Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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SECOND DIVISION

IN RE: PETITION FOR CANCELLATION AND CORRECTION OF ENTRIES IN THE RECORDS OF BIRTH,

RITA K. LEE, LEONCIO LEE TEK SHENG, ROSA K. LEE-VANDERLEK, MELODY K. LEE-CHIN, LUCIA LEE-TEK SHENG-ONG, JULIAN K. LEE, HENRY K. LEE, MARTIN K. LEE, VICTORIANO K. LEE, NATIVIDAD K. LEE-MIGUEL, and THOMAS K. LEE,
Petitioners,

-versus-

EMMA LEE and THE CIVIL REGISTRAR FOR THE CITY OF CALOOCAN,
Respondents.

G.R. No. 180802

Present:

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

Promulgated:
AUG 01 2022

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DECISION

LEONEN, *J.*:

"The legitimacy and filiation of children cannot be collaterally attacked in a petition for correction of entries in the certificate of live birth."[1]

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* On leave.

[1] *Miller v. Miller*, G.R. No. 200344, August 28, 2019,

A petition for correction whose commanding intent is to impugn a child's filiation with a parent identified in birth records—and not merely to harmonize those records with self-evident facts—will be disallowed for being such a collateral attack.

Moreover, a petition for correction cannot proceed to allow the impugning party to gather the evidence denying filiation which that party lacks and hopes to have only by taking advantage of those proceedings. While it is a viable means for ascertaining filiation, DNA testing shall be allowed only when the party seeking it is first able to present *prima facie* evidence or establish a reasonable possibility of filiation.[2]

This Court resolves a Petition for Review on Certiorari[3] under Rule 45 of the 1997 Rules of Civil Procedure seeking to reverse and set aside the assailed Decision[4] and Resolution[5] of the Court of Appeals in CA-G.R. SP No. 90078.

The assailed Decision sustained an Order[6] of the Regional Trial Court of Caloocan City, Branch 131 which denied a Motion to Conduct a DNA Test to establish the supposed maternal relation between Emma Lee (Emma) and one Tiu Chuan (Tiu).

The Motion was filed by: Rita K. Lee (Rita); Leoncio Lee Tek Sheng (Leoncio); Rosa K. Lee-Vanderlek (Rosa); Melody K. Lee-Chin (Melody); Lucia Lee-Tek Sheng-Ong (Lucia); Julian K. Lee (Julian); Henry K. Lee (Henry); Martin K. Lee (Martin); Victoriano K. Lee (Victoriano); Natividad K. Lee-Miguel (Natividad); and Thomas K. Lee (Thomas) (collectively, Rita et al.). This Motion was filed during proceedings concerning a Petition for the Cancellation and Correction of Entries in the Records of Birth of Emma, which was also filed by Rita et al. That Petition sought the deletion of Keh Shiok Cheng's (Shiok Cheng) name as Emma's mother, substituting it with that of Tiu's. The assailed Resolution denied Rita et al.'s Motion for Reconsideration.

On February 3, 1993, Rita et al. filed before the Regional Trial Court of Caloocan a Petition for the Cancellation and Correction of Entries in the Records of Birth[7] under Rule 108 of the Rules of Court (1993 Petition).

<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65639>. [Per J. Leonen, Third Division].

2 *Lucas v. Lucas*, 665 Phil. 795, 815 (2011) [Per J. Nachura, Second Division].

3 *Rollo*, pp. 3–27.

4 Id. at 31–38. The June 19, 2007 Decision in CA-G.R. SP No. 90078 was penned by Associate Justice Arcangelita M. Romilla-Lontok and concurred in by Associate Justices Mariano C. Del Castillo and Romeo F. Barza of the Sixteenth Division, Court of Appeals, Manila.

5 Id. at 40–41. The December 11, 2007 Resolution in CA-GR SP No. 90078 was penned by Associate Justice Arcangelita M. Romilla-Lontok and concurred in by Associate Justices Mariano C. Del Castillo and Romeo F. Barza of the Former Sixteenth Division, Court of Appeals, Manila.

6 Id. at 79–80.

7 Id. at 48–53.

This Petition[8] prayed for the cancellation and correction of the allegedly false and erroneous entry in Emma's records of birth by deleting Keh Shiok Cheng's (Shiok Cheng) name as her mother and substituting it with Tiu's name, whom Rita et al. claim to be Emma's true mother.[9]

Emma's birth certificate[10] listed "Tek Sheng T. Lee," as her father, and "Shiok Cheng T. Keh," as her mother. It also indicated that she was born in Caloocan.

The Petition's prayer reads:

> WHEREFORE, it is respectfully prayed that judgment be rendered by this Honorable Court in favor of the petitioners:
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> 1. Directing the immediate cancellation and correction of the false and erroneous entries in all pertinent record/s of birth of private respondent Emma Lee including those on file with public respondent Civil Registrar by deleting and/or cancelling the name of Keh Shiok Cheng as her mother, and by substituting the same with the name of private respondent's real and true mother, Tiu Chuan.
>
> Such other reliefs and remedies just and equitable unde[r] the circumstances are likewise prayed for.[11]

Previously, on December 2, 1992, Rita et al. had also filed another Rule 108 Petition (1992 Petition) before the Regional Trial Court of Manila. The respondents for this Petition were: Marcelo Lee (Marcelo); Albina Lee-Young (Albina); Mariano Lee (Mariano); Pablo Lee (Pablo); Helen Lee (Helen); Catalino K. Lee (Catalino); and Eusebio Lee (Eusebio) (collectively, Marcelo et al.).[12] Their birth certificates[13] all indicated that they were born in Manila, and listed Shiok Cheng as their mother.

Rita et al. alleged that Lee Tek Sheng (Tek Sheng) and Shiok Cheng were married in China sometime in 1931.[14] They then migrated to the Philippines.[15] Rita, Leoncio, Lucia, Julian, Martin, Victoriano, and Thomas (collectively, the Lee siblings) claim to be the only marital[16] children of Tek

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[8] Id. Docketed as SP. PROC. NO. C-1674.
[9] Id. at 52.
[10] Id. at 59.
[11] Id. at 52.
[12] Id. at 54–58, 60, and 61. Docketed as SP. PROC. NO. 92-63692.
[13] Id. at 54–58 and 60–61.
[14] Id. at 49.
[15] Id. at 380.
[16] In *Aquino v. Aquino*, G.R. Nos. 208912 and 209018, December 7, 2021 [Per J. Leonen, En Banc], this Court recognized the pejorative implication of using the "legitimate" or "illegitimate" dichotomy, as this perpetuates a historical stigma. Thus, we noted that, whenever practicable and not directly referring to statute and jurisprudence, the terms "legitimate" and "illegitimate" shall be replaced by "marital" and "nonmarital," respectively. At every opportunity, this Court ought to keep in mind the dignity of every person in our use of terms and language. *See also* Edward Schumacher-Matos, *Start*

Sheng and Shiok Cheng. They were all born in the Philippines, except Rita, who was born in China.[17] In November 1948, Tek Sheng allegedly brought a young girl, Tiu, from China to the Philippines. He introduced her to the Lee siblings as their "housemaid."[18]

According to them, Tek Sheng, had an affair with Tiu. Their relations bore eight children, including Emma.[19]

Rita et al. further contended that, without Shiok Cheng's knowledge, Tek Sheng falsified the entries in the birth records of all his children with Tiu by making it appear that Shiok Cheng was their mother.[20]

When Tiu's alleged children became adults, they supposedly came to know that Tiu was their real mother. Nevertheless, they continued to represent themselves as Shiok Cheng's children.[21]

When Shiok Cheng died on May 9, 1989, Tek Sheng allegedly insisted on including the names of his children with Tiu in newspaper obituaries. This roused the Lee siblings' suspicion, prompting them to seek aid from the National Bureau of Investigation.[22]

Subsequently, the National Bureau of Investigation produced a report[23] which noted that Shiok Cheng's age "did not coincide with her actual age when she supposedly gave birth" to Marcelo et al.[24] For instance, the eldest of them was noted to have been born of a 17-year-old mother when, at the time of their birth, Shiok Cheng was already 38 years old. Further, another child, Mariano, was noted to have been born of a 23-year-old mother, when Shiok Cheng was 40 years old at the time of his birth.[25]

Acting on this report, Rita et al. filed their two Rule 108 petitions, one before the Regional Trial Court of Caloocan and one before the Regional

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the Debate: Language, Legitimacy and a 'Love Child', NATIONAL PUBLIC RADIO, INC., July 12, 2011, <https://www.npr.org/sections/publiceditor/2011/07/12/137792538/start-the-debate-language-legitimacy-and-a-love-child> (last accessed on August 1, 2022); Edward Schumacher-Matos, *Stylebook Survey: Newsroom Policy on 'Illegitimate Children'*, NATIONAL PUBLIC RADIO, INC., July 18, 2011, <https://www.npr.org/sections/publiceditor/2011/07/18/137861815/stylebook-survey-newsroom-policy-on-illegitimate-children> (last accessed on August 1, 2022); and Mallary Jean Tenore, *AP Stylebook adds entry for 'illegitimate child,' advises journalists not to use it*, POYTNER INSTITUTE, February 13, 2012, <https://www.poynter.org/reporting-editing/2012/ap-stylebook-adds-entry-for-illegitimate-child-advises-journalists-not-to-use-it/> (last accessed on August 1, 2022).

17 Id. at 32.
18 Id. at 50.
19 Id.
20 Id.
21 Id. at 50–51.
22 Id. at 51.
23 Id. at 56.
24 *In Re: Petition for Cancellation and Correction of Entries in the Record of Birth, Emma Lee vs. Court of Appeals*, 639 Phil 78, 81 (2010) [Per J. Abad, Second Division].
25 Id.

Trial Court of Manila.[26]

In response, then-respondents Marcelo et al. filed motions to dismiss both petitions, questioning the propriety of Rita et al.'s Rule 108 petitions and arguing that:

> (1) resort to Rule 108 is improper where the ultimate objective is to assail the legitimacy and filiation of petitioners; (2) the petition, which is essentially an action to impugn legitimacy was filed prematurely; and (3) the action to impugn has already prescribed.[27] (Citation omitted)

On February 12, 1993, the Regional Trial Court of Manila denied the Motion to Dismiss for Marcelo et al.'s failure in the 1992 Petition to appear at the motion's hearing.[28] The Regional Trial Court of Caloocan likewise denied Emma's Motion to Dismiss in the 1993 Petition.[29]

Attempting to seek reconsideration, Marcelo et al. then filed a Petition for Certiorari and Prohibition before the Court of Appeals.[30] There, they maintained that:

> (1) Rule 108 is inappropriate for impugning the legitimacy and filiation of children; (2) Respondents judges are sanctioning a collateral attack against the filiation and legitimacy of children; (3) Respondents judges are allowing private respondents to impugn the legitimacy and filiation of their siblings despite the fact that their undisputed common father is still alive; (4) Respondents judges are entertaining petitions which are already time-barred; and (5) The petitions below are part of a forum-shopping spree.[31] (Citation omitted)

The Court of Appeals dismissed their Petition. Thus, a Rule 45 Petition was filed before this Court.[32]

In *Lee v. Court of Appeals*, (*Lee (2001)*)[33] this Court denied the Rule 45 Petition and sustained the Court of Appeals decision. It explained that then-petitioners Rita et al.'s Rule 108 petitions could prosper because: (1) they were not in the nature of actions to impugn legitimacy; (2) those petitions were "appropriate adversary proceeding[s];"[34] (3) a Rule 108 petition is the proper remedy to effect a substantial change in a civil registry entry;[35] (4) Rita et al. had a valid cause of action;[36] (5) Rita et al.'s action

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[26] Id.
[27] *Lee v. Court of Appeals*, 419 Phil. 392, 402 (2001) [Per J. De Leon, Jr., Second Division].
[28] Id.
[29] Id.
[30] Id. at 403.
[31] Id.
[32] Id. at 404.
[33] Id.
[34] Id. at 405.
[35] Id. citing *Republic v. Valencia*, 25 Phil. 408 (1986) [Per J. Gutierrez Jr., En Banc].

had not prescribed;[37] and (6) Rita et al. were not engaged in forum shopping.[38]

On July 8, 2003, Rita et al. filed before the Regional Trial Court of Caloocan a Motion for the Use of DNA Analysis to establish Emma's supposed maternal relation with Tiu.[39] Their Motion was anchored on Rule 28, Sections 1 and 2 of the 1997 Rules of Civil Procedure,[40] governing physical and mental examination as a mode of discovery. They claimed that these provisions authorize the Regional Trial Court, on motion, for good cause shown and upon notice to the adverse party, to order one to submit to physical or mental examination.[41]

Emma filed an Opposition,[42] insisting that the Motion was based on mere suspicion and speculation. She assailed the prayer for DNA testing for being nothing more than a fishing expedition unsupported by evidence which was independently ascertained ahead of the Motion. According to her, considering that Tiu's name appears neither in her birth record nor in any other record pertaining to her, the more logical verificatory DNA test of maternal relation would have been one between her and Shiok Cheng.[43]

In its September 8, 2003 Order,[44] the Regional Trial Court of Caloocan denied Rita et al.'s Motion. It reasoned that the DNA test they sought amounted to a fishing expedition, as there appeared no independent evidence specifically pointing to a filial relationship between Emma and Tiu:

> [T]his Court takes extreme caution and restraint in granting the prayed for DNA analysis, especially in this case where no evidence has yet been presented which would at least tend to establish any filial relationship between Emma Lee and Tiu Chua.
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> In the absence of any such evidence on Tiu, this Court supports respondents' view that a DNA analysis on Tiu would be a "wild and unauthorized fishing expedition" which would tend to exploit, intrude into or violate Tiu's right to privacy.

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36 Id. citing *Babiera v. Catotal*, 389 Phil. 34 (2000) [Per J. Panganiban, Third Division]; and *Benitez-Badua v. Court of Appeals*, 299 Phil. 493 (1994) [Per J. Puno, Second Division].

37 Id. at 418, citing CIVIL CODE, art. 1149.

38 Id. at 421.

39 *Rollo*, pp. 62–65.

40 Section 1. When examination may be ordered. — In an action in which the mental or physical condition of a party is in controversy, the court in which the action is pending may in its discretion order him to submit to a physical or mental examination by a physician.
Section 2. Order for examination. — The order for examination may be made only on motion for good cause shown and upon notice to the party to be examined and to all other parties, and shall specify the time, place, manner, conditions and scope of the examination and the person or persons by whom it is to be made.

41 *Rollo*, p. 63.

42 Id. at 67–72.

43 Id. at 67–69.

44 Id. at 79–80. Through Judge Antonio J. Fineza.

WHEREFORE, in view of the foregoing, petitioners' Motion (for the use of DNA Analysis on Emma Lee and Tiu) dated 08 July 2003 is DENIED for lack of merit.

SO ORDERED.[45]

On October 3, 2003, Rita et al. filed a Motion for Reconsideration which the Regional Trial Court of Caloocan denied in its April 6, 2005 Order.[46]

On April 26, 2005, Rita et al. filed an *ex-parte* request for the issuance of a subpoena *ad testificandum* to compel Tiu to testify before the Regional Trial Court of Caloocan. The Regional Trial Court granted the Motion.[47] However, Tiu moved to quash the subpoena, claiming that it was oppressive and that it violated Rule 130, Section 25 of the Rules of Court on parental and filial privilege.[48] Tiu noted that she had acted as Emma's "stepmother."[49]

The subpoena was quashed by the Regional Trial Court of Caloocan on August 5, 2005. On certiorari, this quashal was set aside by the Court of Appeals.[50]

In *In Re: Petition for Cancellation and Correction of Entries in the Record of Birth, Emma Lee v. Court of Appeals* (*Lee (2010)*),[51] this Court sustained the Court of Appeals decision. It noted that the circumstance invoked by Tiu, *i.e.*, being Emma's "stepmother," was not covered by the rule on parental and filial privilege. It explained that "the rule applies only to 'direct' ascendants and descendants, a family tie connected by a common ancestry."[52] This Court clarified that "[a] stepdaughter has no common ancestry by her stepmother."[53] Thus, one such as Emma, whose common ancestry with the witness whose testimony is sought has not been established, cannot benefit from Rule 130, Section 25.

Meanwhile, on June 10, 2005, Rita et al. filed a Petition for Certiorari before the Court of Appeals assailing the Regional Trial Court of Caloocan's

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45 Id.

46 Id. at 104–105. Through Acting Presiding Judge Oscar P. Barrientos.

47 *In Re: Petition for Cancellation and Correction of Entries in the Record of Birth, Emma Lee vs. Court of Appeals*, 639 Phil 78, 81 (2010) [Per J. Abad, Second Division].

48 RULES OF COURT, Rule 130, sec. 25 provides:
Section 25. Parental and filial privilege. — No person may be compelled to testify against his parents, other direct ascendants, children or other direct descendants.

49 *In Re: Petition for Cancellation and Correction of Entries in the Record of Birth, Emma Lee vs. Court of Appeals*, 639 Phil 78, 81 (2010) [Per J. Abad, Second Division].

50 Id.

51 *In Re: Petition for Cancellation and Correction of Entries in the Record of Birth, Emma Lee vs. Court of Appeals*, 639 Phil 78 (2010) [Per J. Abad, Second Division].

52 Id. at 85.

53 Id.

denial of their Motion for DNA testing.[54]

In its assailed June 19, 2007 Decision,[55] the Court of Appeals found no grave abuse of discretion on the Regional Trial Court of Caloocan's part in denying Rita et al.'s Motion. It approved of the Regional Trial Court's observation that "no evidence has yet been adduced to establish a connection between Emma Lee and Tiu."[56]

With the Court of Appeals' denial of their Motion for Reconsideration, Rita et al. filed the present Rule 45 Petition before this Court.[57]

Following the filing of private respondent Emma Lee's Comment[58] and petitioners Rita et al.'s Reply,[59] the parties filed their respective memoranda.[60]

Petitioners assert that they are not precluded from impugning private respondent's "legitimacy"[61] because they are respondent Emma's "half brothers and sisters."[62] They maintain that DNA testing should be allowed, as "there are sufficient documentary and testimonial evidence to prove that Keh Shiok Cheng is not the mother of respondent Emma Lee"[63] and considering that *Lee (2001)* had already made a binding ruling on respondent Emma's parentage.[64]

Respondent Emma counters that DNA testing should not be allowed because petitioners have failed to establish a *prima facie* case concerning her maternal relation with Tiu.[65] She maintains that this lack of a *prima facie* case belies DNA testing's capacity to serve any useful evidentiary purpose.[66] She adds that *Lee (2001)* made no binding statements on her parentage.[67]

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54 *Rollo*, p. 8, 31 and 34.
55 Id. at 31–38.
56 Id. at 37.
57 Id. at 3–25.
58 Id. at 313–346
59 Id. at 365–375.
60 Id. at 379–408 and 412–450.
61 Id. at 406.
62 Id. at 404.
63 Id. at 385.
64 Id. at 400.
65 Id. at 428.
66 Id. at 434.
67 Id. at 445.

For this Court's resolution is the issue of whether or not the Court of Appeals erred in sustaining the Regional Trial Court of Caloocan's ruling denying petitioners Rita et. al's motion to avail of DNA testing to find out if there is a maternal relation between Tiu Chuan and respondent Emma Lee.

This Court finds a more fundamental error in facilitating the proceedings relating to petitioners' Rule 108 Petition against respondent Emma. While, nominally, it is just a "Petition for the Cancellation and Correction of Entries in the Records of Birth," it effectively impugns respondent Emma's filiation, as reflected in her birth certificate. It seeks the repudiation of her maternal relation with Shiok Cheng, the person indicated on that birth certificate as her mother.

Consistent with how jurisprudence has declared that "[t]he legitimacy and filiation of children cannot be collaterally attacked in a petition for correction of entries in the certificate of live birth,"[68] it is proper to not only prevent petitioners from proceeding with their prayed for DNA test in the context of a Rule 108 Petition, but to also *dismiss their Rule 108 Petition entirely.*

In any case, even granting that their Rule 108 Petition can proceed, the Court of Appeals and the Regional Trial Court of Caloocan correctly found that DNA testing cannot be allowed as petitioners have, as yet, failed to adduce *prima facie* evidence or establish a reasonable possibility of respondent Emma's filiation with Tiu.

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Miller v. Miller,[69] similarly involved a Petition for Correction of Entries in the Certificate of Live Birth under Rule 108. That Petition was filed by Glenn Miller (Glenn), one of John Miller's (John) children, in connection with the birth certificate of Joan Miller (Joan). Joan maintained that she is John's nonmarital child with her mother Lennie Espenida, as her birth certificate identified John as her father. Claiming that John did not acknowledge Joan as his natural child, Glenn "prayed that the Local Civil Registrar of Gubat, Sorsogon be directed to replace Joan's surname, Miller, with Espenida, and that Joan use Espenida instead of Miller in all official documents."[70]

The Regional Trial Court ruled on the merits, favoring Joan. It noted

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[68] Id.

[69] *Miller v. Miller*, G.R. No. 200344, August 28, 2019, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65639> [Per J. Leonen, Third Division].

[70] Id.

that John had duly recognized Joan as his daughter. Specifically, it stated that, "due recognition of [a nonmarital] child in a record of birth, a will, a statement before a court of record, or in any authentic writing is, in itself, a consummated act of acknowledgment of the child, and no further action is required[.]"[71]

On appeal, the Court of Appeals sustained the Regional Trial Court. Again, delving into the merits of the case, the Court of Appeals maintained that John had given due recognition to Joan. Specifically, "[a]pplying Article 173 in relation to Article 172 of the Family Code, it found that John's holographic will, where he gave Joan [one-eighth] of his estate, sufficiently established his paternity."[72]

Dissatisfied, Glenn's heirs, who had substituted for him following his passing, filed a Rule 45 Petition before this Court. Several points on the merits were raised, with this Court stating the main issue for resolution as "whether or not the Court of Appeals erred in affirming the Regional Trial Court Judgment allowing [Joan] to continue using the surname Miller."[73]

Although the principal issue for this Court's consideration was the propriety of the Court of Appeals' and Regional Trial Court's rulings on the merits, this Court pointed to a more basic flaw in the original Rule 108 Petition filed by Glenn, *i.e.*, that "[t]he legitimacy and filiation of children cannot be collaterally attacked in a petition for correction of entries in the certificate of live birth."[74] This Court explained:

> In *Braza v. The City Civil Registrar of Himamaylan City, Negros Occidental*, this Court emphasized that "legitimacy and filiation can be questioned only in a direct action seasonably filed by the proper party, and not through collateral attack[.]" Moreover, impugning the legitimacy of a child is governed by Article 171 of the Family Code, not Rule 108 of the Rules of Court.[75] (Citations omitted)

Thus, in its final disposition, *Miller* did not only sustain the dismissal of Glenn's Rule 108 Petition, but it also "nullified and set aside"[76] whatever pronouncements the Court of Appeals and Regional Trial Court made with respect to Joan's legitimacy and filiation, without prejudice to the filing of the appropriate action before a proper court:

> WHEREFORE, the Petition for Review on Certiorari is PARTIALLY GRANTED. The Court of Appeals' June 30, 2011 Decision and February 3, 2012 Resolution in CA-G.R. CV No. 84826 are

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[71] Id.
[72] Id.
[73] Id.
[74] Id.
[75] Id.
[76] Id.

AFFIRMED insofar as they affirm the November 26, 2004 Judgment of the Regional Trial Court of Masbate City, Branch 48 in Spec. Proc. No. 4703, which dismissed the Petition for Correction of Entries in the Certificate of Live Birth of Joan Miller y Espenida.

However, the declarations of the Court of Appeals and the Regional Trial Court as to the legitimacy and filiation of private respondent Joan Miller y Espenida are NULLIFIED and SET ASIDE. The Regional Trial Court's other pronouncements in its November 26, 2004 Judgment are also NULLIFIED and SET ASIDE.

This Decision is WITHOUT PREJUDICE to the refiling of the appropriate action before the proper court.

Finally, this Court resolves to treat the Memorandum of petitioners Evelyn L. Miller, Jennifer Ann L. Miller, Leslie Ann L. Miller, Rachel Ann L. Miller, and Valerie Ann L. Miller, who substituted Glenn M. Miller as his surviving legal heirs, as a formal administrative complaint against Judge Jacinta B. Tambago of Branch 48, Regional Trial Court, Masbate City. The administrative complaint is referred to the Office of the Court Administrator for proper investigation, report, and recommendation.

SO ORDERED.[77] (Emphasis supplied)

Miller's cited precedent, *Braza v. The City Civil Registrar of Himamaylan City, Negros Occidental,*[78] similarly involved a Rule 108 Petition. It was filed by Ma. Cristina Torres (Ma. Cristina), the surviving spouse of the deceased Pablo Sicad Braza, Jr. (Pablo), otherwise known as "Pablito Sicad Braza."[79]

Ma. Cristina sought the correction of entries in the birth certificate of a minor child, Patrick Alvin Titular Braza (Patrick). Patrick's birth certificate identified Pablo as his father, noting that Patrick was "[acknowledged] by the father Pablito Braza on January 13, 1997[,]"[80] and Lucille Celestial Titular (Lucille) as his mother. Patrick's birth certificate also bore a note: "Legitimated by virtue of subsequent marriage of parents on April 22, 1998 at Manila. Henceforth, the child shall be known as Patrick Alvin Titular Braza."[81]

In her Rule 108 Petition, Ma. Cristina prayed for the correction of the entries in Patrick's birth record "with respect to his legitimation, the name of the father and his acknowledgment, and the use of the last name 'Braza,' [as well as] the declaration of nullity of the legitimation of Patrick as stated in his birth certificate and, for [that] purpose, the declaration of the marriage of Lucille and Pablo as bigamous."[82] In addition to these, and similarly with

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77 Id.

78 *Braza v. The City Civil Registrar of Himamaylan City, Negros Occidental,* 622 Phil. 654 (2009) [Per J. Carpio Morales, First Division].

79 Id.

80 Id. at 656.

81 Id.

82 Id. at 657.

this case, Ma. Cristina asked that Patrick be submitted to DNA testing "to determine his paternity and filiation."[83]

This Court found that Ma. Cristina's intentions exceeded the bounds of what a Rule 108 petition may do. Thus, it sustained the Regional Trial Court's prior dismissal of Ma. Cristina's Petition which reasoned "that in a special proceeding for correction of entry, the court, which is not acting as a family court . . . has no jurisdiction over an action to annul the marriage of Lucille and Pablo, impugn the legitimacy of Patrick, and order Patrick to be subjected to a DNA test[.]"[84] This Court explained:

> The allegations of the petition filed before the trial court clearly show that petitioners seek to nullify the marriage between Pablo and Lucille on the ground that it is bigamous and *impugn Patrick's filiation in connection with which they ask the court to order Patrick to be subjected to a DNA test.*
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> Petitioners insist, however, that the main cause of action is for the correction of Patrick's birth records and that the rest of the prayers are merely incidental thereto.
>
> Petitioners' position does not lie. Their cause of action is actually to seek the declaration of Pablo and Lucille's marriage as void for being bigamous and impugn Patrick's legitimacy, which causes of action are governed not by Rule 108 but by A.M. No. 02-11-10-SC which took effect on March 15, 2003, and Art. 171 of the Family Code, respectively, hence, the petition should be filed in a Family Court as expressly provided in said Code.
>
> It is well to emphasize that, doctrinally, validity of marriages as well as legitimacy and *filiation can be questioned only in a direct action seasonably filed by the proper party, and not through collateral attack such as the petition filed before the court a quo.*[85] (Emphasis supplied, citations omitted)

In November 2021, this Court sitting *en banc* in *Ordoña v. Local Civil Registrar,*[86] reiterated the pronouncements in *Miller* and *Braza* that a collateral attack to impugn filiation cannot be allowed in a Rule 108 proceeding.

Ordoña also involved a Rule 108 petition where Richelle Ordoña (Richelle) sought for a correction of the entries in her son's birth certificate. The birth certificate indicated the surname of a certain Allan Fulgueras (Allan) as the son's surname and included Allan's details as the father. It also bore Allan's signature acknowledging that he is the father.

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[83] Id.
[84] Id.
[85] Id. at 658–659.
[86] *Richelle Busque Ordoña v. The Local Civil Registrar of Pasig City and Allan D. Fulgueras,* G.R. No. 215370, November 9, 2021, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/68013> [Per J. Inting, En Banc].

This Court ruled that what Richelle sought was not a mere clerical change. Rather, she sought to impugn the filiation of a child. To reiterate, this Court has categorically ruled that the legitimacy and filiation of children cannot be collaterally attacked in a petition for correction of entries in the certificate of live birth. Accordingly, Richelle's purposes will need to be realized in a separate action. Thus, her recourse to a petition under Rule 108 was improper:

> The Court denies the petition.
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> In resolving the petition, the Court is guided by the Court's pronouncements on the parameters in seeking relief under Rule 108 of the Rules of Court. Rule 108 governs the proceedings for the cancellation or correction of entries in the civil registry.
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> Associate Justice Alfredo Benjamin S. Caguioa aptly pointed out the Court's pronouncement in *Miller v. Miller* (Miller). In that case, the Court, speaking through Associate Justice Marvic M.V.F. Leonen and relying on *Braza v. The City Civil Registrar of Himamaylan City, Negros Occ.*, categorically ruled that the legitimacy and filiation of children cannot be collaterally attacked in a petition for correction of entries in the certificate of live birth, the action filed in that case. The Court ruled:
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> > Here, petitioners sought the correction of private respondent's surname in her birth certificate registered as Local Civil Registrar No. 825. They want her to use her mother's surname, Espenida, instead of Miller, claiming that she was not an acknowledged illegitimate child of John.
> >
> > What petitioners seek is not a mere clerical change. It is not a simple matter of correcting a single letter in private respondent's surname due to a misspelling. Rather, private respondent's filiation will be gravely affected, as changing her surname from Miller to Espenida will also change her status. This will affect not only her identity, but her successional rights as well. Certainly, this change is substantial.
> >
> > In *Braza v. The City Civil Registrar of Himamaylan City, Negros Occidental*, this Court emphasized that "legitimacy and filiation can be questioned only in a direct action seasonably filed by the proper party, and not through collateral attack[.]" Moreover, impugning the legitimacy of a child is governed by Article 171 of the Family Code, not Rule 108 of the Rules of Court.
>
> Article 164 of the Family Code provides that "children conceived or born during the marriage of the parties are legitimate." Here, petitioner admitted to being in a valid and subsisting marriage with Ariel when she conceived and gave birth to Alrich Paul. Thus, Alrich Paul is presumed to be a legitimate child of petitioner and Ariel. However, looking at the Rule 108 petition in this case, petitioner, mother of Alrich Paul, in effect

> declared against her child's legitimacy when she alleged that Alrich Paul was the child of Allan.
>
> Following the pronouncement in Miller, petitioner's collateral attack of Alrich Paul's filiation cannot be allowed in a Rule 108 proceeding. Thus, on this ground alone, the RTC should have dismissed the Rule 108 petition.
>
> Further, assuming arguendo that the Rule 108 petition filed in the case is considered as the direct action to impugn Alrich Paul's presumed legitimacy, the Rule 108 petition must still fail.
>
> It must be emphasized that the direct action to impugn the legitimacy of a child must be brought by the proper parties and within the period limited by law.[87] (Citations omitted)

II

Here, as in *Miller*, *Braza*, and *Ordoña*, it is apparent to this Court that the Rule 108 Petition against respondent Emma is fundamentally and chiefly concerned with repudiating (*i.e.*, impugning) her parentage, as it is currently reflected in her birth records. That Petition, on its own, may nominally be only for correction. However, petitioners' true, commanding intent is revealed by how they litigated, including the assertions in their pleadings and the character of the evidence they presented.

Following *Miller*, whose disposition was anchored on the more basic consideration that legitimacy and filiation cannot be collaterally attacked in a Rule 108 Petition, this Court rules that the Rule 108 Petition[88] before the Regional Trial Court of Caloocan must be dismissed.

That Petition's ultimate objective is, in the words of its own prayer, the "cancellation and correction of the false and erroneous entries in all pertinent record/s of birth of private respondent."[89] That objective is nominally in keeping with the purpose and scope of a Rule 108 petition, as spelled out in Rule 108, Sections 1 and 2 of the Rules of Court:

> Section 1. Who may file petition. — Any person interested in any act, event, order or decree concerning the civil status of persons which has been recorded in the civil register, may file a verified petition for the cancellation or correction of any entry relating thereto, with the Court of First Instance of the province where the corresponding civil registry is located.
>
> Section 2. Entries subject to cancellation or correction. — Upon good and valid grounds, the following entries in the civil register may be cancelled or corrected: (a) births: (b) marriage; (c) deaths; (d) legal separations; (e)

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87 Id.

88 Subject of SP. PROC. NO. C-1674.

89 *Rollo*, p. 52.

judgments of annulments of marriage; (f) judgments declaring marriages void from the beginning; (g) legitimations; (h) adoptions; (i) acknowledgments of natural children; (j) naturalization; (k) election, loss or recovery of citizenship; (l) civil interdiction; (m) judicial determination of filiation; (n) voluntary emancipation of a minor; and (o) changes of name.

However, as the prayer of petitioners' Rule 108 Petition further reveals, that objective shall be done through the binary action of "*deleting and/or cancelling the name of Keh Shiok Cheng as [respondent Emma's] mother*, [and] substituting the same with the name of [her] real and true mother, Tiu Chuan."[90] Thus, it is integral to the relief sought by petitioners that respondent Emma's filiation with Shiok Cheng be negated.

One can argue that the Petition's true intention is the recognition of Tiu as respondent Emma's mother, and that the repudiation of her maternal relation with Shiok Cheng is merely the Petition's necessary, inevitable consequence. Indeed, establishing an individual to be one's mother necessarily precludes biological maternal relations with another.

However, given the incidents in this case, this Court finds that pleading Shiok Cheng's repudiation to be "merely incidental" amounts to a disingenuous attempt at splitting hairs. Petitioners' specific representations, as well as the quality and nature of the evidence on which they rely, reveal their main inclination to repudiate respondent Emma's maternal relation with Shiok Cheng, rather than positively establishing maternal relations with Tiu.

In their Memorandum to this Court, petitioners specifically submitted as an issue for resolution the matter of "whether there is sufficient documentary and testimonial evidence *to prove that Keh Shiok Cheng is not the mother of respondent Emma Lee*."[91] Later, in the same Memorandum, an entire section is demarcated with the assertion, presented as a subject heading: "There are sufficient documentary and testimonial evidence *to prove that Keh Shiok Cheng is not the mother of respondent Emma Lee*."[92] That same section ends with a concluding assertion: "All of the foregoing are sufficient testimonial and documentary evidence *to prove that respondent is not the daughter of Keh Shiok Cheng*."[93]

This Court can further indulge petitioners and entertain the possibility that these quoted representations are merely borne of an unfortunate choice of words or semantics. Yet, further into their Memorandum, petitioners make a representation that is significantly more definite and is replete with

90 Id.
91 Id. at 385.
92 Id. at 404.
93 Id. at 406.

legal implications. They categorically declared: (1) that *"[they] are not precluded from impugning the legitimacy of respondent [Emma]"*[94]; and (2) that they, *"[the] half brothers and sisters of respondent [Emma][,] . . . are impugning [her] legitimacy."* [95] *This is petitioners' own unequivocal declaration of intent.*

Equally telling, the character of the actual evidence on which petitioners rely on to support the assertion that "[t]here are sufficient documentary and testimonial evidence to prove that Keh Shiok Cheng is not the mother of respondent Emma Lee"[96] belies the positive identification of Tiu as respondent Emma's mother to be petitioner's commanding intent.

Petitioners' Memorandum adverts to three pieces of evidence. First, the National Bureau of Investigation report, obtained at their behest, which adverted to inconsistencies in the age of the mother indicated on the records of birth of the respondents in their two (2) Rule 108 petitions.[97] Second, Dr. Virgilio M. Novero, Jr.'s testimony, an obstetrician gynecologist, on the unlikelihood of Shiok Cheng's being Marcelo et al.'s mother .[98] Third, Rita's own testimony.[99]

As recounted in *Lee (2001)*, the National Bureau of Investigation report made the following observations:

> 1. As per Birth Certificate MARCELO LEE (Annex F-1), their father, LEE TEK SHENG made it appear that he is the 12th child of Mrs. KEH SHIOK CHENG, but upon investigation, it was found out that her Hospital Records, *the mother who gave birth to MARCELO LEE had given birth for the 1st time*, as per diagnosis of the attending physician, Dr. R. LIM, it was "GRAVIDA I, PARA I" which means "first pregnancy, first live birth delivery" (refer to: MASTER PATIENT'S RECORDS SUMMARY — Annex I). Also, *the age of the mother when she gave birth to MARCELO LEE as per record was only 17 years old, when in fact and in truth, KEH SHIOK CHENG's age was then already 38 years old.* The address used by their father in the Master Patient record was also the same as the Birth Certificate of MARCELO LEE (2425 Rizal Avenue, Manila). The name of MARCELO LEE was recorded under Hospital No. 221768, page 73.
>
> 2. As per Birth Certificate of ALBINA LEE (Annex F-2), *it was made to appear that ALBINA LEE was the third child which is without any rationality, because the 3rd child of KEH SHIOK CHENG is MELODY LEE TEK SHENG* (Annex E-2). Note also, that the age of the mother as per Hospital Records jump (sic) from 17 to 22 years old, but the only age gap of MARCELO LEE and

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94 Id.
95 Id. at 407.
96 Id. at 404.
97 Id. at 406.
98 Id.
99 Id. at 404–406.

ALBINA LEE is only 2 years.

3. As per Birth Certificate of MARIANO LEE (Annex F-3), *it was made to appear that MARIANO LEE was the 5th child, but the truth is, KEH SHIOK CHENG's 5th child is LUCIA LEE TEK SHENG* (Annex E-4). As per Hospital Record, the age of *KEH SHIOK CHENG was only 23 years old, while the actual age of KEH SHIOK CHENG, was then already 40 years old.*

4. As per Birth Certificate of PABLO LEE (Annex F-4), *it was made to appear that PABLO LEE was the 16th child of KEH SHIOK CHENG which is impossible to be true, considering the fact that KEH SHIOK CHENG have stopped conceiving after her 11th child.* Also as per Hospital Record, the age of the mother was omitted in the records. If PABLO LEE is the 16th child of KEH SHIOK CHENG, it would only mean that she have (sic) given birth to her first born child at the age of 8 to 9 years, which is impossible to be true.

   Based on the birth record of MARIANO LEE in 1953, the *recorded age of KEH SHIOK CHENG was 23 years old.* Two years after PABLO LEE was born in 1955, the difference is only 2 years, so it is impossible for PABLO LEE to be the 16th child of KEH SHIOK CHENG, as it will only mean that she have [sic] given birth at that impossible age.

5. As per Birth Certificate of HELEN LEE (Annex F-5), it was made to appear that she is the 6th child of KEH SHIOK CHENG, but as per Birth Certificate of JULIAN LEE (Annex E-5), he is the true 6th child of KEH SHIOK CHENG. Per Hospital Record, *KEH SHIOK CHENG is only 28 years old, while KEH SHIOK CHENG'S true age at that time was 45 years old.*

6. *EMMA LEE has no record in the hospital because, as per complainant's allegation, she was born at their house, and was later admitted at Chinese General Hospital.*

7. As per Birth Certificate of CATALINO LEE (Annex F-7), *it was made to appear that he is the 14th child of KEH SHIOK CHENG, and that the age of KEH SHIOK CHENG a.k.a. Mrs. LEE TEK SHENG, jumped from 28 years old* at the birth of HELEN LEE on 23 August 1957 to 38 years old at the birth of CATALINO LEE on 22 April 1959.

8. As per Birth Certificate of EUSEBIO LEE, the alleged last son of KEH SHIOK CHENG, the age of the mother is 48 years old. However, as per Hospital Record, *the age of Mrs. LEE TEK SHENG, then was only 39 years old.* Considering the fact, that at the time of MARCELO's birth on 11 May 1950. KEH SHIOK CHENG's age is 38 years old and at the time of EUSEBIO's birth, she is already 48 years old, it is already impossible that she could have given birth to 8 children in a span of only 10 years at her age. As per diagnosis, the alleged mother registered on EUSEBIO's birth indicate that she had undergone CEASARIAN SECTION, which Dr. RITA K. LEE said is not true.[100] (Emphasis supplied)

[100] *Lee v. Court of Appeals,* 419 Phil. 392, 399–401 (2001) [Per J. De Leon, Jr., Second Division].

From these, the following conclusion was made:

> 10. In conclusion, as per Chinese General Hospital Patients Records, it is very obvious that *the mother of these 8 children is certainly not KEH SHIOK CHENG, but a much younger woman, most probably TIU CHUAN.* Upon further evaluation and analysis by these Agents, LEE TEK SHENG, is in a quandary in fixing the age of KEH SHIOK CHENG possibly to conform with his grand design of making his 8 children as their own legitimate children, consequently elevating the status of his 2nd family and secure their future. The doctor lamented that this complaint would not have been necessary had not the father and his 2nd family kept on insisting that the 8 children are the legitimate children of KEH SHIOK CHENG.[101] (Emphasis supplied)

It appears unfounded for the report to conclude that Tiu was "most probably" Marcelo et al.'s mother. To begin with, her name never even appeared in the eight paragraphs that detailed the seeming errors in Marcelo et al.'s birth records. More significantly, her specific circumstances were never articulated, let alone scrutinized. There appears to be no other basis for the conclusion other than Tiu's merely being younger than Shiok Cheng. This hardly qualifies as distinct proof of Tiu's maternal relation with Marcelo et al.

During trial, the circumstances surrounding the procurement and preparation of that report—including how Tiu entered the National Bureau of Investigation's contemplation—would come to light in the testimony of Rafael Z. Ragos, the agent who investigated the records of the Chinese General Hospital:

> Atty. Morales: When you referred to the other eight (8) children and you said were from a younger woman, that was your suspicion at that time, is that correct?
>
> A: Based on records.
>
> Q: What records?
>
> A: We made analysis of the entries and in fact, it is indicated that we have this sort of chart wherein the twelfth child which should have been the child of Keh Shiok Cheng was indicated as the first child.
>
> Q: What record is that?
>
> A: That is based on the Master Patient Records of the Chinese General Hospital.
>
> . . . .

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[101] Id.

Atty. Fortun: Witness is referring to the column under the heading diagnosis which reads, "parturition, spontaneous, L.O.A., gravita 1, para 1."

Atty. Morales: Now, on the basis of this entry on this document, you made the conclusion that the next eight (8) children of Lee Tek Sheng should be by a younger woman, is that correct?

A: Yes, ma'am.

Q: *Is there anywhere in this document where the identity of the supposed younger woman can be found, is there anywhere here?*

A: *There is none.*

Q: *Now, the subject matter of the case here is Emma Lee, is there any document that you found in the Chinese General Hospital that pertains to Emma Lee?*

A: *None.*

. . . .

Q: And *the actions that you took and the moves that you made were initially based on the complaint, the allegations of the complaint submitted to the NBI by Rita K. Lee*, is that correct?

A: *Yes, ma'am.*[102] (Emphasis supplied)

It appears then, that Tiu's consideration was borne, in larger part, by being propositioned by one of the petitioners, than it was by independent inquiry insulated from an interested party's influence.

In any case, the details uncovered by the National Bureau of Investigation pointed to flawed details on the birth of Marcelo et al. with respect to two things: first, the order of their birth; and second, Shiok Cheng's age. These findings may very well cast doubt on Marcelo et al.'s maternal relation with Shiok Cheng, but they hardly establish the truth of their maternal relation with Tiu. These findings, then, impugn filiation, but do not positively establish maternal relation with another.

Dr. Novero's testimony similarly works to impugn Marcelo et al.'s filiation with Shiok Cheng, but fails to attest to Marcelo et al.'s filiation with Tiu.

He testified on the unlikelihood of Shiok Cheng's childbearing from the age of 38 to 48 years old,[103] adding that "a much younger woman would have been more competent to deliver."[104] Yet, he never actually suggested

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[102] *Rollo*, pp. 432–433.
[103] Id. at 406.
[104] Id.

that it was completely impossible for a woman of such age to give birth. On cross-examination, he was even noted to have conceded that "'highly improbable' does not mean an 'absolute impossibility', and that the improbability is decreased when the woman has given birth to children earlier."[105]

Even then, improbability with respect to Shiok Cheng does not necessarily translate to Tiu being Marcelo et al.'s mother. *Petitioner's evidence impugns filiation with one person, but is nowhere near positively demonstrating Tiu to be respondent Emma's mother.*

These observations leave petitioners with no potential proof of respondent Emma's actual maternal relations with Tiu other than petitioner Rita's testimony.

As reproduced in petitioner Rita's own Memorandum, she recounted the supposed circumstances of respondent Emma's birth, as follows:

> Atty. Fortun: *Will you tell us whether you know respondent in this case, Emma Lee?*
>
> Witness: Yes, sir.
>
> Atty. Fortun: Why?
>
> Witness: *She is the daughter of my father with Tiu Chuan.*
>
> . . . .
>
> Atty Fortun: So how many children were born by Tiu Chuan in 1958, how many did she have?
>
> Witness: How many did she have already?
>
> Atty Fortun: Yes.
>
> Witness: So, she had five (5). Marcelo, Albina ... Five (5) already.
>
> . . . .
>
> Atty Fortun: When Tiu Chuan gave birth to Emma in September of 1958, will you tell us whether you came to know about the fact?
>
> Witness: Before September, her family was kind of big. In September that morning, I got off from duty from my internship at the Maternity and Children's Hospital, right now is Jose Fabella Memorial Hospital.
>
> Atty Fortun: What did happen?
>
> Witness: So, I came home . . . from duty. That was my off duty. So, when

[105] Id. at 432.

> I came home, my mother said "it's a good thing you weren't at home, otherwise, you have to deliver your father's child."
>
> . . . .
>
> Atty Fortun: *Will you tell us whether you came to know whether you saw Emma subsequently living in the same house where Tiu Chuan lived?*
>
> Witness: *Okay. Subsequently, almost a week after, my father brought Tiu Chuan with a baby girl at home.*
>
> Atty Fortun: *Will you tell us how you came to know that baby girl Emma?*
>
> Witness: *They named her Emma.*[106] (Emphasis supplied)

The ineffectiveness of this testimony, left on its own, is plain to see. Without further proof, it merely makes bare, self-serving allegations. However, even at face value, this lone testimony cannot but be juxtaposed with the totality of petitioners' evidence. Taken together, the entire body of proof adduced by petitioners tends more to impugn filiation with Shiok Cheng than to positively establish Tiu as respondent Emma's mother.

Ultimately, the way petitioners carried their case—pleading their claims and adducing their proof—hews more towards the prohibited act of collaterally attacking filiation through a Rule 108 petition, as opposed to asking for a mere formal correction that inexorably ensues from unequivocal proof. The unraveling of petitioners' commanding intent as one to impugn, rather than to correct on the basis of what is self-evident, calls into operation the principles articulated in *Miller*, *Braza*, and *Ordoña*. Thus, their Rule 108 Petition must be dismissed.

III

It does not escape this Court's attention that this present Decision comes in the wake of *Lee (2001)*, which sustained the propriety of petitioners' resort to a Rule 108 Petition, thereby ostensibly setting the law of the case.

This Court had occasion to explain the doctrine of the law of the case in *Villa v. Sandiganbayan*.[107] This discussion included the qualification that the doctrine of the law of the case "will not be adhered to where its application will result in an unjust decision."[108] Thus:

> The doctrine has been defined as "that principle under which

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[106] Id. at 404–406.

[107] *Villa v. Sandiganbayan*, 284 Phil. 410 (1992) [Per J. Cruz, En Banc].

[108] Id. at 426.

determinations of questions of law will generally be held to govern a case through all its subsequent stages where such determination has already been made on a prior appeal to a court of last resort. It is "merely a rule of procedure and does not go to the power of the court, and *will not be adhered to where its application will result in an unjust decision.* It relates entirely to questions of law, and is confined in its operation to subsequent proceedings in the same case."

In *Jarantilla v. Court of Appeals*, we held:

> "Law of the case" has been defined as the opinion delivered on a former appeal. More specifically, it means that whatever is once irrevocably established, as the controlling legal rule of decision between the same parties in the same case continues to be the law of the case, whether correct on general principles or not, so long as the facts on which such decision was predicated continue to be the facts of the case before the court (21 C.J.S. 330). It need not be stated that the Supreme Court being the court of last resort, is the final arbiter of all legal questions properly brought before it and that its decision in any given case constitutes the law of that particular case . . . It is a rule of general application that the decision of an appellate court in a case is the law of the case on the points presented throughout all the subsequent proceedings in the case in both the trial and the appellate courts, and no question necessarily involved and decided on that appeal will be considered on a second appeal or writ of error in the same case, provided the facts and issues are substantially the same as those on which the first question rested and, according to some authorities, provided the decision is on the merits.[109] (Emphasis supplied, citation omitted)

Mercury Group of Companies, Inc. v. Home Development Mutual Fund[110] is an instance where this Court held that the doctrine of the law of the case does not apply because, among others, it would lead to an unjust result.

In *Mercury*, the Home Development Mutual Fund (Home Development) denied Mercury Group of Companies' (Mercury Group) application for exclusion (*i.e.*, waiver) from coverage of the Pag-IBIG Fund for the year 1996. It was denied because, contrary to a 1995 amendment to the Rules and Regulations Implementing Republic Act No. 7742, Mercury Group did not have "retirement/provident and housing plans which [we]re *both* superior to Pag-IBIG Fund's."[111]

Mercury Group assailed the denial through a Petition for Certiorari filed with the Regional Trial Court of Quezon City. This Petition was also

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[109] Id. at 426–427.

[110] *Mercury Group of Companies, Inc. v. Home Development Mutual Fund*, 565 Phil. 510 (2007) [Per J. Carpio-Morales, Second Division].

[111] Id. at 512–513.

dismissed for failing to exhaust administrative remedies and considering that the denial was made by Home Development not in the exercise of judicial functions, but in the exercise of legislative or administrative functions.

Mercury Group then went to this Court, through a Petition for Review on Certiorari under Rule 45, to assail the Regional Trial Court's dismissal of its original Petition for Certiorari. This Rule 45 Petition was docketed as G.R. No. 132416. In a June 22, 1998 Resolution, this Court denied the Rule 45 Petition "for failure to sufficiently show that the Regional Trial Court, Quezon City, Branch 222 had committed any reversible error in the questioned [order]."[112]

Less than a year later, on May 19, 1999, this Court promulgated its Decision in *China Banking Corporation v. Home Development Mutual Fund*.[113] This Decision nullified the 1995 Amendment to the Rules and Regulations Implementing Republic Act No. 7742, "insofar as [it] require[d] that an employer should have both a provident/retirement plan superior to the retirement/provident benefits offered by the Fund and a housing plan superior to the Pag-IBIG housing loan program in order to qualify for waiver or suspension of fund coverage[.]"[114]

On the basis of *China Banking Corporation*, Mercury Group subsequently asked Home Development that it be excluded from Pag-IBIG Fund coverage for the years 1996 to 2000. Home Development refused, citing the June 22, 1998 Resolution in G.R. No. 132416. This prompted Mercury Group to file a Petition for Certiorari, Prohibition, and Mandamus under Rule 65 before the Court of Appeals.[115]

The Court of Appeals ruled in favor of Mercury Group, but only for the years 1997 onward. As to 1996, the Court of Appeals maintained that this Court's June 22, 1998 Resolution in G.R. No. 132416 had become the law of the case, thus, precluding Mercury Group's exclusion from Pag-IBIG Fund coverage. At this, Mercury Group went to this Court anew on a Rule 45 Petition.[116]

Reversing the Court of Appeals' ruling on non-exclusion for 1996, this Court held that the doctrine of the law of the case did not apply to the appeal pending before it. First, it was not a continuation of the case that culminated in G.R. No. 132416. Rather, it was part of an entirely new sequence of proceedings which commenced with Mercury Group's Rule 65

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[112] Id. at 514.

[113] *China Banking Corporation v. Home Development Mutual Fund*, 366 Phil. 913 (1999) [Per J. Gonzaga-Reyes, Third Division].

[114] Id. at 931.

[115] *Mercury Group of Companies, Inc. v. Home Development Mutual Fund*, 565 Phil. 510 (2007) [Per J. Carpio-Morales, Second Division].

[116] Id.

Petition—an original action—before the Court of Appeals. Second, the June 22, 1998 Resolution in G.R. No. 132416 was not a ruling on the merits, because it merely sustained the Regional Trial Court's dismissal of Mercury Group's Petition for Certiorari, which was a ruling on procedural grounds. Finally, to sustain Home Development's refusal to exclude Mercury Group, even when the 1995 amendment on which it anchored its refusal had already been invalidated in *China Banking Corporation*, would be unjust:

> The doctrine of the law of the case does not apply to the present case vis a vis the decision of this Court in G.R. No. 132416. The present case is not a subsequent proceeding of the same case — G.R. No. 132416. This is an entirely new one which was commenced by petitioner's filing of an original petition for certiorari, prohibition, and mandamus before the Court of Appeals against respondent.
>
> Even assuming arguendo that the present proceeding may be considered a subsequent proceeding of G.R. No. 132416, the doctrine of the law of the case just the same does not apply because the said case was not resolved on the merits. The Order of this Court denying petitioner's petition for review in G.R. No. 132416 found no reversible error in the Order of the Quezon City RTC, Branch 222 dismissing petitioner's case primarily on a procedural ground — failure to exhaust administrative remedies.
>
> At all events, the doctrine "is merely a rule of procedure and does not go to the power of the court, and will not be adhered to where its application will result in an unjust decision." *To sustain respondent's refusal to grant a waiver of Fund coverage to petitioner on the basis of amendments to implementing rules which had priorly been declared null and void by this Court would certainly be unjust.*
>
> In fine, the doctrine of the law of the case cannot be made to apply to the case at bar, hence, petitioner's application for waiver from Fund coverage for the year 1996 must be processed by respondent. [117] (Emphasis supplied, citation omitted)

Here, similar to *Mercury*, this Court finds that to sustain the continuation of proceedings animated by a commanding intent to impugn filiation, even if nominally only asking for a correction of entries based on self-evident facts, works an injustice. Such proceedings should not be allowed to prosper in the face of definitive determinations by this Court that "[t]he legitimacy and filiation of children cannot be collaterally attacked in a petition for correction of entries in the certificate of live birth."[118]

To recall, *Lee (2001)* held that petitioners' Rule 108 petitions could prosper for several reasons:

First, the petitions were not in the nature of actions to impugn

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[117] Id. at 519.
[118] *Miller v. Miller*, G.R. No. 200344, August 28, 2019, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65639> [Per J. Leonen, Third Division].

legitimacy;

Second, citing *Republic v. Valencia*,[119] it noted that "a proceeding for correction and/or cancellation of entries in the civil register under Rule 108 ceases to be summary in nature and takes on the characteristics of an appropriate adversary proceeding when all the procedural requirements under Rule 108 are complied with[;]"[120]

Third, citing Republic Act No. 9048, it explained that a Rule 108 petition has since been a proper remedy to effect a substantial change in a civil registry entry;[121]

Fourth, petitioners had a valid cause of action;[122]

Fifth, petitioners' action had not prescribed;[123] and

Sixth, petitioners were not engaged in forum shopping.[124]

Given the present determination that petitioners' Rule 108 Petition is principally aimed at impugning filiation, of particular interest is the first of the six bases invoked by *Lee (2001)*. The entirety of *Lee (2001)*'s explanation on this point reads:

> Petitioners contend that resort to Rule 108 of the Revised Rules of Court is improper since private respondents seek to have the entry for the name of petitioners' mother changed from "Keh Shiok Cheng" to "Tiu Chuan" who is a completely different person. What private respondents therefore seek is not merely a correction in name but a declaration that petitioners were not born of Lee Tek Sheng's legitimate wife, Keh Shiok Cheng, but of his mistress, Tiu Chuan, in effect a "bastardization of petitioners." Petitioners

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119 *Republic v. Valencia*, 225 Phil. 408 (1986) [Per J. Gutierez, Jr., En Banc].

120 *Lee v. Court of Appeals*, 419 Phil. 392, 405 (2001) [Per J. De Leon, Jr., Second Division].

121 It explained:
Republic Act No. 9048 which was passed by Congress on February 8, 2001 substantially amended Article 412 of the New Civil Code, to wit:
"SECTION 1. Authority to Correct Clerical or Typographical Error and Change of First Name or Nickname. — No entry in a civil register shall be changed or corrected without a judicial order, except for clerical or typographical errors and change of first name or nickname which can be corrected or changed by the concerned city or municipal civil registrar or consul general in accordance with the provisions of this Act and its implementing rules and regulations."
The above law speaks clearly. Clerical or typographical errors in entries of the civil register are now to be corrected and changed without need of a judicial order and by the city or municipal civil registrar or consul general. The obvious effect is to remove from the ambit of Rule 108 the correction or changing of such errors in entries of the civil register. Hence, what is left for the scope of operation of Rule 108 are substantial changes and corrections in entries of the civil register. This is precisely the opposite of what Ty Kong Tin and other cases of its genre had said, perhaps another indication that it was not sound doctrine after all.

122 *Lee v. Court of Appeals*, 419 Phil. 392 (2001) [Per J. De Leon, Jr., Second Division]. Citing *Babiera v. Catotal*, 389 Phil. 34 (2000) [Per J. Panganiban, Third Division]; and *Benitez-Badua v. Court of Appeals*, 299 Phil. 493 (1994) [Per J. Puno, Second Division].

123 Id. at 418, citing CIVIL CODE, art. 1149.

124 Id. at 421.

thus label private respondents' suits before the lower courts as a collateral *attack against their legitimacy* in the guise of a Rule 108 proceeding.

Debunking petitioners' above contention, the Court of Appeals observed:

> . . . .
>
> As correctly pointed out by the private respondents in their comment . . . the proceedings are simply aimed at establishing a particular fact, status and/or right. Stated differently, the thrust of said proceedings was to establish the factual truth regarding the occurrence of certain events which created or affected the status of persons and/or otherwise deprived said persons of rights.
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> . . . .
>
> It is precisely the province of a special proceeding such as the one outlined under Rule 108 of the Revised Rules of Court to establish the status or right of a party, or a particular fact. *The petitions filed by private respondents for the correction of entries in the petitioners' records of birth were intended to establish that for physical and/or biological reasons it was impossible for Keh Shiok Cheng to have conceived and given birth to the petitioners as shown in their birth records.* Contrary to petitioners' contention that the petitions before the lower courts were actually actions to impugn legitimacy, *the prayer therein is not to declare that petitioners are illegitimate children of Keh Shiok Cheng, but to establish that the former are not the latter's children.* There is nothing to impugn as there is no blood relation at all between Keh Shiok Cheng and petitioners.[125] (Emphasis supplied, citations omitted)

These excerpts reveal that *Lee (2001)* focused on debunking the assertion that petitioners' Rule 108 petitions were not actions to impugn *legitimacy*. To this end, it noted that those petitions' principal aim was not the repudiation of legitimacy. This is sensible as, indeed, petitioners claim was that the respondents in those petitions are not even Shiok Cheng's children at all. Unfortunately, in demonstrating that the intent was not to collaterally impugn legitimacy, *Lee (2001)* failed to recognize that the intent was to collaterally impugn *filiation*—an act that is no more permitted in a Rule 108 petition than a collateral attack on legitimacy.

Interestingly, even *Braza* distinguished itself from *Lee (2001)*:

> In *Lee v. Court of Appeals*, the Court held that contrary to the contention that the petitions filed by the therein petitioners before the lower courts were actions to impugn legitimacy, the prayer was not to declare that the petitioners are illegitimate children of Keh Shiok Cheng as stated in their records of birth but to establish that they are not the latter's children, hence, there was nothing to impugn as there was no blood relation at all between the petitioners and Keh Shiok Cheng. That is why

[125] Id. at 404–405.

> the Court ordered the cancellation of the name of Keh Shiok Cheng as the petitioners' mother and the substitution thereof with "Tiu Chuan" who is their biological mother. Thus, the collateral attack was allowed and the petition deemed as adversarial proceeding contemplated under Rule 108.[126]

Unfortunately, *Braza*'s recollection of *Lee (2001)* is simply wrong. Evidently, *Lee (2001)* never "ordered the cancellation of the name of Keh Shiok Cheng . . . and the substitution thereof with 'Tiu Chuan.'"[127] It merely sustained the lower courts' denial of motions to dismiss. Moreover, *Braza*'s focus was, again, on legitimacy and how it was not being impugned, so much as filiation.

In the intervening time since *Lee (2001)*, this Court has made definite determinations that collateral attacks on filiation could not be done in a Rule 108 Petition. As it was in *Mercury*, to insist on an earlier pronouncement—even when jurisprudence has, in the interim, been more enlightened—is to work an injustice by compelling respondent Emma to suffer the potential consequences of *Lee (2001)*'s previous shortsightedness.

This Court is well aware of the potential consequences of successfully impugning filiation. As illustrated in *Herrera v. Alba*'s[128] discussion of filiation *vis-à-vis* paternity:

> *Filiation proceedings are usually filed not just to adjudicate paternity but also to secure a legal right associated with paternity, such as citizenship, support (as in the present case), or inheritance.* The burden of proving paternity is on the person who alleges that the putative father is the biological father of the child. There are four significant procedural aspects of a traditional paternity action which parties have to face: a *prima facie case*, affirmative defenses, presumption of legitimacy, and physical resemblance between the putative father and child.[129] (Emphasis supplied)

Recognizing the legal rights that belong to a child by virtue of a positive finding of filiation, this Court is wary to disturb such status. Caution is warranted since the benefits realizable from these legal rights may be summarily taken away by an inordinate declaration negating filiation.

This approach is in line with the policy of protecting the best interests of the child, as demonstrated in *Aquino v. Aquino*.[130] In that case, this Court adopted a construction of Article 992 of the Civil Code that enables children, regardless of the circumstances of their births, qualified to inherit from their

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[126] *Braza v. The City Civil Registrar of Himamaylan City, Negros Occidental*, 622 Phil. 654, 660 (2009) [Per J. Carpio-Morales, First Division].

[127] Id.

[128] *Herrera v. Alba*, 499 Phil. 185 (2005) [Per J. Carpio, First Division].

[129] Id. at 191.

[130] *Aquino v. Aquino*, G.R. Nos. 208912 & 209018, December 7, 2021, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/68154> [Per J. Leonen, En Banc].

direct ascendants by their right of representation.[131] In engaging this construction, the Court considered the State's obligation to ensure that the child's best interest is a primary consideration in actions concerning children, which is provided in Article 3 of the United Nations Convention on the Rights of the Child,[132] to which the Philippines bound itself as a party.

Moreover, this Court noted that it has consistently used this policy in its previous rulings as a guide in navigating through controversies that affect children and their rights such as in matters of custody;[133] filiation and paternity;[134] adoption;[135] crimes committed against them;[136] and their status and nationality.[137]

The immense degree of trustworthiness ascribed to birth certificates was explained in *Ara v. Pizarro*:[138]

> [B]irth certificates offer prima facie evidence of filiation. To overthrow the presumption of truth contained in a birth certificate, a high degree of proof is needed. . . .
>
> There is a reason why birth certificates are accorded such high evidentiary value. Act No. 3753, or An Act to Establish a Civil Register, provides:
>
>> Section 5. Registration and Certification of Births. — The declaration of the physician or midwife in attendance at the birth or, in default thereof, the declaration of either parent of the newborn child, shall be sufficient for the registration of a birth in the civil register. Such declaration shall be exempt from the documentary stamp tax and shall be sent to the local civil registrar not later than thirty days after the

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131 Id.

132 United Nations Convention on the Rights of the Child, August 21, 1990, available at <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx> (last accessed on August 1, 2022). Article 3 of this convention provides:
Article 3
1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, *the best interests of the child shall be a primary consideration.*
2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

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

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

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

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

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

138 *Ara v. Pizarro*, 805 Phil. 759 (2017) [Per J. Leonen, Second Division].

> birth, by the physician, or midwife in attendance at the birth or by either parent of the newly born child.
>
> In such declaration, the persons above mentioned shall certify to the following facts: (a) date and hour of birth; (b) sex and nationality of infant; (c) names, citizenship, and religion of parents or, in case the father is not known, of the mother alone; (d) civil status of parents; (e) place where the infant was born; (f) and such other data may be required in the regulation to be issued.
>
> In the case of an exposed child, the person who found the same shall report to the local civil registrar the place, date and hour of finding and other attendant circumstances.
>
> In case of an illegitimate child, the birth certificate shall be signed and sworn to jointly by the parents of the infant or only the mother if the father refuses. In the latter case, it shall not be permissible to state or reveal in the document the name of the father who refuses to acknowledge the child, or to give therein any information by which such father could be identified.
>
> Any foetus having human features which dies after twenty four hours of existence completely disengaged from the maternal womb shall be entered in the proper registers as having been born and having died.

Further, Rule 21 of National Statistics Office Administrative Order No. 1-93, or the Implementing Rules and Regulations of Act No. 3753, provides that a person's birth be registered with the Office of the Civil Registrar-General by one of the following individuals:

> Rule 21. Persons Responsible to Report the Event. — (1) When the birth occurred in a hospital or clinic or in a similar institution, the administrator thereof shall be responsible in causing the registration of such birth. However, it shall be the attendant at birth who shall certify the facts of birth.
>
> (2) When the birth did not occur in a hospital or clinic or in a similar institution, the physician, nurse, midwife, "hilot", or anybody who attended to the delivery of the child shall be responsible both in certifying the facts of birth and causing the registration of such birth.
>
> (3) In default of the hospital/clinic administrator or attendant at birth, either or both parents of the child shall cause the registration of the birth.
>
> (4) When the birth occurs aboard a vehicle, vessel or airplane while in transit, registration of said birth shall be a joint responsibility of the driver, captain or pilot and the parents, as the case may be.

> Further, the birth must be registered within 30 days from the time of birth. Thus, generally, the rules require that facts of the report be certified by an attendant at birth, within 30 days from birth. The attendant is not only an eyewitness to the event, but also presumably would have no reason to lie on the matter. The immediacy of the reporting, combined with the participation of disinterested attendants at birth, or of both parents, tend to ensure that the report is a factual reporting of birth. In other words, the circumstances in which registration is made obviate the possibility that registration is caused by ulterior motives. The law provides in the case of illegitimate children that the birth certificate shall be signed and sworn to jointly by the parents of the infant or only by the mother if the father refuses. This ensures that individuals are not falsely named as parents.[139]

Here, it would clearly be unjust to promptly strip respondent Emma of all the lawful incidents arising from her current status—as ensuing from her records of birth—through the convenience of a Rule 108 Petition, even when such a Petition should not, as settled by this Court, be able to do so.

IV

This Court has long recognized the validity of DNA testing as a means for establishing paternity and filiation. In *Agustin v. Court of Appeals*:[140]

> For too long, illegitimate children have been marginalized by fathers who choose to deny their existence. The growing sophistication of DNA testing technology finally provides a much needed equalizer for such ostracized and abandoned progeny. We have long believed in the merits of DNA testing and have repeatedly expressed as much in the past. This case comes at a perfect time when DNA testing has finally evolved into a dependable and authoritative form of evidence gathering. *We therefore take this opportunity to forcefully reiterate our stand that DNA testing is a valid means of determining paternity.*[141] (Emphasis supplied)

Nevertheless, the mere validity and viability of DNA testing does not make it a readily available means which parties can obtain with judicial fiat at their convenience and mere instance.

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139 Id.
140 *Agustin v. Court of Appeals,* 499 Phil. 307 (2005) [Per J. Corona, Third Division].
141 Id. at 332.

Section 4 of the Rule on DNA Evidence[142] allows for DNA testing upon application of a proper party, including those in special proceedings,[143] subject to certain conditions:

> Section 4. Application for DNA Testing Order. — The appropriate court may, at any time, either motu proprio or on application of any person who has a legal interest in the matter in litigation, order a DNA testing. Such order shall issue after due hearing and notice to the parties upon a showing of the following:
>
> (a) A biological sample exists that is relevant to the case;
>
> (b) The biological sample: (i) was not previously subjected to the type of DNA testing now requested; or (ii) was previously subjected to DNA testing, but the results may require confirmation for good reasons;
>
> (c) The DNA testing uses a scientifically valid technique;
>
> (d) The DNA testing has the scientific potential to produce new information that is relevant to the proper resolution of the case; and
>
> (e) The existence of other factors, if any, which the court may consider as potentially affecting the accuracy or integrity of the DNA testing.
>
> This Rule shall not preclude a DNA testing, without need of a prior court order, at the behest of any party, including law enforcement agencies, before a suit or proceeding is commenced.

Lucas v. Lucas[144] qualified the Rule on DNA Evidence. It specifically articulated the limits of Section 4 as "merely provid[ing] for conditions that are aimed to safeguard the accuracy and integrity of the DNA testing" and that "[t]his does not mean ... that a DNA testing order will be issued as a matter of right if, during the hearing, [Section 4's] conditions are established." Drawing from analogous cases in the United States, *Lucas* was categorical in stating that *a party seeking to avail of DNA testing must first "present prima facie evidence or establish a reasonable possibility of [filiation]"*:

> [W]e find that there is a need to supplement the Rule on DNA Evidence to aid the courts in resolving motions for DNA testing order, particularly in paternity and other filiation cases. We, thus, address the question of whether a *prima facie* showing is necessary before a court can issue a DNA testing order.

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142 A.M. No. 06-11-5-SC.

143 Section 1 of the Rule on DNA Evidence provides:
Section 1. Scope. – This Rule shall apply whenever DNA evidence, as defined in Section 3 hereof, is offered, used, or proposed to be offered or used as evidence in all criminal and civil actions as well as special proceedings.

144 *Lucas v. Lucas*, 665 Phil. 795 (2011) [Per J. Nachura, Second Division].

The Rule on DNA Evidence was enacted to guide the Bench and the Bar for the introduction and use of DNA evidence in the judicial system. It provides the "prescribed parameters on the requisite elements for reliability and validity (*i.e.*, the proper procedures, protocols, necessary laboratory reports, etc.), the possible sources of error, the available objections to the admission of DNA test results as evidence as well as the probative value of DNA evidence." It seeks "to ensure that the evidence gathered, using various methods of DNA analysis, is utilized effectively and properly, [and] shall not be misused and/or abused and, more importantly, shall continue to ensure that DNA analysis serves justice and protects, rather than prejudice the public."

Not surprisingly, *Section 4 of the Rule on DNA Evidence merely provides for conditions that are aimed to safeguard the accuracy and integrity of the DNA testing.* Section 4 states:

. . . .

This does not mean, however, that a DNA testing order will be issued as a matter of right if, during the hearing, the said conditions are established.

In some states, to warrant the issuance of the DNA testing order, there must be a show cause hearing wherein the applicant must first present sufficient evidence to establish a *prima facie* case or a reasonable possibility of paternity or "good cause" for the holding of the test. In these states, a court order for blood testing is considered a "search," which, under their Constitutions (as in ours), must be preceded by a finding of probable cause in order to be valid. Hence, the requirement of a *prima facie* case, or reasonable possibility, was imposed in civil actions as a counterpart of a finding of probable cause. The Supreme Court of Louisiana eloquently explained –

> Although a paternity action is civil, not criminal, the constitutional prohibition against unreasonable searches and seizures is still applicable, and a proper showing of sufficient justification under the particular factual circumstances of the case must be made before a court may order a compulsory blood test. Courts in various jurisdictions have differed regarding the kind of procedures which are required, but those jurisdictions have almost universally found that a preliminary showing must be made before a court can constitutionally order compulsory blood testing in paternity cases. We agree, and find that, as a preliminary matter, before the court may issue an order for compulsory blood testing, the moving party must show that there is a reasonable possibility of paternity. As explained hereafter, in cases in which paternity is contested and a party to the action refuses to voluntarily undergo a blood test, a show cause hearing must be held in which the court can determine whether there is sufficient evidence to establish a *prima facie* case which warrants issuance of a court order for blood testing.

The same condition precedent should be applied in our jurisdiction to protect the putative father from mere harassment suits. *Thus, during the*

hearing on the motion for DNA testing, the petitioner must present prima facie evidence or establish a reasonable possibility of paternity.[145] (Emphasis supplied)

Here, to reiterate, petitioners' Memorandum invites attention to three pieces of evidence that supposedly reinforce their theory on respondent Emma's parentage: (1) the National Bureau of Investigation report; (2) Dr. Novero's testimony; and (3) petitioner Rita's own testimony.[146]

The preceding discussions already demonstrated how these pieces of evidence fail to attest or point to a reasonable possibility of maternal relations between respondent Emma and Tiu.

To repeat, the National Bureau of Investigation report never actually detailed and explored Tiu's own circumstances. Other than the fortuity of her relative youth to Shiok Cheng, as well as petitioner Rita's own proposition to the National Bureau of Investigation, this report does not appear to have any other basis for concluding that Tiu gave birth to Marcelo et al.

Even worse, the report is at its weakest in specifically impugning the circumstances of respondent Emma's birth. While findings relating to records from the Chinese General Hospital in relation to the births of Marcelo et al. were detailed in the report, no similar findings were similarly made with respect to respondent Emma:

> 6. EMMA LEE has no record in the hospital because, as per complainant's allegation, she was born at their house, and was later admitted at Chinese General Hospital.[147]

This report is doubly damning. First, it admits that no record that could undermine respondent Emma were found. Second, it suggests that the National Bureau of Investigation was only too willing to submit to petitioners' claims (*n.b.*, the statement, "*because, as per complainant's allegation*, she was born at their house"[148]).

The dearth of findings relating specifically to respondent Emma was confirmed by Agent Ragos:

> Q: Now, the subject matter of the case here is Emma Lee, is there any document that you found in the Chinese General Hospital that pertains to Emma Lee?

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[145] Id. at 812–815.
[146] *Rollo*, pp. 404–406.
[147] *Lee v. Court of Appeals*, 419 Phil. 392, 400 (2001) [Per J. De Leon, Jr., Second Division].
[148] Id.

A: None.[149]

What these demonstrate is that, not only is the National Bureau of Investigation report weak in relation to Tiu; but more importantly, it does not apply to respondent Emma at all.

Dr. Novero's testimony also fails to attest to Tiu as the mother. It only adverts to the greater likelihood of a relatively younger mother. For that matter, his testimony—since it was concerned more with relative improbability, rather than absolute impossibility—even fails to completely negate the possibility that Shiok Cheng was the mother.

This appraisal of the National Bureau of Investigation report and Dr. Novero's testimony leaves petitioners with only petitioner Rita's testimony. However, since it is unsupported by other pieces of evidence, this testimony is susceptible to attack as merely articulating bare, self-serving allegations.

Apart from these three pieces of evidence, petitioners also harp on *Lee (2001)*'s recitals as supposedly "confirm[ing] that Lee Tek Sheng had two (2) families, one of which produced children by Tiu Chuan, one of which is [respondent Emma]."[150]

The portions in *Lee (2001)* adverted to by petitioners is reproduced, as follows:

> This is a story of two (2) sets of children sired by one and the same man but begotten of two (2) different mothers. One set, the private respondents herein, are the children of Lee Tek Sheng and his lawful wife, Keh Shiok Cheng. *The other set, the petitioners herein, are allegedly children of Lee Tek Sheng and his concubine, Tiu Chuan.*
>
> . . . .
>
> The private respondents *alleged in their petitions* before the trial courts that they are the legitimate children of spouses Lee Tek Sheng and Keh Shiok Cheng who were legally married in China sometime in 1931. Except for Rita K. Lee who was born and raised in China, private respondents herein were all born and raised in the Philippines.
>
> Sometime in October, 1948, Lee Tek Sheng, facilitated the arrival in the Philippines from China of a young girl named Tiu Chuan. She was introduced by Lee Tek Sheng to his family as their new housemaid *but far from becoming their housemaid, Tiu Chuan immediately became Lee Tek Sheng's mistress. As a result of their illicit relations, Tiu Chuan gave birth to petitioners.*

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[149] *Rollo*, p. 432–433.
[150] Id. at 400.

Unknown to Keh Shiok Cheng and private respondents, every time Tiu Chuan gave birth to each of the petitioners, their common father, Lee Tek Sheng, falsified the entries in the records of birth of petitioners by making it appear that petitioners' mother was Keh Shiok Cheng.[151] (Emphasis supplied)

This Court fails to see how the quoted portions amount to a conclusive narration of facts that immutably settled respondent Emma's maternal relations with Tiu.

To begin with, had *Lee (2001)* done that, petitioners would have won their case long ago. There would then be no need for them to insist on DNA testing, and for the proceedings to drag to this stage. The present Rule 45 Petition would be moot, and all things done by the parties and this Court in relation to it would be reduced to inconsequential, theoretical discussion.

Moreover, *Lee (2001)* took pains to qualify the quoted recitals as merely being summations of petitioners' allegations. Hence, the phrases "[t]he other set, the petitioners herein, are *allegedly* children of Lee Tek Sheng and his concubine, Tiu Chuan," and "[t]he private respondents *alleged* in their petitions[.]"[152] The quoted recitals were provided merely to set the proverbial stage for the discussion of the issues, which centered on the propriety of a Rule 108 petition. They do not articulate a legal conclusion made by this Court on the extraneous issue of respondent Emma's maternal relation with Tiu.

Further confirming how this Court's prior determinations have not settled on, or otherwise confirmed, petitioners' factual averments is how *Lee (2010)* ruled that Tiu is not barred by parental and filial privilege, since she is merely respondent Emma's stepmother:

> The privilege cannot apply to them because the rule applies only to "direct" ascendants and descendants, a family tie connected by a common ancestry. A stepdaughter has no common ancestry by her stepmother. Article 965 thus provides:
>
> > Art. 965. The direct line is either descending or ascending. The former unites the head of the family with those who descend from him. The latter binds a person with those from whom he descends.
>
> Consequently, Tiu can be compelled to testify against petitioner be clear Emma Lee.[153]

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151 *Lee v. Court of Appeals*, 419 Phil. 392, 398–399 (2001) [Per J. De Leon, Jr., Second Division].

152 Id. at 398.

153 *In Re: Petition for Cancellation and Correction of Entries in the Record of Birth, Emma Lee vs. Court of Appeals*, 639 Phil 78, 85 (2010) [Per J. Abad, Second Division].

Further militating against petitioners' cause is how they admit that respondent Emma has always conducted herself as the daughter of Tek Sheng and Shiok Cheng. For instance, in their original Rule 108 Petition before the Regional Trial Court, petitioners note that respondent Emma has continually made representations that Shiok Cheng is her mother by "using/indicating her name/surname in their private and/or public transactions."[154]

Moreover, coupled with how respondent Emma has conducted herself is how there is no clear indication that either Tek Sheng or Shiok Cheng have disavowed being her parents. Quite the contrary, for example, Tek Sheng was particular with listing his children with Shiok Cheng in the obituary published after her death—this list included respondent Emma. Further, petitioners acknowledge that no measures were taken to dispute respondent Emma's filiation until decades after she was born, when they sought the help of the National Bureau of Investigation.

The confluence of how respondent Emma has continually conducted herself, how she has been treated by the parents whose names appear on her birth certificate, and petitioners' belated action supports belief in how respondent Emma has continuously possessed the status of being Tek Sheng and Shiok Cheng's daughter.

To be clear, painstaking inquiry on whether respondent Emma has continuously possessed such status is superfluous. Article 172 of the Family Code provides that "[t]he filiation of legitimate children is established by . . . [t]he record of birth appearing in the civil register[.]" Under the second paragraph of Article 172, it is only in the absence of such a record that inquiry into one's "open and continuous possession of the status of a legitimate child" becomes relevant.

As such, respondent Emma's birth certificate suffices. Nevertheless, it is worth emphasizing that, even when considering the contingent and subordinate means of establishing marital filiation, there are indications that further support respondent Emma's maternal relation with Shiok Cheng, and which undermine petitioners' claims.

Jurisprudence has recognized that even among nonmarital children, there are those who have already been enjoying the status and benefits of an acknowledged natural child. They have continually been treated as such, not just by their putative parent/s, but also by the extended family. In such cases, jurisprudence has maintained that to require the child to complete the formalities of compulsory recognition, without which they would be deprived of their hereditary rights, may be "rather awkward, if not

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[154] *Rollo*, p. 50.

unnecessary." In *Tongoy v Court of Appeals*:[155]

> Of course, the overwhelming evidence found by respondent Court of Appeals conclusively shows that respondents Amado, Ricardo, Cresenciano and Norberto have been in continuous possession of the statue of natural, or even legitimated, children. Still, it recognizes the fact that such continuous possession of status is not, per se, a sufficient acknowledgment but only a ground to compel recognition[.]
>
> Be that as it may, WE cannot but agree with the liberal view taken by respondent Court of Appeals when it said:
>
>> ". . . It does seem equally manifest, however, that defendants-appellants stand on a purely technical point in the light of the overwhelming evidence that appellees were natural children of Francisco Tongoy and Antonina Pabello, and were treated as legitimate children not only by their parents but also by the entire clan. Indeed, it does not make much sense that appellees should be deprived of their hereditary rights as undoubted nature children of their father, when the only plausible reason that the latter could have had in mind when he married his second wife Antonina Pebello just over a month before his death was to give legitimate status to their children. It is not in keeping with the more liberal attitude taken by the New Civil Code towards illegitimate children and the more compassionate trend of the New Society to insist on a very literal application of the law in requiring the formalities of compulsory acknowledgment, when the only result is to unjustly deprive children who are otherwise entitled to hereditary rights. From the very nature of things, it is hardly to be expected of appellees, having been reared as legitimate children of their parents and treated as such by everybody, to bring an action to compel their parents to acknowledge them. In the hitherto cited case of Ramos vs. Ramos, supra, the Supreme Court showed the way out of patent injustice and inequity that might result in some cases simply because of the implacable insistence on the technical amenities for acknowledgment. Thus, it held —
>>
>> 'Unacknowledged natural children have no rights whatsoever. . . . The fact that the plaintiffs, as natural children of Martin Ramos, received shares in his estate implied that they were acknowledged. Obviously, defendants Agustin Ramos and Granada Ramos and the late Jose Ramos and members of his family had treated them as his children. Presumably, that fact was well-known in the community. Under the circumstances, Agustin Ramos and Granada Ramos and the heirs of Jose Ramos, are estopped from attacking plaintiffs' status as acknowledged natural children . . .
>>
>> "With the same logic, estoppel should also operate in this case in favor of appellees, considering, as already

[155] 208 Phil. 95 (1983) [Per J. Makasiar, Second Division].

> explained in detail, that they have always been treated as acknowledged and legitimated children of the second marriage of Francisco Tongoy, not only by their presumed parents who raised them as their children, but also by the entire Tongoy-Sonora clan, including Luis D. Tongoy himself who had furnished sustenance to the clan in his capacity as administrator of Hacienda Pulo and had in fact supported the law studies of appellee Ricardo P. Tongoy in Manila, the same way he did with Jesus T. Sonora in his medical studies. As already pointed out, even defendants-appellants have not questioned the fact that appellees are half-brothers of Luis D. Tongoy. As a matter of fact, that are really children of Francisco Tongoy and Antonina Pabello, and only the technicality that their acknowledgment as natural children has not been formalized in any of the modes prescribed by law appears to stand in the way of granting them their hereditary rights. But estoppel, as already indicated, precludes defendants-appellants from attacking appellees' status as acknowledged natural or legitimated children of Francisco Tongoy. In addition to estoppel, this is decidedly one instance when technicality should give way to conscience, equity and justice[.]"

It is time that WE, too, take a liberal view in favor of natural children who, because they enjoy the blessings and privileges of an acknowledged natural child and even of a legitimated child, found it rather awkward, if not unnecessary, to institute an action for recognition against their natural parents, who, without their asking, have been showering them with the same love, care and material support as are accorded to legitimate children. The right to participate in their father's inheritance should necessarily follow.[156] (Citations omitted)

In another case, *Pactor v. Pestaño*, [157] a nonmarital child's participation in the settlement of the intestate estate of his father was permitted. This was despite how his father failed to formally recognize him as his son during his lifetime. There, this Court emphasized that, given how both the father and the widow had conducted themselves, the nonmarital child had effectively been in continuous possession of the status of a child of his father.

Here, respondent Emma is not even a nonmarital child. Her birth certificate is definite in declaring the spouses Tek Sheng and Shiok Cheng as her parents. To reiterate however, even a consideration of the contingent and subordinate means of establishing legitimate filiation (*i.e.*, "open and continuous possession of the status of a legitimate child" under the second paragraph of Article 172 of the Family Code) tends to support respondent Emma's maternal relation with Shiok Cheng, and also undermine petitioners' claims.

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[156] Id. at 120–121.
[157] 107 Phil. 685–689 (1960) [Per J. Labrador, En Banc].

In any case, there remains a dearth of evidence that definitely points to maternal relations between Tiu and respondent Emma. It is one thing to cast doubt on relations with one person, but another to establish relations with someone else. Petitioners have hardly done the latter. Given this, the Regional Trial Court and Court of Appeals were correct to observe that the DNA test sought by petitioners appears to be more in the nature of a fishing expedition than a complement to or confirmation of a reasonable possibility of filiation that they have previously established. Failing in this, their Motion for DNA testing must fail.

V

We reiterate this Court's pronouncement in *Miller*[158] that "the legitimacy of a child is governed by Article 171 of the Family Code, not Rule 108 of the Rules of Court."[159] However, the action to impugn under substantial law is not a viable option in this case.

Article 171 of the Family Code provides:

> Art. 171. The heirs of the *husband* may impugn the filiation of the child within the period prescribed in the preceding article only in the following cases:
>
> (1) If the *husband* should die before the expiration of the period fixed for bringing his action;
>
> (2) If *he* should die after the filing of the complaint without having desisted therefrom; or
>
> (3) If the child was born after the death of the *husband*.

The law reserves the right to impugn filiation only to the husband, or to his heirs, *only if* the husband has availed of the right during his lifetime and within the prescription periods set forth in Article 170 of the Family Code:

> Art. 170. The action to impugn the legitimacy of the child shall be brought within one year from the knowledge of the birth or its recording in the civil register, if the *husband* or, in a proper case, any of his heirs, should reside in the city or municipality where the birth took place or was recorded.
>
> If the *husband* or, in his default, all of his heirs do not reside at the place of birth as defined in the first paragraph or where it was recorded, the period shall be two years if they should reside in the Philippines; and three years if abroad. If the birth of the child has been concealed from or

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158 G.R. No. 200344, August 28, 2019, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65639> [Per J. Leonen, Third Division].

159 Id.

was unknown to the husband or his heirs, the period shall be counted from the discovery or knowledge of the birth of the child or of the fact of registration of said birth, whichever is earlier.

The cause of action to impugn respondent Emma's filiation then, belongs to Tek Sheng, and not to petitioners. While petitioners, being Tek Sheng's marital children, are his inchoate heirs, they nevertheless do not have the right inhering solely on that basis to call respondent Emma's legitimacy into question.

Given their allegation of simulation of birth, petitioners may pursue criminal cases for acts which are penalized under Article 347 of the Revised Penal Code[160] and Section 21 of Republic Act No. 8552[161] or the Domestic Adoption Act of 1998. This may be filed against the alleged authors of what they claim to be the fictitious registration of respondent Emma's birth.

Nevertheless, this Court notes that in the interim, Congress has

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[160] REV. PEN. CODE, art. 347 provides:
ARTICLE 347. *Simulation of Births, Substitution of One Child for Another and Concealment or Abandonment of a Legitimate Child.* — The simulation of births and the substitution of one child for another shall be punished by *prisión mayor* and a fine of not exceeding 1,000 pesos.
The same penalties shall be imposed upon any person who shall conceal or abandon any legitimate child with intent to cause such child to lose its civil status.
Any physician or surgeon or public officer who, in violation of the duties of his profession or office, shall cooperate in the execution of any of the crimes mentioned in the two next preceding paragraphs, shall suffer the penalties therein prescribed and also the penalty of temporary special disqualification.

[161] Republic Act No. 8852 (1998), sec. 21(b) provides:
SECTION 21. *Violations and Penalties.* —
[...]
(b) Any person who shall cause the fictitious registration of the birth of a child under the name(s) of a person(s) who is not his/her biological parent(s) shall be guilty of simulation of birth, and shall be punished by *prision mayor* in its medium period and a fine not exceeding Fifty thousand pesos (P50,000.00).
Any physician or nurse or hospital personnel who, in violation of his/her oath of office, shall cooperate in the execution of the abovementioned crime shall suffer the penalties herein prescribed and also the penalty of permanent disqualification.
Any person who shall violate established regulations relating to the confidentiality and integrity of records, documents, and communications of adoption applications, cases, and processes shall suffer the penalty of imprisonment ranging from one (1) year and one (1) day to two (2) years, and/or a fine of not less than Five thousand pesos (P5,000.00) but not more than Ten thousand pesos (P10,000.00), at the discretion of the court.
A penalty lower by two (2) degrees than that prescribed for the consummated offense under this Article shall be imposed upon the principals of the attempt to commit any of the acts herein enumerated.
Acts punishable under this Article, when committed by a syndicate or where it involves two (2) or more children shall be considered as an offense constituting child trafficking and shall merit the penalty of *reclusion perpetua.*
Acts punishable under this Article are deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring and/or confederating with one another in carrying out any of the unlawful acts defined under this Article. Penalties as are herein provided, shall be in addition to any other penalties which may be imposed for the same acts punishable under other laws, ordinances, executive orders, and proclamations.
When the offender is an alien, he/she shall be deported immediately after service of sentence and perpetually excluded from entry to the country.
Any government official, employee or functionary who shall be found guilty of violating any of the provisions of this Act, or who shall conspire with private individuals shall, in addition to the above-prescribed penalties, be penalized in accordance with existing civil service laws, rules and regulations: *Provided,* That upon the filing of a case, either administrative or criminal, said government official, employee, or functionary concerned shall automatically suffer suspension until the resolution of the case.

enacted Republic Act No. 11222 or the Simulated Birth Rectification Act, which facilitates amnesty[162] when a simulation of birth made prior to its enactment was done in view of a child's best interest. As such, any reckoning of liability must grapple with the terms set forth by Republic Act No. 11222.

ACCORDINGLY, the Petition is **DENIED**. The assailed June 19, 2007 Decision and December 11, 2007 Resolution of the Court of Appeals in CA-G.R. SP No. 90078 are **AFFIRMED**.

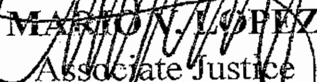
The Petition subject of SP. PROC. No. C-1674 before the Regional Trial Court, Caloocan City, Branch 131 is ordered **DISMISSED**.

SO ORDERED.

MARVIC M.V.F. LEONEN
Senior Associate Justice

WE CONCUR:

AMY C. LAZARO-JAVIER
Associate Justice



MARIO V. LOPEZ
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

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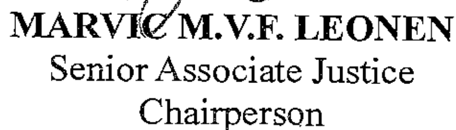
[162] Rep. Act No. 11222 (2019), sec. 4 provides:
SECTION 4. *Rectification of Simulated Birth Record.* — Notwithstanding any provision of law to the contrary, a person or persons who, prior to the effectivity of this Act, simulated the birth of a child, and those who cooperated in the execution of such simulation, shall not be criminally, civilly, or administratively liable for such act: *Provided,* That the simulation of birth was made for the best interest of the child and that the child has been consistently considered and treated by such person or persons as her, his, or their own daughter or son: *Provided, further,* That such person or persons has or have filed a petition for adoption with an application for the rectification of the simulated birth record within ten (10) years from the effectivity of this Act: *Provided, finally,* That all the benefits of this Act shall also apply to adult adoptees.

On leave
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

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 the Court's Division.

ALEXANDER G. GESMUNDO
Chief Justice