impediment under the law that would disqualify him from contracting marriage. Thus, with their marriage taking effect on April 12, 2007,⁵² Sharemahlyne had been legitimated.

Considering that "a void marriage is deemed never to have taken place at all[.]"⁵³ the nullity of the marriage, as a general rule, will make the child's status illegitimate from conception. However, Article 54 of the Family Code provides for exceptions:

⁵⁰ FAMILY CODE, arts. 177 and 178 provide:

ARTICLE 177. Only children conceived and born outside of wedlock of parents who, at the time of the conception of the former, were not disqualified by any impediment to marry each other may be legitimated.

ARTICLE 178. Legitimation shall take place by a subsequent valid marriage between parents. The annulment of a voidable marriage shall not affect the legitimation.

⁵¹ *Rollo*, pp. 69–70.

⁵² *Id.* at 71.

⁵³ *Suntay v. Cojuangeo-Suntay*, 360 Phil. 932, 943 (1998) [Per J. Martinez, Second Division].

Art. 54. Children conceived or born before the judgment of annulment or absolute nullity of the marriage under Article 36 has become final and executory shall be considered legitimate. Children conceived or born of the subsequent marriage under Article 53 shall likewise be legitimate.

Based on the foregoing provision, there are two instances when children born outside of valid marriages would still be considered legitimate so that the declaration of nullity of marriage would not result in a change of their status: (1) when the parent/s is/are declared psychologically incapacitated under Article 36 of the Family Code; and (2) when the child is conceived or born of the subsequent marriage under Article 53 of the Family Code, but the parent/s has/have not complied with the requirements of Article 52 of the Family Code.

For void marriages under Article 53 of the Family Code, the language of Article 54 of the Family Code requires that children be conceived or born *within* the subsequent marriage to be considered legitimate. However, for void marriages under Article 36, Article 54 of the Family Code did not distinguish between a child born prior to the marriage and a child born during the subsisting marriage. All the provision requires for legitimacy is that the child must be conceived or born *prior* to the judgment of absolute nullity under Article 36.

It is an elementary rule in statutory construction that where the law does not distinguish, the courts should not distinguish.⁵⁴ Relevantly, the lack of distinction between the class of legitimate children born in wedlock and the class of legitimated children born out of wedlock under Article 54, in relation to Article 36 of the Family Code, finds conformity with Article 179, which states that “[l]egitimated children shall enjoy the same rights as legitimate children.” In fact, the legitimate status of legitimate children retroacts to the time of their birth pursuant to Article 180 of the Family Code,⁵⁵ further eliminating any perceived difference between legitimate and legitimated children. Indeed, legitimation “puts a legitimated child completely and fully on equal footing with children born in lawful wedlock.”⁵⁶

It would also not be amiss to point out that the Family Code does not provide for a scenario where a legitimated child may revert to illegitimacy. This is in keeping with the principle that a legitimate status is more favorable to the child. Considering that “[i]n the eyes of the law, the legitimate child

⁵⁴ *Villanueva v. People*, 876 Phil. 855 (2020) [Per J. Delos Santos, Second Division].

⁵⁵ FAMILY CODE, art. 180 states:

ARTICLE 180. The effects of legitimation shall retroact to the time of the child's birth.

⁵⁶ *Republic v. Boquiren*, G.R. No. 250199, February 13, 2023 [Per J. Inting, Third Division] at 13. This pinpoint citation refers to a copy of this Decision uploaded to the Supreme Court website. (Citation omitted)

enjoys a preferred and superior status[,]"⁵⁷ the law protects the presumption of legitimacy, which is "based on the broad principles of natural justice and the supposed virtue of the mother. The presumption is grounded on the policy to protect innocent offspring from the odium of illegitimacy."⁵⁸ It would thus be absurd to relegate children "to the status of illegitimacy, when they are already enjoying the rights accorded to legitimated children."⁵⁹ To entertain such a situation would be anathema to the intent and purpose of the law in prioritizing the best interests of the child.

Considering the foregoing reasons, there is no substantial distinction between legitimate and legitimated children for purposes of determining the legitimacy of children of marriages later declared void under Article 36 of the Family Code. A declaration of nullity of marriage based on the psychological incapacity of one or both spouses under Article 36 should not affect the status of the children in accordance with Article 54 of the Family Code.

In the assailed Order,⁶⁰ the RTC incorrectly ruled that Sharemahlyne remains to be an illegitimate child under Article 165⁶¹ of the Family Code, as her legitimation was not reflected in her birth registry. Given that the legitimacy status of a child is conferred by the Family Code, a substantive law, the lack of annotation in the birth certificate as to the subsequent marriage of the parents of the child, shall not affect such status. Indeed, the formal requirement of annotating the legitimation is a mere administrative procedure which cannot impair substantive rights.

Accordingly, Article 54 of the Family Code entitled Sharemahlyne to retain her legitimacy status as a legal consequence of respondents' marriage. The RTC, in granting the petition for declaration of nullity of marriage on the ground of psychological incapacity, contravened the law in declaring her to be an illegitimate child as a consequence of the nullification.

Nevertheless, We recognize that Linney may have been impelled by a desire to claim sole custody of Sharemahlyne, as Ramer previously tried to keep their daughter away from her due to the VAWC case that she filed against him.⁶² It bears stressing however, that legitimacy is presumed to be more favorable to Sharemahlyne, and Article 54 in relation to Article 36 of the Family Code prescribes the child's legitimate status. Hence, the more

⁵⁷ *Concepcion v. Court of Appeals*, 505 Phil. 529, 544 (2005) [Per J. Corona, Third Division].

⁵⁸ *Cabatania v. Court of Appeals*, 484 Phil. 42, 52 (2004) [Per J. Corona, Third Division]. (Citation omitted)

⁵⁹ *Republic v. Boquiren*, G.R. No. 250199, February 13, 2023 [Per J. Inting, Third Division] at 13. This pinpoint citation refers to a copy of this Decision uploaded to the Supreme Court website.

⁶⁰ *Rollo*, p. 58.

⁶¹ FAMILY CODE, art. 165 provides:

ARTICLE 165. Children conceived and born outside a valid marriage are illegitimate, unless otherwise provided in this Code.

⁶² *Rollo*, pp. 57-60.

appropriate action for the mother under these circumstances would be to file a separate petition to seek sole custody of her daughter.

All told, the RTC rulings were bereft of basis in declaring Sharemahlyne to be illegitimate. Since her legitimacy status is not affected by the declaration of nullity of marriage on the ground of psychological incapacity, the RTC must be reversed insofar as it declared Sharemahlyne to be an illegitimate child of respondents.

ACCORDINGLY, the Petition for Review on *Certiorari* is **GRANTED**. The August 29, 2023 Decision of Branch 1, Regional Trial Court, Butuan City in Civil Case No. 2021-0141 is **AFFIRMED** with **MODIFICATION**. Sharemahlyne Librada Tangarorang is **DECLARED** a legitimate child of respondents Linney Jean L. Tangarorang and Ramer R. Tangarorang, pursuant to Article 54 of the Family Code.

Further, the February 7, 2024 Order of the Regional Trial Court is **REVERSED** and **SET ASIDE**.

SO ORDERED.

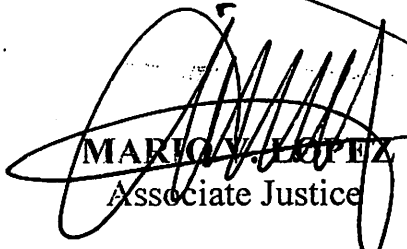

JHOSEP V. LOPEZ
Associate Justice

WE CONCUR:

su concurren

MARVIC M.V.F. LEONEN
Senior Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice


MARIO V. LOPEZ
Associate Justice


ANTONIO T. KHO, JR.
Associate Justice

ATTESTATION

I attest 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.



MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of this Court's Division.



ALEXANDER G. GESMUNDO
Chief Justice

SECOND DIVISION

G.R. No. 272006 – REPUBLIC OF THE PHILIPPINES, Petitioner, v.
LINNEY JEAN L. TANGARORANG and RAMER R.
TANGARORANG, Respondents.

Promulgated:

FFR 05 2025

X

X

CONCURRING OPINION

LEONEN, J.:

I concur with the well-written *ponencia* of my esteemed colleague, Associate Justice Jhosep Y. Lopez. The Regional Trial Court erred in declaring Sharemahlyne Librada Tangarorang (Sharemahlyne) as an illegitimate child of her parents. However, I wish to add a few points.

The term *illegitimate* has been considered a derogatory word which perpetuates historical stigma. It carries societal biases against an individual by reason of the marital status of their parents. The use of the term is akin to a “stamp of dishonor” upon nonmarital children,¹ a form of bigotry that exacerbates the cruel prejudice that families outside of the social norm are inherently inferior. “[W]hen [the] law treats members of a group as second-class citizens, it invites others to discriminate against that group as well.”²

Classifying nonmarital children as illegitimate was meant to be a penalty for the alleged social misconduct committed by the parents. Unfortunately, the undesirable consequences of this approach fell on the nonmarital children, and not on the erring parents.³

In my opinion, the continued classification of nonmarital children as illegitimate seems to be inconsistent not only with our fundamental law but also with our various statutory enactments and international commitments. Taken together, these enactments and commitments impose upon us the “duty

¹ Sandra M.T. Magalang, *Legitimizing Illegitimacy: Resisting Illegitimacy in the Philippines and Arguing for Declassification of Illegitimate Children as a Statutory Class*, 88 PHIL. L.J. 467, 504 (2014). Following the ruling in *Gocolay v. Gocolay*, 893 Phil. 178 (2021) [Per J. Leonen, Third Division], the use of the term “nonmarital” rather than “illegitimate” shall be observed unless reference is made to statutes, jurisprudence, or parties’ pleadings.

² *Id.*

³ *Id.* at 510.

to extend special protection to children, in equal measure and without any qualifications.”⁴

Under the 1987 Constitution, the State has the duty to defend “[t]he right of children to assistance,”⁵ which includes “proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development[.]”⁶

It is also our State Policy to protect “the best interests of the child”⁷ which has been defined as “the totality of the circumstances and conditions which are most congenial to the survival, protection and feelings of security of the child and most encouraging to the child’s physical, psychological and emotional development.”⁸ The term also refers to “the least detrimental available alternative for safeguarding the growth and development of the child.”⁹

As signatory to the United Nations Convention on the Rights of the Child, the Philippines has also committed to “take all appropriate measures” necessary to protect children against discrimination:

PART I

....

Article 2

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

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

Further, the legislature enacted Republic Act No. 7610 or the Special Protection of Children Against Abuse, Exploitation and Discrimination Act.

⁴ *Aquino v. Aquino*, 918-A Phil. 371, 410 (2021) [Per J. Leonen, *En Banc*].

⁵ CONST., art. XV, sec. 3(2).

⁶ CONST., art. XV, sec. 3(2).

⁷ *Aquino v. Aquino*, 918-A Phil. 371, 404 (2021) [Per J. Leonen, *En Banc*]. See also Republic Act No. 9344 (2006), Juvenile Justice and Welfare Act of 2006.

⁸ Republic Act No. 9344, sec. 4(b).

⁹ Republic Act No. 9344, sec. 4(b).

Under this act, it is a declared policy of the State to protect children from all forms of discrimination, among others:

SECTION 2. Declaration of State Policy and Principles.— It is hereby declared to be the policy of the State to provide special protection to children from all forms of abuse, neglect, cruelty exploitation and discrimination and other conditions, prejudicial their development; provide sanctions for their commission and carry out a program for prevention and deterrence of and crisis intervention in situations of child abuse, exploitation and discrimination. The State shall intervene on behalf of the child when the parent, guardian, teacher or person having care or custody of the child fails or is unable to protect the child against abuse, exploitation and discrimination or when such acts against the child are committed by the said parent, guardian, teacher or person having care and custody of the same.

Taking into consideration these enactments and obligations, the Court, in *Aquino v. Aquino*¹⁰ decided to abandon the biased and archaic presumption in our jurisprudence that “nonmarital children are products of illicit relationships or that they are automatically placed in a hostile environment perpetrated by the marital family[:.]”¹¹

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

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

....

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

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

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

¹⁰ 918-A Phil. 371 (2021) [Per J. Leonen, *En Banc*].

¹¹ *Id.* at 415.

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

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

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

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

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

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

....

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

We adopt a construction of Article 992 that makes children, regardless of the circumstances of their births, qualified to inherit from their direct ascendants — such as their grandparent — by their right of representation. Both marital and nonmarital children, whether born from a marital or nonmarital child, are blood relatives of their parents and other ascendants. Nonmarital children are removed from their parents and ascendants in the same degree as marital children. Nonmarital children of marital children are also removed from their parents and ascendants in the same degree as nonmarital children of nonmarital children.¹² (Citations omitted.)

¹² *Id.* at 410, 412–415.

While recognizing that our body of laws have improved, *Aquino* noted that the Civil Code and the Family Code still carry birth status classifications and distinctions:

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

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

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

Nonetheless, the present state of our family laws constrains us to apply the Civil Code and the Family Code as they are, including the classifications and distinctions embedded in them. Reshaping policies with a profound effect on the basic framework of Philippine civil law may be better left to the Filipino people, through their duly elected representatives, empathetic to and steadfast in our constitutional commitment to our children.¹³ (Citations omitted)

The distinctions embodied in the Family Code notwithstanding, laws should be interpreted in a manner that would protect the best interests of children. In this case, there is no dispute that Sharemahlyne was legitimated by her parents' subsequent marriage. While this marriage was later declared

¹³ *Id.* at 430-431.

void, this declaration should not affect the rights which Sharemahlyne acquired by reason of her legitimation.

Article 54 of the Family Code states that “[c]hildren conceived or born before the judgment of annulment or absolute nullity of the marriage under Article 36 has become final and executory shall be considered legitimate.”

This provision is complemented by Article 180 of the same Code, which provides that “[t]he effects of legitimation shall retroact to the time of the child’s birth.”

A reading of these provisions reveals the desire to protect the statutory rights granted to legitimated children despite the subsequent nullity of their parents’ marriage. This interpretation is in keeping not only with the State’s policy to protect the best interests of the child but also with our international commitment to safeguard children from all forms of discrimination.

ACCORDINGLY, I vote to GRANT the Petition.



MARVIC M.V.F. LEONEN
Senior Associate Justice