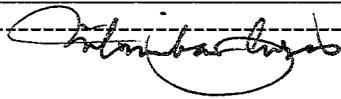


EN BANC

G.R. No. 208912 (*Amadea Angela K. Aquino v. Rodolfo C. Aquino and Abdulah C. Aquino*) and G.R. No. 209018 (*Rodolfo C. Aquino v. Amadea Angela K. Aquino*)

Promulgated:

December 7, 2021

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CONCURRING OPINION

LAZARO-JAVIER, J.:

I concur in the *ponencia* of the learned Associate Justice Marvic M.V.F. Leonen. There are only some matters though which I wish to amplify and stress, both being the logical and affirmative consequences of his enlightened reasoning.

One. I agree with the *ponente* that these cases are all about abandoning prejudicial stereotypes that have no other purpose but to fuel the cruelties, oppression, and regressive ideas about family life. To emphasize further, family life is not all about marital relationships as it should include all other typologies of bonding, support, love, respect, care, and concern. While marriage is an important social institution, this does not mean that it is the only foundation of one's dignity and self-worth as a person. There are other arrangements worthy of the law's protection because they, as much, give foundation and stability to our society. I must admit though that this recognition is an important issue of policy that the Court is not competent to determine and impose at first instance.

Two. I also agree with the *ponencia* that the interpretation and application of Article 992, *Civil Code* must be revisited so that it does not lend to ridiculous classifications of children entitled to inherit by right of representation. To amplify, non-marital children should not bear the burden of past indiscretions or failed relationships that they know nothing about and are absolutely innocent of. It should not matter that they were off-springs of allegedly *illicit* relations or the by-products of legal impediments to a valid marriage. Stereotypical characterizations only stunt the debate towards a more inclusive Philippine family and personal law.

Three. Too, I join the *ponente's* ruling that the Court should now abandon the twin presumptions of ill-will and hostility between marital and non-marital families and of non-marital children as being the unfortunate by-products of *illicit* relationships. They are not factual because they are sweeping. The cases here clearly illustrate the falsity of these presumptions.



Indeed, the correct presumption is the good-naturedness and adherence of the decedent to the love stream where affection and generosity flow downstream, then up, then sideways.

Hence, from hereon, it is presumed that without any distinction whatsoever, an ascendant would have wanted to be remembered by fondly, not niggardly or disparagingly, and to this end, would have endeavoured to bequeath an estate to a descendant. This is consistent with the presumption that people would act reasonably in the management and dispensation of their affairs.

As a result, Article 992, *Civil Code* should be read together with Article 982, *Civil Code*, and Article 195, *Family Code* so that Article 992 should only refer to the legitimate collateral relatives of the parent of the illegitimate child. This means that children, legitimate or illegitimate, may inherit from their grandparent by right of representation of their parent who is either a legitimate or an illegitimate child of the grandparent.

Indeed, to continue reading Article 992 as a bar against illegitimate children of a legitimate parent from succeeding their grandparent, when the illegitimate children of an illegitimate parent can succeed their grandparent by representation, is utterly discriminatory.

Discrimination arises when the impugned provision creates a prejudicial distinction affecting the complainant as a member of a group, based on an irrelevant personal and immutable characteristic shared by the group. Here, there is that prejudicial distinction. It affects illegitimate children of a legitimate parent, like petitioner Amadea Angela K. Aquino (Angela). It deprives her of her successional rights that have long been given to her as a result of the settlement of her grandfather's estate. The deprivation affects only this group and distinguishes this group from illegitimate children of an illegitimate parent. The differential treatment is based on an irrelevant personal status – legitimacy of the parent.

Clearly, the interpretation of Article 992, the way it has been read, cannot withstand constitutional scrutiny. The interpretation must, as the *ponencia* has done, be correctly abandoned and replaced by an inclusive, fair, and equitable reading thereof.

Four. Finally, I agree that the recalibrated interpretation of Article 992 does not automatically entitle Angela to inherit from her supposed grandfather Miguel; she still carries the burden of proving her filiation.

It is laudable that the *ponencia* is embracing technological advancements such as DNA testing in resolving this lingering issue. Indeed, DNA testing may be the simplest and most expedient process of establishing Angela's pedigree. Indeed, the DNA result is the only fool-proof evidence of filiation beyond any challenge by any of the parties. It is the only evidence

which can ultimately write *finis* to this long drawn legal battle between two warring camps that ironically share the same Aquino surname.

The 2001 case of *Tijing v. Court of Appeals*¹ elucidates:

Parentage will still be resolved using conventional methods unless we adopt the modern and scientific ways available. **Fortunately, we have now the facility and expertise in using DNA test for identification and parentage testing.** The University of the Philippines Natural Science Research Institute (UP-NSRI) DNA Analysis Laboratory has now the capability to conduct DNA typing using short tandem repeat (STR) analysis. x x x For it was said, that courts should apply the results of science when completely obtained in aid of situations presented, since to reject said result is to deny progress. Though it is not necessary in this case to resort to DNA testing, **in [the] future it would be useful to all concerned in the prompt resolution of parentage and identity issues.** (Emphases added)

The future is now. In *Herrera v. Alba*,² the Court already recognized the reliability of DNA testing, the admissibility of DNA results in evidence, and the validity of court orders compelling DNA testing for purposes of establishing paternity or filiation. This is in recognition of the Court's acceptance of **scientific progress and breakthroughs** as veritable aids in seeking out judicial truths. Indeed, the modern facilities of science allow courts to obtain decisive evidence and bring our long-drawn judicial investigation to a conclusion.

To recall, the present controversy started on May 7, 2003 when Rodolfo filed a petition before the Regional Trial Court of Davao City for the settlement of Miguel's intestate estate. On July 17, 2003, Angela sought to be included in the distribution and partition of Miguel's properties. About two (2) years later, by Order dated April 22, 2005, the trial court granted Angela's motion. It was only on January 21, 2013 or almost eight (8) years later when the Court of Appeals reversed the trial court's ruling. Thereafter, it has taken this Court eight (8) more years to dispose of the issue due to its novelty and complexity. In fine, Angela's **motion** to be included in the distribution of Miguel's estate has been pending for **eighteen (18) long years**. Like a woman who has come of age, Angela's motion has celebrated its debut.

Angela, Rodolfo, and Abdullah, have all significantly aged from the time the petition was filed before the trial court in 2003. Fortunately, resort to DNA evidence may finally put an end to this protracted controversy. With the aid of scientific advancements, the parties may finally see the settlement of Miguel's estate on the horizon.

ACCORDINGLY, I vote to **REMAND** the case to the Regional Trial Court of origin for reception of DNA evidence for the resolution of the issue

¹ 406 Phil. 449, 461 (2001).

² 499 Phil. 185 (2005).

of Amadea Angela K. Aquino's filiation and, consequently, her entitlement to a share in the estate of Miguel Aquino.


AMY C. LAZARO-JAVIER
Associate Justice