



Republic of the Philippines
Supreme Court
Manila

EN BANC

SUPREME COURT OF THE PHILIPPINES
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DR. NIXON L. TREYES,
Petitioner,

G.R. No. 232579

Present:

PERALTA, C.J.,
PERLAS-BERNABE,
LEONEN,
CAGUIOA,
GESMUNDO,
J. REYES, JR.,
HERNANDO,
CARANDANG,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ,
DELOS SANTOS,*
GAERLAN, and
BALTAZAR-PADILLA,** JJ.

- versus -

**ANTONIO L. LARLAR, REV. FR.
EMILIO L. LARLAR, HEDDY L.
LARLAR, ET AL.,**

Respondents.

Promulgated:

September 8, 2020

X-----X

DECISION

CAGUIOA, J.:

Under the Civil Code, when the brothers and sisters of a deceased married sister survive with her widower, the latter shall be entitled by law to one-half of the inheritance and the brothers and sisters to the other half.¹ The

* No part.

** On leave.

¹ Art. 1001, CIVIL CODE.

Civil Code likewise states that this successional right of the legal heirs is vested in them from the very moment of the decedent's death.²

Given that successional rights are conferred by the Civil Code, a substantive law, the question to be resolved here by the Court is whether a prior determination of the status as a legal or compulsory heir in a separate special proceeding is a prerequisite to an ordinary civil action seeking for the protection and enforcement of ownership rights given by the law of succession. The Court now definitively settles this question once and for all.

Before the Court is a petition for review on *certiorari*³ (Petition) under Rule 45 of the Rules of Court (Rules) filed by petitioner Dr. Nixon L. Treyes (petitioner Treyes) assailing the Decision⁴ dated August 18, 2016 (assailed Decision) and Resolution⁵ dated June 1, 2017 (assailed Resolution) promulgated by the Court of Appeals, Cebu City (CA)⁶ in CA-G.R. SP Case No. 08813, which affirmed the Resolution⁷ dated July 15, 2014 and Order⁸ dated August 27, 2014 issued by public respondent Hon. Kathrine A. Go (Go), in her capacity as presiding judge of the Regional Trial Court of San Carlos City, Branch 59 (RTC) in favor of private respondents Antonio L. Larlar (Antonio), Rev. Fr. Emilio L. Larlar (Emilio), Heddy L. Larlar (Heddy), Rene L. Larlar (Rene), Celeste L. Larlar (Celeste), Judy L. Larlar (Judy), and Yvonne L. Larlar (Yvonne) (collectively, the private respondents).

The Facts and Antecedent Proceedings

As culled from the records, the essential facts and antecedent proceedings are as follows:

On May 1, 2008, Rosie Larlar Treyes (Rosie), the wife of petitioner Treyes, passed away.⁹ Rosie, who did not bear any children with petitioner Treyes, died without any will.¹⁰ Rosie also left behind seven siblings, *i.e.*, the private respondents Antonio, Emilio, Heddy, Rene, Celeste, Judy, and Yvonne.

² Art. 777, CIVIL CODE.

³ *Rollo*, pp. 15-55.

⁴ *Id.* at 214-219. Penned by Associate Justice Edward B. Contreras and concurred in by Associate Justices Edgardo L. Delos Santos (now a Member of this Court) and Geraldine C. Fiel-Macaraig.

⁵ *Id.* at 223-225.

⁶ Nineteenth Division.

⁷ *Rollo*, pp. 288-290.

⁸ *Id.* at 317.

⁹ *Id.* at 19; *see* Certificate of Death dated May 2, 2008, *id.* at 253.

¹⁰ *Id.*

At the time of her death, Rosie left behind 14 real estate properties,¹¹ situated in various locations in the Philippines, which she owned together with petitioner Treyes as their conjugal properties (subject properties).

Subsequently, petitioner Treyes executed two Affidavits of Self-Adjudication dated September 2, 2008¹² and May 19, 2011.¹³ The first Affidavit of Self-Adjudication was registered by petitioner Treyes with the Register of Deeds (RD) of Marikina City on March 24, 2011, while the second Affidavit of Self-Adjudication was registered with the RD of San Carlos City, Negros Occidental on June 5, 2011. In these two Affidavits of Self-Adjudication, petitioner Treyes transferred the estate of Rosie unto himself, claiming that he was the sole heir of his deceased spouse, Rosie.¹⁴

As alleged by the private respondents, they sent a letter dated February 13, 2012 to petitioner Treyes requesting for a conference to discuss the settlement of the estate of their deceased sister, Rosie. The private respondents maintain that they never heard from petitioner Treyes regarding their request.¹⁵ Undaunted, the private respondents again wrote to petitioner Treyes on April 3, 2012, requesting for the settlement of their sister's estate, but this request fell on deaf ears.¹⁶

The private respondents then alleged that sometime during the latter part of 2012, they discovered to their shock and dismay that the TCTs previously registered in the name of their sister and petitioner Treyes had already been cancelled, except TCT No. M-43623 situated in Tanay, Rizal and TCT No. T-627723 situated in Cabuyao, Laguna. New titles had been issued in the name of petitioner Treyes on the basis of the two Affidavits of Self-Adjudication.¹⁷

Hence, the private respondents filed before the RTC a Complaint¹⁸ dated July 12, 2013 (Complaint) for annulment of the Affidavits of Self-Adjudication, cancellation of TCTs, reconveyance of ownership and possession, partition, and damages against petitioner Treyes, the RD of Marikina, the RD of the Province of Rizal, and the RD of the City of San Carlos, Negros Occidental. The case was docketed as Civil Case No. RTC-1226.

In their Complaint, the private respondents alleged that petitioner Treyes fraudulently caused the transfer of the subject properties to himself by

¹¹ Covered by Transfer Certificates of Title (TCT) Nos. T-249139, T-554522, M-43623, T-18709, T-18698, T-18699, T-18700, T-18701, T-18757, T-18758, T-18759, T-18760, T-18761, and T-627723; id. at 90-93.

¹² Id. at 270-280.

¹³ Id. at 282-287.

¹⁴ Id. at 278, 286.

¹⁵ Id. at 235.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id. at 228-241.

executing the two Affidavits of Self-Adjudication and refused to reconvey the shares of the private respondents who, being the brothers and sisters of Rosie, are legal heirs of the deceased. Aside from asking for the declaration of the nullity of the Affidavits of Self-Adjudication, the private respondents also prayed for the cancellation of all the TCTs issued in favor of petitioner Treyes, the reconveyance to the private respondents of their successional share in the estate of Rosie, the partition of the estate of Rosie, as well as moral damages, exemplary damages, attorney's fees, and other litigation expenses.¹⁹

As alleged by petitioner Treyes, his household helper, Elizabeth Bariantos (Bariantos), was supposedly aggressively approached on October 18, 2013 by two persons who demanded that she receive a letter for and on behalf of petitioner Treyes. Bariantos refused. As it turned out, the said letter was the summons issued by the RTC addressed to petitioner Treyes in relation to the Complaint filed by the private respondents.²⁰

Petitioner Treyes, through counsel, then filed an Entry of Special Appearance and Motion to Dismiss dated October 25, 2013 (first Motion to Dismiss), asking for the dismissal of the Complaint due to lack of jurisdiction over the person of petitioner Treyes.²¹ Eventually, however, a re-service of summons was ordered by the RTC in its Order dated May 12, 2014.²² On June 5, 2014, petitioner Treyes was personally served with another Summons²³ dated May 12, 2014 together with a copy of the Complaint.²⁴

Petitioner Treyes then filed another Motion to Dismiss²⁵ dated June 20, 2014 (second Motion to Dismiss), arguing that the private respondents' Complaint should be dismissed on the following grounds: (1) improper venue; (2) prescription; and (3) lack of jurisdiction over the subject matter.

In its Resolution²⁶ dated July 15, 2014, the RTC denied for lack of merit petitioner Treyes' second Motion to Dismiss. Nevertheless, the RTC held that it did not acquire jurisdiction over the Complaint's third cause of action, *i.e.*, partition:

x x x A perusal of the Complaint shows that the causes of action are 1) the Annulment of the Affidavit of Self Adjudication; 2) Reconveyance (3) Partition; and 4) Damages. **Hence, the Court has jurisdiction over the first, second and fourth causes of action but no jurisdiction over the third cause of action of Partition and the said cause of action should be dropped from the case.**²⁷

¹⁹ Id. at 238-239.

²⁰ Supra note 9.

²¹ Id. at 19-20.

²² Id. at 20.

²³ Id. at 227.

²⁴ Id. at 20.

²⁵ Id. at 242-252.

²⁶ Supra note 7.

²⁷ Id. at 289. Emphasis supplied.

Unsatisfied with the aforesaid Resolution of the RTC, petitioner Treyes filed an Omnibus Motion²⁸ dated July 28, 2014 (1) to reconsider the Resolution dated August 15, 2014 and (2) to defer filing of Answer.

In response, private respondents filed their Opposition²⁹ dated August 19, 2014 to the Omnibus Motion of petitioner Treyes dated July 28, 2014, to which petitioner Treyes responded with his Reply³⁰ with leave dated August 27, 2014.

In its Order³¹ dated August 27, 2014, the RTC denied the Omnibus Motion and directed petitioner Treyes to file his responsive pleading within 15 days from receipt of the Order.

Petitioner Treyes then filed before the CA a petition for *certiorari*³² dated October 28, 2014 under Rule 65 with urgent prayer for the immediate issuance of a temporary restraining order and/or writ of preliminary injunction, asserting that the RTC's denial of his second Motion to Dismiss was committed with grave abuse of discretion amounting to lack or excess of jurisdiction.

The Ruling of the CA

In its assailed Decision, the CA denied petitioner Treyes' petition for *certiorari*. The dispositive portion of the assailed Decision of the CA reads:

WHEREFORE, the petition is DENIED. The Order dated dated (*sic*) August 27, 2014, and the Resolution dated July 15, 2014 are AFFIRMED.

SO ORDERED.³³

The CA held that the RTC did not commit grave abuse of discretion in denying petitioner Treyes' second Motion to Dismiss. Since the Complaint primarily seeks to annul petitioner Treyes' Affidavits of Self-Adjudication, which partakes the nature of an ordinary civil action, the CA found that the RTC had jurisdiction to hear and decide the private respondents' Complaint. Further, the CA held that since the case was an ordinary civil action, the proper venue is San Carlos City, Negros Occidental. Lastly, the CA held that the action of the private respondents is not barred by prescription.

²⁸ Id. at 291-305.

²⁹ Id. at 306-309.

³⁰ Id. at 310-316.

³¹ Supra note 8.

³² Id. at 56-82.

³³ Id. at 218.

Petitioner Treyes filed a Motion for Reconsideration³⁴ dated September 26, 2016, which was subsequently denied by the CA in its assailed Resolution.³⁵

Hence, the instant Petition.

The private respondents filed their Comment³⁶ dated May 16, 2018 to the Petition, to which petitioner Treyes responded with his Reply³⁷ dated September 17, 2018.

The Issue

The central question to be resolved by the Court is whether or not the CA was correct in ruling that the RTC did not commit grave abuse of discretion amounting to lack or excess of jurisdiction when it denied petitioner Treyes' second Motion to Dismiss.

The Court's Ruling

In the instant case, petitioner Treyes maintains that the RTC committed grave abuse of discretion amounting to lack or excess of jurisdiction in denying its second Motion to Dismiss, arguing, in the main, that the RTC should have dismissed the private respondents' Complaint on the basis of three grounds: a) improper venue, b) prescription, and c) lack of jurisdiction over the subject matter and, corrolarily, lack of real parties in interest. The Court discusses these grounds *ad seriatim*.

I. *Improper Venue*

Citing Rule 73, Section 1 of the Rules,³⁸ petitioner Treyes posits that the correct venue for the settlement of a decedent's estate is the residence of the decedent at the time of her death, which was at No. 1-C, Guatemala Street, Loyola Grand Villas, Loyola Heights, Katipunan Avenue, Quezon City. Hence, petitioner Treyes maintains that the settlement of her estate

³⁴ Id. at 318-334.

³⁵ Supra note 5.

³⁶ Id. at 342-358.

³⁷ Id. at 389-404.

³⁸ **SECTION. 1.** *Where estate of deceased person settled.* – If the decedent is an inhabitant of the Philippines at the time of his death, whether a citizen or an alien, his will shall be proved, or letters of administration granted, and his estate settled, in the Court of First Instance in the province in which he resides at the time of his death, and if he is an inhabitant of a foreign country, the Court of First Instance of any province in which he had estate. The court first taking cognizance of the settlement of the estate of a decedent, shall exercise jurisdiction to the exclusion of all other courts. The jurisdiction assumed by a court, so far as it depends on the place of residence of the decedent, or of the location of his estate, shall not be contested in a suit or proceeding, except in an appeal from that court, in the original case, or when the want of jurisdiction appears on the record.

should have been filed with the RTC of Quezon City, and not at San Carlos City, Negros Occidental.

The Court finds and holds that the Complaint cannot be dismissed on the ground of improper venue on the basis of Rule 73 because such Rule refers exclusively to the special proceeding of settlement of estates and NOT to ordinary civil actions. Invoking Rule 73 to allege improper venue is entirely inconsistent with petitioner Treyes' assertion in the instant Petition³⁹ that the Complaint is not a special proceeding but an ordinary civil action.

Moreover, the Court finds that improper venue as a ground for the dismissal of the Complaint was already deemed waived in accordance with the Omnibus Motion Rule.

According to Rule 9, Section 1 of the Rules, defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived, except with respect to the grounds of (1) lack of jurisdiction over the subject matter; (2) *litis pendentia*; (3) *res judicata*; and (4) prescription of the action. In turn, Rule 15, Section 8 states that a motion attacking a pleading, order, judgment, or proceeding shall include all objections then available, and all objections not so included shall be deemed waived.

Hence, under the Omnibus Motion Rule, when the grounds for the dismissal of a Complaint under Rule 16, Section 1⁴⁰ are not raised in a motion to dismiss, such grounds, except the grounds of lack of jurisdiction over the subject matter, *litis pendentia*, *res judicata*, and prescription, are deemed waived.

In the instant case, prior to the filing of the second Motion to Dismiss, the first Motion to Dismiss was already filed by petitioner Treyes asking for the dismissal of the Complaint solely on the ground of lack of jurisdiction over the person of petitioner Treyes.⁴¹ The defense of improper venue was already very much available to petitioner Treyes at the time of the filing of

³⁹ *Rollo*, p. 16.

⁴⁰ **SECTION 1. Grounds.** — Within the time for but before filing the answer to the complaint or pleading asserting a claim, a motion to dismiss may be made on any of the following grounds:

- (a) That the court has no jurisdiction over the person of the defending party;
- (b) That the court has no jurisdiction over the subject matter of the claim;
- (c) That venue is improperly laid;
- (d) That the plaintiff has no legal capacity to sue;
- (e) That there is another action pending between the same parties for the same cause;
- (f) That the cause of action is barred by a prior judgment or by the statute of limitations;
- (g) That the pleading asserting the claim states no cause of action;
- (h) That the claim or demand set forth in the plaintiff's pleading has been paid, waived, abandoned, or otherwise extinguished;
- (i) That the claim on which the action is founded is enforceable under the provisions of the statute of frauds; and
- (j) That a condition precedent for filing the claim has not been complied with. (1a)

⁴¹ *Supra* note 21.

the first Motion to Dismiss. Under the Rules, raising the ground of improper venue would not have been prejudicial to petitioner Treyes' cause as raising such defense could not have been deemed a voluntary appearance.⁴² Hence, there was no valid reason to justify the failure to invoke the ground of improper venue in the first Motion to Dismiss. Stated differently, as the issue of improper venue was not raised in the first Motion to Dismiss, then this ground is deemed already waived and could no longer be raised in the second Motion to Dismiss.⁴³

II. Prescription

Petitioner Treyes also argues that the RTC committed grave abuse of discretion in not dismissing the Complaint since the period for the filing of the Complaint had already supposedly prescribed.

The Court likewise finds this argument to be without merit.

The basis of petitioner Treyes in arguing that the Complaint is already barred by prescription is Rule 74, Section 4 of the Rules,⁴⁴ which states that an heir or other persons unduly deprived of lawful participation in the estate may compel the settlement of the estate in the courts at any time within two years after the settlement and distribution of an estate.

The Court stresses that Rule 74 pertains exclusively to the settlement of estates, which is a special proceeding and NOT an ordinary civil action.⁴⁵

As well, this argument of petitioner Treyes invoking prescription on the basis of Rule 74 is again wholly inconsistent with his main theory that the instant Complaint is not a special proceeding but an ordinary civil action for annulment of the Affidavits of Self-Adjudication, cancellation of TCTs, reconveyance of ownership and possession, and damages.⁴⁶

⁴² Rule 14, Sec. 20, RULES OF COURT, provides:

SEC. 20. Voluntary appearance. — The defendant's voluntary appearance in the action shall be equivalent to service of summons. The inclusion in a motion to dismiss of other grounds aside from lack of jurisdiction over the person of the defendant shall not be deemed a voluntary appearance. (23a)

⁴³ *Ernesto Oppen, Inc. v. Compas*, G.R. No. 203969, October 21, 2015, 773 SCRA 546, 557.

⁴⁴ **SEC. 4. Liability of distributees and estate.** — If it shall appear at any time within two (2) years after the settlement and distribution of an estate in accordance with the provisions of either of the first two sections of this rule, that an heir or other person has been unduly deprived of his lawful participation in the estate, such heir or such other person may compel the settlement of the estate in the courts in the manner hereinafter provided for the purpose of satisfying such lawful participation. And if within the same time of two (2) years, it shall appear that there are debts outstanding against the estate which have not been paid, or that an heir or other person has been unduly deprived of his lawful participation payable in money, the court having jurisdiction of the estate may, by order for that purpose, after hearing, settle the amount of such debts or lawful participation and order how much and in what manner each distributee shall contribute in the payment thereof, and may issue execution, if circumstances require, against the bond provided in the preceding section or against the real estate belonging to the deceased, or both. Such bond and such real estate shall remain charged with a liability to creditors, heirs, or other persons for the full period of two (2) years after such distribution, notwithstanding any transfers of real estate that may have been made.

⁴⁵ See Rule 72, Sec. 1, RULES OF COURT.

⁴⁶ *Supra* note 5.

Moreover, as clarified by the Court in *Sampilo, et al. v. Court of Appeals, et al.*,⁴⁷ the provisions of Rule 74, Section 4 barring distributees or heirs from objecting to an extrajudicial partition after the expiration of two years from such extrajudicial partition is applicable only: (1) to persons who have participated or taken part or had notice of the extrajudicial partition, and (2) when the provisions of Section 1 of Rule 74 have been strictly complied with, *i.e.*, that all the persons or heirs of the decedent have taken part in the extrajudicial settlement or are represented by themselves or through guardians.

Both requirements are absent here as it is evident that not all the legal heirs of Rosie participated in the extrajudicial settlement of her estate as indeed, it was only petitioner Treyes who executed the Affidavits of Self-Adjudication.

In this regard, it is well to note that it is the prescriptive period pertaining to constructive trusts which finds application in the instant case.

To digress, the Civil Code identifies two kinds of trusts, *i.e.*, express and implied. Express trusts are created by the intention of the trustor or of the parties while implied trusts come into being by operation of law.⁴⁸ As explained by recognized Civil Law Commentator, former CA Justice Eduardo P. Caguioa, “[e]xpress and implied trusts differ chiefly in that express trusts are created by the acts of the parties, while implied trusts are raised by operation of law, either to carry a presumed intention of the parties or to satisfy the demands of justice or protect against fraud.”⁴⁹

An implied trust is further divided into two types, *i.e.*, resulting and constructive trusts.⁵⁰ A resulting trust exists when a person makes or causes to be made a disposition of property under circumstances which raise an inference that he/she does not intend that the person taking or holding the property should have the beneficial interest in the property.⁵¹

On the other hand, a constructive trust exists when a person holding title to property is subject to an equitable duty to convey it to another on the ground that he/she would be unjustly enriched if he/she were permitted to retain it.⁵² The duty to convey the property arises because it was acquired through fraud, duress, undue influence, mistake, through a breach of a fiduciary duty, or through the wrongful disposition of another’s property.⁵³

⁴⁷ 104 Phil. 70 (1958).

⁴⁸ Art. 1441, CIVIL CODE.

⁴⁹ Eduardo P. Caguioa, COMMENTS AND CASES ON CIVIL LAW, CIVIL CODE OF THE PHILIPPINES, Revised 2nd ed., 1983, Vol. IV, p. 673.

⁵⁰ *Id.* at 674.

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

An example of a constructive trust is found in Article 1456 of the Civil Code,⁵⁴ which states that “[i]f property is acquired through mistake or fraud, the person obtaining it is, by force of law, considered a trustee of an implied trust for the benefit of the person from whom the property comes.” In *Marquez v. Court of Appeals*,⁵⁵ the Court held that in a situation where an heir misrepresents in an affidavit of self-adjudication that he is the sole heir of his wife when in fact there are other legal heirs, and thereafter manages to secure a certificate of title under his name, then “a constructive trust under Article 1456 [i]s established. Constructive trusts are created in equity in order to prevent unjust enrichment.”⁵⁶ This is precisely the situation in the instant case.

In this situation, it has been settled in a long line of cases that “an action for reconveyance based on an implied or constructive trust prescribes in [10] years from the issuance of the Torrens title [in the name of the trustee] over the property.”⁵⁷ The 10-year prescriptive period finds basis in Article 1144 of the Civil Code, which states that an action involving an obligation created by law must be brought within 10 years from the time the right of action accrues.

In cases wherein fraud was alleged to have been attendant in the trustee’s registration of the subject property in his/her own name, the prescriptive period is 10 years reckoned from the date of the issuance of the original certificate of title or TCT since such issuance operates as a constructive notice to the whole world, the discovery of the fraud being deemed to have taken place at that time.⁵⁸

Accordingly, it is clear here that prescription has not set in as the private respondents still have until 2021 to file an action for reconveyance, given that the certificates of title were issued in the name of petitioner Treyes only in 2011.

Therefore, considering the foregoing discussion, the ground of prescription raised by petitioner Treyes is unmeritorious.

III. The Necessity of a Prior Determination of Heirship in a Separate Special Proceeding

The Court now proceeds to discuss the centerpiece of petitioner Treyes’ Petition – that the RTC has no jurisdiction to hear, try, and decide the subject matter of the private respondents’ Complaint because the determination of the status of the legal heirs in a separate special proceeding is a prerequisite to an

⁵⁴ See *Philippine National Bank v. Court of Appeals*, G.R. No. 97995, January 21, 1993, 217 SCRA 347.

⁵⁵ G.R. No. 125715, December 29, 1998, 300 SCRA 653.

⁵⁶ Id. at 658.

⁵⁷ Id. Emphasis and underscoring supplied.

⁵⁸ *Lopez v. Court of Appeals*, G.R. No. 157784, December 16, 2008, 574 SCRA 26, 39.

ordinary suit for recovery of ownership and possession of property instituted by the legal heirs.

Jurisdiction over the subject matter of a case is conferred by law and determined by the allegations in the complaint which comprise a concise statement of the ultimate facts constituting the plaintiff's cause of action.⁵⁹

In the instant case, it is readily apparent from the allegations in the Complaint filed by the private respondents that the action was not instituted for the determination of their status as heirs, as it was their position that their status as heirs was already established *ipso jure* without the need of any judicial confirmation. Instead, what the Complaint alleges is that the private respondents' rights over the subject properties, by virtue of their being siblings of the deceased, must be enforced by annulling the Affidavits of Self-Adjudication and ordering the reconveyance of the subject properties.

Hence, as correctly held by the RTC in its Resolution⁶⁰ dated July 15, 2014, the RTC has jurisdiction over the subject matter of the Complaint, considering that the law confers upon the RTC jurisdiction over civil actions which involve the title to, or possession of, real property, or any interest therein, where the assessed value of the property involved exceeds ₱20,000.00 for civil actions outside Metro Manila, or where the assessed value exceeds ₱50,000.00 for civil actions in Metro Manila.⁶¹

The Case of Heirs of Magdalena Ypon v. Ricaforte, et al. and Preceding Cases

Petitioner Treyes cited *Heirs of Magdalena Ypon v. Ricaforte, et al.*⁶² (*Ypon*), as well as the cases that preceded it, *i.e.*, *Heirs of Guido and Isabel Yaptinchay v. Del Rosario*⁶³ (*Yaptinchay*), *Portugal v. Portugal-Beltran*⁶⁴ (*Portugal*), and *Reyes v. Enriquez*⁶⁵ (*Reyes*) to buttress his main argument that since the private respondents have yet to establish in a special proceeding their status as legal heirs of Rosie, then the ordinary civil action they instituted must be dismissed for lack of jurisdiction.

In *Ypon*, which contains analogous factual circumstances as the instant case, the therein petitioners filed a complaint for Cancellation of Title and Reconveyance with Damages against the therein respondent. The therein petitioners alleged that, with the decedent having died intestate and childless, and with the existence of other legal heirs, the therein respondent invalidly executed an Affidavit of Self-Adjudication and caused the transfer of the

⁵⁹ *Gomez v. Montalban*, G.R. No. 174414, March 14, 2008, 548 SCRA 693, 705.

⁶⁰ *Supra* note 7.

⁶¹ Section 19, Batas Pambansa Blg. 129 (The Judiciary Reorganization Act of 1980).

⁶² G.R. No. 198680, July 8, 2013, 700 SCRA 778.

⁶³ G.R. No. 124320, March 2, 1999, 304 SCRA 18.

⁶⁴ G.R. No. 155555, August 16, 2005, 467 SCRA 184.

⁶⁵ G.R. No. 162956, April 10, 2008, 551 SCRA 86.

certificates of title covering the properties of the decedent to himself. The RTC dismissed the complaint holding that it failed to state a cause of action since the therein petitioners had yet to establish their status as heirs.

In sustaining the RTC's dismissal of the complaint, the Court in *Ypon* held that:

As stated in the subject complaint, petitioners, who were among the plaintiffs therein, alleged that they are the lawful heirs of Magdaleno and based on the same, prayed that the Affidavit of Self-Adjudication executed by Gaudioso be declared null and void and that the transfer certificates of title issued in the latter's favor be cancelled. While the foregoing allegations, if admitted to be true, would consequently warrant the reliefs sought for in the said complaint, the rule that the determination of a decedent's lawful heirs should be made in the corresponding special proceeding precludes the RTC, in an ordinary action for cancellation of title and reconveyance, from granting the same. In the case of *Heirs of Teofilo Gabatan v. CA*, the Court, citing several other precedents, held that the determination of who are the decedent's lawful heirs must be made in the proper special proceeding for such purpose, and not in an ordinary suit for recovery of ownership and/or possession, as in this case:

Jurisprudence dictates that the determination of who are the legal heirs of the deceased must be made in the proper special proceedings in court, and not in an ordinary suit for recovery of ownership and possession of property. This must take precedence over the action for recovery of possession and ownership. The Court has consistently ruled that the trial court cannot make a declaration of heirship in the civil action for the reason that such a declaration can only be made in a special proceeding. Under Section 3, Rule 1 of the 1997 Revised Rules of Court, a civil action is defined as one by which a party sues another for the enforcement or protection of a right, or the prevention or redress of a wrong while a special proceeding is a remedy by which a party seeks to establish a status, a right, or a particular fact. It is then decisively clear that the declaration of heirship can be made only in a special proceeding inasmuch as the petitioners here are seeking the establishment of a status or right.

In the early case of *Litam, et al. v. Rivera*, this Court ruled that the declaration of heirship must be made in a special proceeding, and not in an independent civil action. This doctrine was reiterated in *Solvio v. Court of Appeals* x x x[.]

In the more recent case of *Milagros Joaquin v. Lourdes Reyes*, the Court reiterated its ruling that matters relating to the rights of filiation and heirship must be ventilated in the proper probate court in a special proceeding instituted precisely for the purpose of determining such rights. Citing the case of *Agapay v. Palang*, this Court held that the status of an illegitimate child who claimed to be an heir to a decedent's estate could

not be adjudicated in an ordinary civil action which, as in this case, was for the recovery of property.⁶⁶

Nevertheless, the Court likewise added in *Ypon* that there are circumstances wherein a determination of heirship in a special proceeding is not a precondition for the institution of an ordinary civil action for the sake of practicality, *i.e.*, (1) when the parties in the civil case had voluntarily submitted the issue to the trial court and already presented their evidence regarding the issue of heirship, and (2) when a special proceeding had been instituted but had been finally terminated and cannot be re-opened:

By way of exception, the need to institute a separate special proceeding for the determination of heirship may be dispensed with for the sake of practicality, as when the parties in the civil case had voluntarily submitted the issue to the trial court and already presented their evidence regarding the issue of heirship, and the RTC had consequently rendered judgment thereon, or when a special proceeding had been instituted but had been finally closed and terminated, and hence, cannot be re-opened.⁶⁷

Ordinary Civil Actions vis-à-vis Special Proceedings

In the main, *Ypon*, citing certain earlier jurisprudence, held that the determination of a decedent's lawful heirs should be made in the corresponding special proceeding, precluding the RTC in an ordinary action for cancellation of title and reconveyance from making the same.

According to Rule 1, Section 3(c) of the Rules, the purpose of a special proceeding is to establish a status, right, or particular fact. As held early on in *Hagans v. Wislizenus*,⁶⁸ a "special proceeding" may be defined as "an application or proceeding to establish the status or right of a party, or a particular fact."⁶⁹ In special proceedings, the remedy is granted generally upon an application or motion.⁷⁰

In *Pacific Banking Corp. Employees Organization v. Court of Appeals*,⁷¹ the Court made the crucial distinction between an ordinary action and a special proceeding:

Action is the act by which one sues another in a court of justice for the enforcement or protection of a right, or the prevention or redress of a wrong while special proceeding is the act by which one seeks to establish the status or right of a party, or a particular fact. Hence, action is distinguished from special proceeding in that the former is a formal demand of a right by one against another, while the latter is but a petition

⁶⁶ *Heirs of Ypon v. Ricaforte*, supra note 62 at 784-785. Emphasis, underscoring, and citations omitted.

⁶⁷ *Id.* at 786.

⁶⁸ 42 Phil. 880 (1920).

⁶⁹ *Id.* at 882.

⁷⁰ *Id.*

⁷¹ G.R. Nos. 109373 & 112991, March 20, 1995, 242 SCRA 492.

for a declaration of a status, right or fact. Where a party-litigant seeks to recover property from another, his remedy is to file an action. Where his purpose is to seek the appointment of a guardian for an insane, his remedy is a special proceeding to establish the fact or status of insanity calling for an appointment of guardianship.⁷²

Hence, the main point of differentiation between a civil action and a special proceeding is that in the former, a party sues another for the enforcement or protection of a right which the party claims he/she is entitled to,⁷³ such as when a party-litigant seeks to recover property from another,⁷⁴ while in the latter, a party merely seeks to have a right established in his/her favor.

Applying the foregoing to ordinary civil actions for the cancellation of a deed or instrument and reconveyance of property on the basis of relationship with the decedent, *i.e.*, compulsory or intestate succession, the plaintiff does not really seek to establish his/her right as an heir. **In truth, the plaintiff seeks the enforcement of his/her right brought about by his/her being an heir by operation of law.**

Restated, the party does not seek to establish his/her right as an heir **because the law itself already establishes that status.** What he/she aims to do is to merely call for the nullification of a deed, instrument, or conveyance as an enforcement or protection of that right which he/she already possesses **by virtue of law.**

Moreover, it is likewise noted that ordinary civil actions for declaration of nullity of a document, nullity of title, recovery of ownership of real property, or reconveyance are actions *in personam*.⁷⁵ And thus, they only bind particular individuals although they concern rights to tangible things.⁷⁶ **Any judgment therein is binding only upon the parties properly impleaded.⁷⁷** Hence, any decision in the private respondents' ordinary civil action would not prejudice non-parties.

To emphasize, any holding by the trial court in the ordinary civil action initiated by the private respondents shall only be in relation to the cause of action, *i.e.*, the annulment of the Affidavits of Self-Adjudication executed by petitioner Treyes and reconveyance of the subject properties, and shall only be binding among the parties therein.

At this juncture, the Court now deems it proper and opportune to revisit existing jurisprudence on the requisite of establishing one's heirship in a prior special proceeding before invoking such heirship in an ordinary civil action.

⁷² Id. at 503.

⁷³ Rule 1, Sec. 3(a), RULES OF COURT.

⁷⁴ *Pacific Banking Corp. Employees Organization v. Court of Appeals*, supra note 71 at 503.

⁷⁵ *Muñoz v. Yabut, Jr.*, G.R. Nos. 142676 & 146718, June 6, 2011, 650 SCRA 344, 367.

⁷⁶ Id.

⁷⁷ Id.

The Transmission of the Rights of Heirs at the Precise Moment of Death of the Decedent under the Civil Code

That the private respondents do not really seek in their Complaint the establishment of their rights as intestate heirs but, rather, the enforcement of their rights already granted by law as intestate heirs finds basis in Article 777 of the Civil Code, which states that **the rights of succession are transmitted from the moment of the death of the decedent.**

The operation of Article 777 occurs at the very moment of the decedent's death – the transmission by succession occurs at the precise moment of death and, therefore, the heir is legally deemed to have acquired ownership of his/her share in the inheritance at that very moment, “and not at the time of declaration of heirs, or partition, or distribution.”⁷⁸

Hence, the Court has held that the “[t]itle or rights to a deceased person's property are immediately passed to his or her heirs upon death. The heirs' rights become vested without need for them to be declared ‘heirs.’”⁷⁹

In *Bonilla, et al. v. Barcena, et al.*,⁸⁰ the Court held that:

“[F]rom the moment of the death of the decedent, the heirs become the absolute owners of his property, subject to the rights and obligations of the decedent, x x x [t]he right of the heirs to the property of the deceased vests in them **even before judicial declaration of their being heirs in the testate or intestate proceedings.**”⁸¹

In fact, in partition cases, even before the property is judicially partitioned, the heirs are already deemed co-owners of the property. Thus, in partition cases, the heirs are deemed real parties in interest without a prior separate judicial determination of their heirship.⁸² Similarly, in the summary settlement of estates, the heirs may undertake the extrajudicial settlement of the estate of the decedent amongst themselves through the execution of a public instrument even without a prior declaration in a separate judicial proceeding that they are the heirs of the decedent.⁸³ If there is only one legal heir, the document usually executed is an affidavit of self-adjudication even without a prior judicial declaration of heirship.

The Civil Code identifies certain relatives who are deemed compulsory heirs and intestate heirs. They refer to relatives that become heirs by virtue of

⁷⁸ Ruben F. Balane, *JOTTINGS AND JURISPRUDENCE IN CIVIL LAW (SUCCESSION)*, 2010 ed., p. 35.

⁷⁹ *Heirs of Gregorio Lopez v. Development Bank of the Philippines*, G.R. No. 193551, November 19, 2014, 741 SCRA 153, 163 citing *Bonilla, et al. v. Barcena, et al.*, G.R. No. L-41715, June 18, 1976, 71 SCRA 491.

⁸⁰ *Bonilla, et al. v. Barcena, et al.*, supra note 79.

⁸¹ *Id.* at 495. Emphasis and underscoring supplied.

⁸² *Heirs of Gregorio Lopez v. Development Bank of the Philippines*, supra note 79 at 163.

⁸³ Rule 74, Sec 1, RULES OF COURT.

compulsory succession or intestate succession, as the case may be, by operation of law.

In the instant case, Article 1001 states that brothers and sisters, or their children, who survive with the widow or widower, shall be entitled to one-half of the inheritance, while the surviving spouse shall be entitled to the other half:

Art. 1001. Should brothers and sisters or their children survive with the widow or widower, the latter shall be entitled to one-half of the inheritance and the brothers and sisters or their children to the other half. (953-837a).

Hence, subject to the required proof, **without any need of prior judicial determination**, the private respondents siblings of Rosie, **by operation of law**, are entitled to one-half of the inheritance of the decedent. Thus, in filing their Complaint, they do not seek to have their right as intestate heirs established, for the simple reason that it is the law that already establishes that right. What they seek is the enforcement and protection of the right granted to them under Article 1001 in relation to Article 777 of the Civil Code by asking for the nullification of the Affidavits of Self-Adjudication that disregard and violate their right as intestate heirs.

As correctly explained by Senior Associate Justice Estela M. Perlas-Bernabe (Justice Bernabe) in her Separate Opinion, “a prior declaration of heirship in a special proceeding should not be required before an heir may assert successional rights in an ordinary civil action aimed only to protect his or her interests in the estate. Indeed, the legal heirs of a decedent should not be rendered helpless to rightfully protect their interests in the estate while there is yet no special proceeding.”⁸⁴

To stress once more, the successional rights of the legal heirs of Rosie are not merely contingent or expectant — they vest upon the death of the decedent. By being legal heirs, they are entitled to institute an action to protect their ownership rights acquired by virtue of succession and are thus real parties in interest in the instant case. To delay the enforcement of such rights until heirship is determined with finality in a separate special proceeding would run counter to Article 777 of the Civil Code which recognizes the vesting of such rights immediately — without a moment’s interruption — upon the death of the decedent.

The Originating Case of Litam, et al. v. Espiritu, et al.

⁸⁴ Separate Opinion of Justice Bernabe, p. 7.

The doctrine relied upon by petitioner Treyes, laid down in *Ypon, Yaptinchay, Portugal*, and *Reyes*, traces its origin to the 1956 case of *Litam, et al. v. Espiritu, et al.*⁸⁵ (*Litam*).

It then behooves the Court to closely examine this originating case to see whether the development of jurisprudence, finding its current reincarnation in *Ypon*, is faithful to the Court's ruling in *Litam*.

In *Litam*, a special proceeding, *i.e.*, Special Proceeding No. 1537, for the settlement of the Intestate Estate of the deceased Rafael Litam (Rafael), was instituted by one of the supposed sons of the latter, *i.e.*, Gregorio Dy Tam (Gregorio). It was alleged that the children of Rafael, Gregorio and his siblings, were begotten "by a marriage celebrated in China in 1911 with Sia Khin [(Khin)], now deceased" and that Rafael "contracted in 1922 in the Philippines another marriage with Marcosa Rivera [(Marcosa)], Filipino citizen." In Special Proceeding No. 1537, Marcosa denied the alleged marriage of Rafael to Khin and the alleged filiation of Gregorio and his siblings, and prayed that her nephew, Arminio Rivera (Arminio), be appointed administrator of the intestate estate of Rafael. In due course, the court issued the letters of administration to Arminio, who assumed his duties as such, and, later, submitted an inventory of the alleged estate of Rafael.

During the subsistence of the special proceeding, Gregorio and his siblings filed an ordinary civil action complaint, *i.e.*, Civil Case No. 2071, against Marcosa and Arminio in the same court hearing the special proceeding for the settlement of the intestate estate of the decedent, praying for the delivery of the decedent's properties possessed by Marcosa and Arminio to the administrator of the estate of Rafael, as well as damages.

After trial, the Court of First Instance (CFI) issued its judgment dismissing Civil Case No. 2071 and declaring the properties in question to be the exclusive, separate and paraphernal properties of Marcosa. The CFI further declared that Gregorio and his siblings "are not the children of the deceased Rafael Litam, and that his only heir is his surviving wife, Marcosa Rivera."⁸⁶

It must be noted that the Court, in upholding the aforementioned judgment of the CFI, did not call for the dismissal of Civil Case No. 2071 because it corollarily involved the issue of heirship in an ordinary civil action. **The CFI did not hold whatsoever that Gregorio and his siblings were not real parties in interest and that their complaint failed to state a cause of action** because their complaint invoked the issue of heirship.

In fact, it must be noted that the Court even affirmed the CFI's judgment in the ordinary civil action, and discussed at length and pronounced

⁸⁵ 100 Phil. 364 (1956).

⁸⁶ *Id.* at 360.

its findings as to the status of Gregorio and his siblings as heirs, holding that they “have utterly failed to prove their alleged status as children of Rafael Litam by a marriage with Sia Khin.” In plain terms, the Court, in upholding the CFI Decision, affirmed the dismissal of the ordinary civil action, not because it touched upon the issue of heirship, but because the petitioners failed to present sufficient evidence proving their heirship and that the evidence on record actually proved that they were not heirs of Rafael.

The Court found issue with the CFI’s Decision only insofar as it made a categorical pronouncement in its dispositive portion that Marcosa was the “only” heir of the decedent, ordering a slight modification in the CFI’s Decision:

Likewise, we are of the opinion that the lower court should not have declared, in the decision appealed from, that Marcosa Rivera is the only heir of the decedent, for such declaration is improper in Civil Case No. 2071, it being within the exclusive competence of the court in Special Proceeding No. 1537, in which it is not as yet, in issue, and, will not be, ordinarily, in issue until the presentation of the project of partition.⁸⁷

What is thus apparent from the Court’s Decision in *Litam* is that the CFI was not found to be at fault in appreciating evidence and examining the issue of the alleged heirship of the petitioners in resolving the ordinary civil action. To reiterate, the Court even concurred with the CFI’s appreciation of evidence on the heirship of the petitioners therein that were presented during trial. **The Court made no pronouncement whatsoever that since Gregorio and his siblings had not previously obtained a declaration of heirship in a special proceeding, then they should not be considered real parties in interest.** The Court could not have made such pronouncement because Gregorio and his siblings had utterly failed to prove that they were the heirs of Rafael.

What the Court only held was that it was improper for the CFI to have included in the dispositive portion of its Decision a definite and categorical judgment as to Marcosa’s status as being the “only” heir as it was not the object and purpose of the ordinary civil action, which prayed in the main for the reconveyance of the subject properties therein, **and wherein a separate special proceeding, i.e., Special Proceeding No. 1537, was already pending** that focused precisely on the contentious issue of whether or not there was an earlier marriage of Rafael to Khin, and whether Gregorio, *et al.* were the issue of said marriage.

Thus, the Court’s ruling in *Litam* was that in an ordinary civil action for reconveyance of property, the invocation of the status of the parties as heirs in the complaint does not preclude the determination of the merits of the said ordinary civil action despite the pendency of the special proceeding for the

⁸⁷ Id. at 378.

settlement of the intestate estate of Rafael. What was held to be improper by the Court in *Litam* was the making by the RTC of a conclusive, definite, and categorical declaration in the ordinary civil action regarding Marcosa being the “only” heir of the decedent **when there was already pending before it a special proceeding tackling the contending issues of heirship posed by Gregorio, et al.**

Hence, a closer look at *Litam* reveals that the underlying foundation of the doctrine invoked by the petitioners is inapt.

Jurisprudential Support on the Institution of an Ordinary Civil Action by Legal Heirs arising out of a Right based on Succession without the Necessity of a Previous Judicial Declaration of Heirship

To be sure, even prior to the promulgation of *Litam* which, as already explained, does not actually support the doctrine that a determination of heirship in a prior special proceeding is a prerequisite for the resolution of an ordinary civil action, the Court had already pronounced that the legal heirs may commence an ordinary civil action arising out of a right based on succession **without the necessity of a previous and separate judicial declaration of their status as such.**

As early as 1939, the Court *En Banc*, in *De Vera, et al. v. Galauran*⁸⁸ (*De Vera*), held that:

Arsenio de Vera, as surviving spouse of the deceased Isabel Domingo, acting for himself and as guardian *ad litem* of six minors heirs, instituted an action against Cleotilde Galauran in the Court of First Instance of Rizal **for the annulment of a deed of sale of a registered parcel of land.** It is alleged in the complaint that Arsenio de Vera and his wife Isabel Domingo, now deceased, have mortgaged their property to the defendant to secure a loan received from him, but said defendant illegally made them sign a deed which they then believed to be of mortgage and which turned out later to be of *pacto de retro* sale; and that the six minor children named in the complaint are the legitimate children and legitimate heirs of the deceased Isabel Domingo. **A demurrer was interposed by the defendant alleging that the plaintiffs have no cause of action, for they have not been declared legal heirs in a special proceeding. The demurrer was sustained, and, on failure of plaintiffs to amend, the action was dismissed. Wherefore, this appeal.**

Unless there is pending a special proceeding for the settlement of the estate of a deceased person, the legal heirs may commence an ordinary action arising out of a right belonging to the ancestor, without the necessity of a previous and separate judicial declaration of their status as such.⁸⁹

⁸⁸ 67 Phil. 213 (1939).

⁸⁹ *Id.* at 213-214. Emphasis and underscoring supplied.

It must be noted that the Court's pronouncement in *De Vera*, citing *Hernandez, et al. v. Padua, et al.*,⁹⁰ *Uy Coque, et al. v. Sioca, et al.*,⁹¹ *Mendoza Vda. de Bonnevie v. Cecilio Vda. de Pardo*,⁹² and *Government of the Philippine Islands v. Serafica*,⁹³ is a decision of the Court *En Banc* which cannot be overturned by a ruling of a Division of the Court. The Constitution provides that no doctrine or principle of law laid down by the Court in a decision rendered *En Banc* may be modified or reversed except by the Court sitting *En Banc*.⁹⁴

Subsequently, in 1954, the Court *En Banc* promulgated its Decision in *Cabuyao v. Caagbay, et al.*⁹⁵ (*Cabuyao*). In the said case, the lower court dismissed a case filed by an alleged lone compulsory heir of the decedent for quieting of title covering the property inherited by the plaintiff from the decedent. The lower court dismissed the aforesaid complaint because “no action can be maintained until a judicial declaration of heirship has been legally secured.”⁹⁶

In **reversing** the order of the lower court, the Court *En Banc* noted that “as early as 1904, this Court entertained, in the case of [*Mijares v. Nery*] (3 Phil., 195), the action of an acknowledged natural child to recover property belonging to his deceased father — who had not been survived by any legitimate descendant — **notwithstanding the absence of a previous declaration of heirship in favor of the plaintiff x x x**”⁹⁷ and held that “[t]he right to assert a cause of action as an alleged heir, although he has not been judicially declared to be so, has been acknowledged in a number of subsequent cases.”⁹⁸

In 1955, the Court *En Banc* reiterated the foregoing holding in *Atun, et al. v. Nuñez, et al.*,⁹⁹ (*Atun*) holding that “[t]he rule is settled that the legal heirs of a deceased may file an action arising out of a right belonging to their ancestor, without a separate judicial declaration of their status as such[.]”¹⁰⁰

Similarly, in *Marabilles, et al. v. Sps. Quito*¹⁰¹ (*Marabilles*) which was also decided by the Court *En Banc* a month before *Litam* and involves a factual milieu comparable to the instant case, the petitioners therein filed an ordinary civil action for the recovery of a parcel of land on the basis of their being heirs. The lower court dismissed the action on the ground that the petitioners therein did not have legal capacity to sue because “judicial

⁹⁰ 14 Phil. 194 (1909).

⁹¹ 45 Phil. 430 (1923).

⁹² 59 Phil. 486 (1934).

⁹³ 63 Phil. 93 (1934).

⁹⁴ Article VIII, Section 4(3), 1987 CONSTITUTION.

⁹⁵ 95 Phil. 614 (1954).

⁹⁶ *Id.* at 616.

⁹⁷ *Id.* at 620. Emphasis supplied.

⁹⁸ *Id.* Emphasis supplied.

⁹⁹ 97 Phil. 762 (1955).

¹⁰⁰ *Id.* at 765.

¹⁰¹ 100 Phil. 64 (1956).

declaration of heirship is necessary in order that an heir may have legal capacity to bring the action to recover a property belonging to the deceased.”¹⁰²

The Court *En Banc* reversed the lower court’s dismissal of the action and unequivocally held that **as an heir may assert his right to the property of a deceased, no previous judicial declaration of heirship is necessary:**

Another ground on which the dismissal is predicted is that the complaint states no cause of action because while it appears in the complaint that the land was transferred to one Guadalupe Saralde, deceased wife of Defendant Alejandro Quito, **there is no allegation that said Alejandro Quito and his daughter Aida, a co-Defendant, had been [judicially] declared heirs or administrators of the estate of the deceased. Because of this legal deficiency, the court has concluded that Plaintiffs have no cause of action against Defendants because there is no legal bond by which the latter may be linked with the property.**

This conclusion is also erroneous. The rule is that, to determine the sufficiency of a cause of action on a motion to dismiss, only the facts alleged in the complaint should be considered, and considering the facts herein alleged, there is enough ground to proceed with the case. **Thus, it appears in the complaint that Guadalupe Saralde is the wife of Alejandro Quito, the Defendant, and as said Guadalupe has already died, under the law, the husband and his daughter Aida are the legal heirs. We have already said that in order that an heir may assert his right to the property of a deceased, no previous judicial declaration of heirship is necessary. It was therefore a mistake to dismiss the complaint on this ground.**¹⁰³

To reiterate, once again, the Court’s holdings in *Cabuyao* and *Marabilles* that an heir may assert his/her right to the property of the decedent without the necessity of a previous judicial declaration of heirship are decisions of the Court *En Banc* that cannot be reversed by a ruling of a Division of the Court. *Ypon, Yaptinchay, Portugal, and Reyes*, **which are all decisions of the Court’s Divisions**, in so far as they hold that a prior special proceeding for declaration of heirship is a prerequisite for the assertion by an heir of his/her ownership rights acquired by virtue of succession in an ordinary civil action, did not, as they could not, overturn the Court *En Banc*’s holdings in *De Vera, Cabuyao, Atun, and Marabilles* that heirs should be able to assert their successional rights without the necessity of a previous judicial declaration of heirship.

Similarly, in *Morales, et al. v. Yañez*,¹⁰⁴ which involved an ordinary civil action for the recovery of certain parcels of land, the Court held that the enforcement or protection of rights of heirs from encroachments made or attempted may be undertaken even before their judicial declaration as heirs is made in a special proceeding:

¹⁰² Id. at 65.

¹⁰³ Id. at 66-67. Emphasis and underscoring supplied.

¹⁰⁴ 98 Phil. 677 (1956).

Appellants contend, however, that for Defendant to acquire a vested right to Eugenio's property, he must first commence proceedings to settle Eugenio's estate — which he had not done. There is no merit to the contention. **This Court has repeatedly held that the right of heirs to the property of the deceased is vested from the moment of death. Of course the formal declaration or recognition or enforcement of such right needs judicial confirmation in proper proceedings. But we have often enforced or protected such rights from encroachments made or attempted before the judicial declaration. Which can only mean that the heir acquired hereditary rights even before judicial declaration in testate or intestate proceedings.**¹⁰⁵

In *Gayon v. Gayon*,¹⁰⁶ in denying the argument posed by the defendants therein that they cannot be made defendants in a suit filed against the decedent because "heirs cannot represent the dead defendant, unless there is a declaration of heirship,"¹⁰⁷ the Court held that the heirs may be sued even without a prior declaration of heirship made in a special proceeding:

Inasmuch, however, as succession takes place, by operation of law, "from the moment of the death of the decedent" and "(t)he inheritance includes all the property, rights and obligations of a person which are not extinguished by his death," it follows that if his heirs were included as defendants in this case, they would be sued, not as "representatives" of the decedent, but as *owners* of an aliquot interest in the property in question, even if the precise extent of their interest may still be undetermined and they have derived it from the decedent. Hence, they may be sued without a previous declaration of heirship x x x.¹⁰⁸

In *Bonilla, et al. v. Barcena, et al.*,¹⁰⁹ an ordinary civil action was instituted by a surviving spouse to quiet title over certain parcels of land. When the surviving spouse passed away during the pendency of the action, the lower court immediately dismissed the case on the ground that a dead person cannot be a real party in interest and has no legal personality to sue. The Court reversed the lower court's ruling, holding that **the right of the heirs to the property of the deceased vests in them even before judicial declaration of heirship in a special proceeding.** Thus, the lower court should have allowed the substitution by the heirs of the deceased even without any prior judicial determination of their status as heirs:

The respondent Court, however, instead of allowing the substitution, dismissed the complaint on the ground that a dead person has no legal personality to sue. This is a grave error. Article 777 of the Civil Code provides "that the rights to the succession are transmitted from the moment of the death of the decedent." From the moment of the death of the decedent, the heirs become the absolute owners of his property, subject to the rights and obligations of the decedent, and they cannot be deprived

¹⁰⁵ Id. at 678-679. Emphasis and underscoring supplied.

¹⁰⁶ G.R. No. L-28394, November 26, 1970, 36 SCRA 104.

¹⁰⁷ Id. at 107.

¹⁰⁸ Id. at 107-108.

¹⁰⁹ Supra note 79.

of their rights thereto except by the methods provided for by law. The moment of death is the determining factor when the heirs acquire a definite right to the inheritance whether such right be pure or contingent. **The right of the heirs to the property of the deceased vests in them even before judicial declaration of their being heirs in the testate or intestate proceedings.** When Fortunata Barcena, therefore, died her claim or right to the parcels of land in litigation in Civil Case No. 856, was not extinguished by her death but was transmitted to her heirs upon her death. **Her heirs have thus acquired interest in the properties in litigation and became parties in interest in the case. There is, therefore, no reason for the respondent Court not to allow their substitution as parties in interest for the deceased plaintiff.**¹¹⁰

Subsequently, the Court dealt with the same issue in *Baranda, et al. v. Baranda, et al.*,¹¹¹ wherein the therein petitioners, claiming to be the legitimate heirs of the decedent, filed a complaint against the therein respondents for the annulment of the sale and the reconveyance of the subject lots. While the lower court initially ruled in favor of the therein petitioners, the appellate court reversed the lower court's ruling because, among other reasons, the therein petitioners are not real parties in interest, having failed to establish in a prior special proceeding their status as heirs.

The Court **reversed** the appellate court's ruling and held that the legal heirs of a decedent are the parties in interest to commence ordinary actions arising out of the rights belonging to the deceased, **without separate judicial declaration as to their being heirs of said decedent**, provided only that there is no pending special proceeding for the settlement of the decedent's estate:

There is also the issue of the capacity to sue of the petitioners who, it is claimed by the private respondents, are not the proper parties to question the validity of the deed of sale. The reason given is that they are not the legitimate and compulsory heirs of Paulina Baranda nor were they parties to the challenged transactions.

It is not disputed that Paulina Baranda died intestate without leaving any direct descendants or ascendants, or compulsory heirs. She was survived, however, by two brothers, namely, Pedro and Teodoro, and several nephews and nieces, including the private respondents, as well as petitioners Flocerfina Baranda, Salvacion Baranda, and Alipio Baranda Villarte, children of two deceased brothers and a sister. The above-named persons, together with Pedro Baranda, who was not joined as a petitioner because he is the father of the private respondents, and the children of another deceased sister, are the legitimate intestate heirs of Paulina Baranda.

The applicable provisions of the Civil Code are the following:

[]Art. 1003. If there are no descendants, ascendants, illegitimate children, or a surviving spouse, the collateral

¹¹⁰ Id. 495. Emphasis and underscoring supplied.

¹¹¹ G.R. No. 73275, May 20, 1987, 150 SCRA 59.

relatives shall succeed to the entire estate of the deceased in accordance with the following articles.

[]Art. 1005. Should brothers and sisters survive together with nephews and nieces, who are the children of the descendant's brothers and sisters of the full blood, the former shall inherit per capita, and the latter per stirpes

[]Art. 972. The right of representation takes place in the direct descending line, but never in the ascending.

[]In the collateral line it takes place only in favor of the children or brothers or sisters, whether they be of the full or half blood.[]

As heirs, the petitioners have legal standing to challenge the deeds of sale purportedly signed by Paulina Baranda for otherwise property claimed to belong to her estate will be excluded therefrom to their prejudice. Their claims are not merely contingent or expectant, as argued by the private respondents, but are deemed to have vested in them upon Paulina Baranda's death in 1982, as, under Article 777 of the Civil Code, "the rights to the succession are transmitted from the moment of the death of the decedent." While they are not compulsory heirs, they are nonetheless legitimate heirs and so, since they "stand to be benefited or injured by the judgment or suit," are entitled to protect their share of successional rights.

This Court has repeatedly held that "the legal heirs of a decedent are the parties in interest to commence ordinary actions arising out of the rights belonging to the deceased, without separate judicial declaration as to their being heirs of said decedent, provided that there is no pending special proceeding for the settlement of the decedent's estate."¹¹²

In *Marquez v. Court of Appeals*,¹¹³ the therein petitioners filed a complaint for reconveyance and partition with damages, alleging that both the Affidavit of Adjudication and Deed of Donation *Inter Vivos* executed by the therein private respondents were invalid as the other heirs of the decedent were excluded in the execution of the said instruments. While the issue on real party in interest was not made an issue in the said case, the ruling of the lower court was upheld by the Court, declaring that both the Affidavit of Adjudication and the Donation *Inter Vivos* did not produce any legal effect and did not confer any right whatsoever despite the lack of any determination in a special proceeding as to the heirship of the therein petitioners.

In the 2013 case of *Pacaña-Contreras and Pacaña v. Rovila Water Supply, Inc., et al.*,¹¹⁴ which was decided around five months after *Ypon*, the therein petitioner heirs filed an action for accounting and damages against the

¹¹² Id. Emphasis and underscoring supplied.

¹¹³ Supra note 55.

¹¹⁴ G.R. No. 168979, December 2, 2013, 711 SCRA 219.

therein respondents. The latter filed a motion to dismiss, alleging that the therein petitioners are not real parties in interest to institute and prosecute the case, just as what is alleged in the instant case. While the lower court denied the motion to dismiss, the appellate court, citing *Litam* and *Yapinchay*, reversed the lower court and dismissed the case because “the (therein) petitioners should first be declared as heirs before they can be considered as the real parties in interest. This cannot be done in the present ordinary civil case but in a special proceeding for that purpose.”¹¹⁵ Arguing that their declaration as heirs in a special proceeding is not necessary pursuant to the Court’s ruling in *Marabilles*, the therein petitioners’ petition was granted by the Court which reversed and set aside the appellate court’s ruling.

In 2014, the Court, through Senior Associate Justice Marvic M. V. F. Leonen (Justice Leonen), promulgated its Decision in *Heirs of Gregorio Lopez v. Development Bank of the Philippines*,¹¹⁶ wherein the therein petitioners discovered that one of the heirs executed an affidavit of self-adjudication declaring himself to be the decedent’s only surviving heir. The therein petitioners instituted an ordinary civil action for the nullification of the affidavit of self-adjudication. In upholding the nullification of the affidavit of self-adjudication, the Court held that the rights to a deceased person’s property are immediately passed to his or her heirs upon death. The heirs’ rights become vested without need for them to be declared “heirs”:

Title or rights to a deceased person’s property are immediately passed to his or her heirs upon death. The heirs’ rights become vested without need for them to be declared “heirs”. Before the property is partitioned, the heirs are co-owners of the property.

In this case, the rights to Gregoria Lopez’s property were automatically passed to her sons — Teodoro, Francisco, and Carlos — when she died in 1922. Since only Teodoro was survived by children, the rights to the property ultimately passed to them when Gregoria Lopez’s sons died. The children entitled to the property were Gregorio, Simplicio, Severino, and Enrique.

Gregorio, Simplicio, Severino, and Enrique became co-owners of the property, with each of them entitled to an undivided portion of only a quarter of the property. Upon their deaths, their children became the co-owners of the property, who were entitled to their respective shares, such that the heirs of Gregorio became entitled to Gregorio’s one-fourth share, and Simplicio’s and Severino’s respective heirs became entitled to their corresponding one-fourth shares in the property. The heirs cannot alienate the shares that do not belong to them.¹¹⁷

In 2017, the Court promulgated *Capablanca v. Heirs of Pedro Bas, et al.*¹¹⁸ In the said case, the decedent Norberto Bas (Norberto) purchased a

¹¹⁵ Id. at 227.

¹¹⁶ Supra note 79.

¹¹⁷ Id. at 163-164.

¹¹⁸ G.R. No. 224144, June 28, 2017, 828 SCRA 482. Emphasis and underscoring supplied.

piece of land and took possession. Similar to the instant case, Norberto died without a will and was succeeded by a collateral relative, *i.e.*, his niece and only heir, Lolita Bas Capablanca (Lolita). Subsequently, Lolita learned that a TCT had been issued in the names of the therein respondents on the basis of a reconstituted Deed of Conveyance. Hence, just as in the instant case, a collateral relative, *i.e.*, Lolita, filed a complaint before the RTC of Cebu City for the cancellation of the titles covering the property once owned by the decedent. While the RTC ruled in favor of Lolita, the appellate court reversed the RTC's ruling. The appellate court, citing the case of *Yapinchay*, held that there is a need for a separate proceeding for a declaration of heirship in order to resolve petitioner's action for cancellation of titles of the property.

In reversing the ruling of the appellate court, the Court, again through Justice Leonen, emphatically held that **no judicial declaration of heirship is necessary in order that an heir may assert his or her right to the property of the deceased:**

The dispute in this case is not about the heirship of petitioner to Norberto but the validity of the sale of the property in 1939 from Pedro to Faustina, from which followed a series of transfer transactions that culminated in the sale of the property to Norberto. For with Pedro's sale of the property in 1939, it follows that there would be no more ownership or right to property that would have been transmitted to his heirs.

x x x What petitioner is pursuing is Norberto's right of ownership over the property which was passed to her upon the latter's death.

This Court has stated that **no judicial declaration of heirship is necessary in order that an heir may assert his or her right to the property of the deceased.** In *Marabilles v. Quito*:

*The right to assert a cause of action as an heir, although he has not been judicially declared to be so, if duly proven, is well settled in this jurisdiction. This is upon the theory that the property of a deceased person, both real and personal, becomes the property of the heir by the mere fact of death of his predecessor in interest, and as such he can deal with it in precisely the same way in which the deceased could have dealt, subject only to the limitations which by law or by contract may be imposed upon the deceased himself. Thus, it has been held that "[t]here is no legal precept or established rule which imposes the necessity of a previous legal declaration regarding their status as heirs to an intestate on those who, being of age and with legal capacity, consider themselves the legal heirs of a person, in order that they may maintain an action arising out of a right which belonged to their ancestor" [x x x] A recent case wherein this principle was maintained is *Cabuyao vs. [C]aagbay*.¹¹⁹ (Emphasis supplied)*

¹¹⁹ Id. at 492-493. Underscoring supplied; emphasis in the original.

Similar to the above-stated case, the private respondents in the instant case did not file their Complaint to establish their filiation with Rosie or apply for the determination of their right as intestate heirs, considering that the law already vested in them, as siblings of the decedent, their status as intestate heirs of Rosie. Rather, the private respondents sought to enforce their already established right over the property which had been allegedly violated by the fraudulent acts of petitioner Treyes.

In the instant Petition, petitioner Treyes argues that the cases of *Marquez v. Court of Appeals, Baranda, et al. v. Baranda, et al.*, and *Heirs of Gregorio Lopez v. Development Bank of the Philippines* find no application in the instant case because the parties in the aforesaid cases were able to present evidence as to their status as heirs and that the determination of their status as heirs was not contested.

This argument is not well taken.

In the instant case, the Court notes that in substantiating the fact that the private respondents are siblings of Rosie, and thus intestate heirs of the latter by operation of law, **they attached their respective birth certificates proving that they are indeed siblings of Rosie.**¹²⁰

Rule 132, Section 23 of the Rules states that documents consisting of entries in public records made in the performance of a duty by a public officer are *prima facie* evidence of the facts therein stated.

The Court has held that a birth certificate, being a public document, offers *prima facie* evidence of filiation and a high degree of proof is needed to overthrow the presumption of truth contained in such public document. This is pursuant to the rule that entries in official records made in the performance of his duty by a public officer are *prima facie* evidence of the facts therein stated.¹²¹

To be sure, upon meticulous perusal of the petitioner Treyes' pleadings, it is clear that the status of the private respondents as siblings of Rosie was not even seriously refuted by him. He also does not make any allegation that the birth certificates of the private respondents are fake, spurious, or manufactured. All he says is that there must first be a declaration of the private respondents' heirship in a special proceeding. Clearly, therefore, it cannot be said in the instant case that the private respondents were not able to present evidence as to their status as heirs and that the

¹²⁰ *Rollo*, pp. 89-90.

¹²¹ *Sayson, et al. v. Court of Appeals, et al.*, G.R. Nos. 89224-25, January 23, 1992, 205 SCRA 321, 328.

determination of their status as heirs was seriously contested by petitioner Treyes.

In relation to the foregoing, considering that the private respondents' action is founded on their birth certificates, the genuineness and due execution of the birth certificates shall be deemed admitted unless the adverse party, under oath, specifically denies them, and sets forth what he claims to be the facts.¹²² In the instant case, the records show that there was no specific denial under oath on the part of petitioner Treyes contesting the birth certificates. Therefore, the genuineness and due execution of the subject birth certificates are deemed admitted.

Hence, despite the promulgation of *Ypon, Yaptinchay, Portugal, Reyes*, and other cases upholding the rule that a prior determination of heirship in a special proceeding is a prerequisite to an ordinary civil action involving heirs, such rule has not been consistently upheld and is far from being considered a doctrine. To the contrary, a plurality of decisions promulgated by both the Court *En Banc*¹²³ and its Divisions¹²⁴ firmly hold that the legal heirs of a decedent are the parties in interest to commence ordinary civil actions arising out of their rights of succession, without the need for a separate prior judicial declaration of their heirship, provided only that there is no pending special proceeding for the settlement of the decedent's estate.

As similarly viewed by Justice Bernabe, the "more recent strand of jurisprudence correctly recognize the legal effects of Article 777 of the Civil Code, and thus, adequately provide for remedies for the heirs to protect their successional rights over the estate of the decedent *even prior to the institution of a special proceeding for its settlement.*"¹²⁵

By this Decision now, the Court so holds, and firmly clarifies, that the latter formulation is the doctrine which is more in line with substantive law, *i.e.*, Article 777 of the Civil Code is clear and unmistakable in stating that the rights of the succession are transmitted from the moment of the death of the decedent even prior to any judicial determination of heirship. As a substantive law, its breadth and coverage cannot be restricted or diminished by a simple rule in the Rules.

¹²² Rule 8, Sec. 8, RULES OF COURT.

¹²³ See *De Vera, et al. v. Galauran*, supra note 88; *Cabuyao v. Caagbay, et al.*, supra note 95; *Atun et al. v. Nuñez*, supra note 99; and *Marabilles, et al. v. Sps. Quito*, supra note 101.

¹²⁴ See *Morales, et al. v. Yañez*, supra note 104; *Gayon v. Gayon*, supra note 106; *Bonilla, et al. v. Barcena, et al.*, supra note 79; *Baranda, et al. v. Baranda, et al.*, supra note 111; *Marquez v. Court of Appeals*, supra note 55; *Pacaña-Contreras and Pacaña v. Rovila Water Supply, Inc., et al.*, supra note 114.; *Heirs of Gregorio Lopez v. Development Bank of the Philippines*, supra note 79; and *Capablanca v. Heirs of Pedro Bas, et al.*, supra note at 118.

¹²⁵ Separate Opinion of Justice Bernabe, p. 7. Emphasis and italics in the original.

To be sure, the Court stresses anew that rules of procedure **must always yield** to substantive law.¹²⁶ The Rules are not meant to subvert or override substantive law. On the contrary, procedural rules are meant to operationalize and effectuate substantive law.

Hence, even assuming *arguendo* that the Rules strictly provide that a separate judicial determination of heirship in a special proceeding is a precondition in an ordinary civil action wherein heirship is already established by compulsory succession or intestacy and is only sought to be enforced, which, as already discussed at length, is not the case, the Rules must still yield to the specific provisions of the Civil Code that certain relatives of the decedent attain their status as either compulsory or intestate heirs and that their successional rights are transmitted and enforceable at the very moment of death without the need of such separate judicial determination.

Indeed, the Rules shall always be construed in order to promote their objective of securing a just, speedy, and inexpensive disposition of every action and proceeding.¹²⁷

Hence, it would be highly inimical to the very purpose of the Rules to dispose of matters without the unnecessary and circuitous procedures created by a misreading of the requirements of said Rules, *i.e.*, they still require a separate and lengthy special proceeding for the solitary purpose of establishing the private respondents' status as legal heirs of Rosie, when their heirship has already been deemed established by virtue of civil law, with petitioner Treyes not seriously and substantially refuting that the private respondents are siblings of the decedent. If the Court will subscribe to petitioner Treyes' arguments and grant the instant Petition, it would sanction superfluity and redundancy in procedure. To accept petitioner Treyes' stance will necessarily mean that, moving forward, heirs will not even be able to extra-judicially and summarily settle the estate of a decedent without a prior judicial declaration of heirship in a special proceeding. Ironically, even petitioner Treyes' Affidavits of Self-Adjudication would be legally baseless as he himself has not previously established in a prior special proceeding his status as the husband and heir of Rosie.

Recapitulation

Given the clear dictates of the Civil Code that the rights of the heirs to the inheritance vest immediately at the precise moment of the decedent's death even without judicial declaration of heirship, and the various Court *En*

¹²⁶ *Padunan v. Department of Agrarian Reform Adjudication Board*, G.R. No. 132163, January 28, 2003, 396 SCRA 196, 204.

¹²⁷ Rule 1, Sec. 6, RULES OF COURT.

Banc and Division decisions holding that no prior judicial declaration of heirship is necessary before an heir can file an ordinary civil action to enforce ownership rights acquired by virtue of succession through the nullification of deeds divesting property or properties forming part of the estate and reconveyance thereof to the estate or for the common benefit of the heirs of the decedent, the Court hereby resolves to clarify the prevailing doctrine.

Accordingly, the rule laid down in *Ypon, Yaptinchay, Portugal, Reyes, Heirs of Gabatan v. Court of Appeals*, and other similar cases, which requires a prior determination of heirship in a separate special proceeding as a prerequisite before one can file an ordinary civil action to enforce ownership rights acquired by virtue of succession, is **abandoned**.

Henceforth, the rule is: **unless there is a pending special proceeding for the settlement of the decedent's estate or for the determination of heirship, the compulsory or intestate heirs may commence an ordinary civil action to declare the nullity of a deed or instrument, and for recovery of property, or any other action in the enforcement of their ownership rights acquired by virtue of succession, without the necessity of a prior and separate judicial declaration of their status as such.** The ruling of the trial court shall only be in relation to the cause of action of the ordinary civil action, *i.e.*, the nullification of a deed or instrument, and recovery or reconveyance of property, which ruling is binding only between and among the parties.

Therefore, the Court is in total agreement with the CA that the RTC did not commit grave abuse of discretion amounting to lack or excess of jurisdiction in denying petitioner Treyes' second Motion to Dismiss.

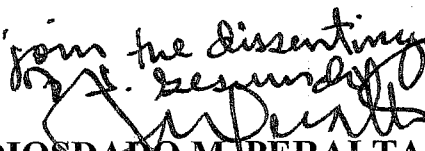
WHEREFORE, premises considered, the instant Petition for Review on *Certiorari* under Rule 45 is hereby **DENIED**. The Decision dated August 18, 2016 and Resolution dated June 1, 2017 promulgated by the Court of Appeals, Cebu City, Nineteenth Division in CA-G.R. SP Case No. 08813 are hereby **AFFIRMED**.

SO ORDERED.




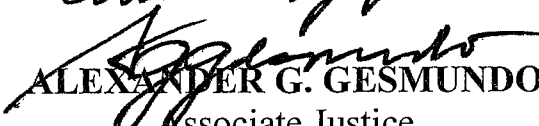
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

WE CONCUR:

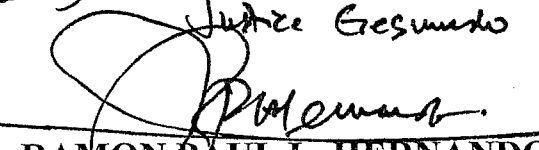
I join the dissenting opinion
of J. Gesmundo

DIOSDADO M. PERALTA
 Chief Justice

Please see separate Concurring Opinion
of Perlas-Bernabe
ESTELA M. PERLAS-BERNABE
 Associate Justice

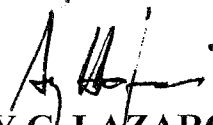
With respect, sa dissenting opinion

MARVIC M.V.F. LEONEN
 Associate Justice

Please see
dissenting opinion

ALEXANDER G. GESMUNDO
 Associate Justice

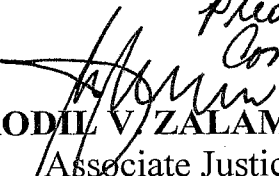
J. C. Reyes, Jr.
JOSE C. REYES, JR.
 Associate Justice

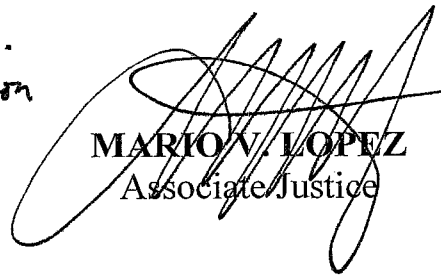
I join the Dissent of
Justice Gesmundo

RAMON PAUL L. HERNANDO
 Associate Justice


ROSMARI B. CARANDANG
 Associate Justice



AMY C. LAZARO-JAVIER
 Associate Justice

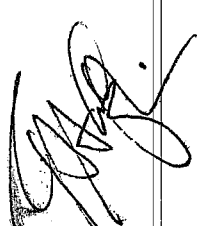

HENRI JEAN PAUL B. INTING
 Associate Justice

Please see
Concurring Opinion

RODIL V. ZALAMEDA
 Associate Justice


MARIO V. LOPEZ
 Associate Justice

(No Part)
EDGARDO L. DELOS SANTOS
 Associate Justice



SAMUEL H. GAERLAN
 Associate Justice



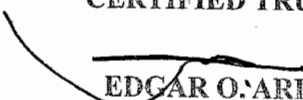
(On leave)
PRISCILLA BALTAZAR-PADILLA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.


DIOSDADO M. PERALTA
Chief Justice

CERTIFIED TRUE COPY


EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court

