

Distinguishing Right of Representation from Right of Substitution in *Aquino v. Aquino* (2021)

Executive Summary

The Supreme Court's landmark decision in *Aquino v. Aquino*, G.R. No. 208912, dated December 7, 2021, addressed the complex issue of inheritance rights for a nonmarital child seeking to inherit from her legitimate grandfather's intestate estate. The central legal question revolved around the applicability of the right of representation in light of Article 992 of the Civil Code, often referred to as the "Iron Curtain Rule." In this case, the right of representation was correctly applied because the succession was intestate, meaning the deceased left no will, and the Court reinterpreted Article 992 to allow nonmarital children to inherit from their legitimate direct ascendants through a predeceased parent. Conversely, the right of substitution was not applicable as it is a testamentary concept that fundamentally requires the existence of a valid will, which was absent in this particular case.

I. Introduction to Philippine Succession Law and the *Aquino v. Aquino* Case

Philippine law recognizes two primary modes of succession: testamentary and intestate. Testamentary succession occurs when a person dies with a valid will, allowing them to dictate the distribution of their estate within legal bounds. In contrast, intestate succession applies when a person dies without a will, or with an invalid or incomplete will, in which case the law prescribes the order of heirs and the division of the estate.¹ Understanding these foundational concepts is crucial for discerning the mechanisms by which property is transferred upon death.

The *Aquino v. Aquino* (G.R. No. 208912) decision holds significant precedential value, particularly for its profound impact on the long-standing "Iron Curtain Rule" enshrined in Article 992 of the Civil Code, which historically barred illegitimate children from inheriting from legitimate relatives. This ruling marks a pivotal moment in the evolution of inheritance rights for nonmarital children in the Philippines. It is important to clarify that while "*Aquino v. Aquino* 2021" might refer to two distinct Supreme Court cases decided in the same year, this report specifically addresses G.R. No. 208912, which pertains to inheritance rights. The other case, G.R. No. 259094, concerns plea bargaining in drug cases and is not relevant to the legal questions surrounding

inheritance rights and the distinctions between representation and substitution.² This distinction is vital for establishing the precise legal context and ensuring an accurate analysis.

II. Understanding the Right of Representation

The "right of representation," often referred to simply as "representation," is a legal concept defined in Article 970 of the Civil Code. It is a right created by a legal fiction, by virtue of which a representative is elevated to the place and degree of the person represented, thereby acquiring the rights that the latter would have possessed if living or capable of inheriting.³ The characterization of representation as a "fiction of law" underscores the legal system's deliberate role in ensuring the continuity of family lineage and promoting an equitable distribution of an estate in default inheritance scenarios. This legal construct proactively prevents an entire family branch from being excluded from inheritance solely due to the pre-decease or incapacity of an intermediate heir, thereby upholding the presumed intent of the decedent or the policy of the law to pass property down through direct descendants.

Representation applies under specific conditions. It is triggered when the person who would have inherited directly either pre-deceases the decedent (as was the situation in *Aquino v. Aquino*), is incapacitated or deemed unworthy to inherit (as per Civil Code Articles 1027-1032), or has renounced (repudiated) the inheritance (Article 972).⁵

The scope of representation is clearly delineated by law. In the direct descending line, representation operates *ad infinitum* downward, meaning a child can represent a parent, a grandchild can represent a grandparent, and so on, through generations.⁴ However, in the collateral line, the right of representation is strictly limited. Article 972 and Article 975 of the Civil Code explicitly state that it takes place only in favor of the children of brothers or sisters (i.e., nephews and nieces) of the decedent.⁴ This limitation effectively excludes children of aunts or uncles from inheriting by virtue of representing their parent in the decedent's estate.⁴ This strict statutory limitation reflects a deliberate legislative policy aimed at balancing the principle of family continuity with the practical need for a manageable and predictable framework for intestate distribution. It prevents undue fragmentation of estates among more distant relatives, prioritizing a clear and foreseeable order of succession in the absence of a will.

When representation applies, the method of inheritance is *per stirpes*, meaning "by family branch." The representative receives the portion that their parent would have received had they inherited, ensuring that the collective share designated for a

particular family line is maintained and divided among its members.⁵

III. Understanding the Right of Substitution

In contrast to the right of representation, the right of substitution is a concept deeply rooted in testamentary succession. Substitution occurs when a testator, through a valid will, designates another heir to take the place of the one originally instituted in the event the latter cannot or does not want to inherit.⁶ Crucially, substitution originates from an explicit provision stated in a will; it is a direct expression of the testator's intent to provide for contingencies within their estate plan.⁵ This fundamental difference in source—substitution arising from a will versus representation arising by operation of law—underscores the distinct philosophies governing testamentary and intestate succession. Substitution embodies the testator's autonomy in property disposition, allowing them to control the flow of their assets even if their primary choice of heir fails. Representation, conversely, reflects the law's default mechanism for family continuity when no such specific wishes are expressed.

The Civil Code (Articles 857-860) outlines various types of substitution:

- **Simple or Common Substitution:** This is the most straightforward type, where one heir is designated to replace another who cannot inherit due to predecease, incapacity, repudiation, or disqualification.⁶
- **Fideicommissary Substitution:** A more complex form where the testator institutes an heir (the fiduciary) who is charged with preserving the property and delivering it later to a second heir (the fideicommissary).⁶
- **Reciprocal Substitution:** In this arrangement, two or more heirs are reciprocally instituted to substitute each other in case any of them cannot or does not want to inherit.⁶
- **Substitution by Representation:** While sharing terminology with the "right of representation" discussed earlier, this is a *type* of testamentary substitution. Here, the testator specifically directs inheritance to descendants *per stirpes* within their will, making it a willed disposition rather than an automatic operation of law.⁶ It is crucial to explicitly differentiate this concept from the general "right of representation" that is the focus of the *Aquino* case, which occurs in intestate succession. Failure to clarify this semantic overlap could lead to a misunderstanding of the fundamental distinction between representation and substitution. The *Aquino* case deals with the broader "right of representation" that arises automatically by law in intestate succession, whereas "substitution by representation" is a specific instruction within a will.

Substitution can be triggered by any cause of non-succession, unless the will specifies otherwise.⁵ The method of inheritance in substitution—whether *per capita* (by head) or *per stirpes* (by branch)—depends entirely on the specific instructions provided by the testator in the will.⁵

IV. Key Distinctions: Representation vs. Substitution

The fundamental differences between the right of representation and the right of substitution lie in their source, trigger, the persons involved, and the method of computing shares. These distinctions are critical for understanding their application in succession law.

Representation is a legal fiction that arises by operation of law, designed to ensure the continuity of inheritance within family lines, particularly for descendants, when a direct heir is unable to inherit. Its application is automatic under specific circumstances, such as predecease, incapacity, unworthiness, or renunciation of the heir.⁵ The scope of representation is limited by the Civil Code, extending *ad infinitum* in the direct descending line but strictly confined to children of brothers or sisters in the collateral line.⁴ The division of the estate under representation is always

per stirpes, ensuring that a family branch receives its collective share.⁵

In stark contrast, substitution is a testamentary disposition, meaning it originates from an explicit provision in a valid will.⁵ It is an expression of the testator's personal intent and foresight, allowing them to dictate who inherits if a primary heir cannot. Substitution can be triggered by any cause of non-succession, unless otherwise specified in the will, offering broader flexibility than representation.⁵ The testator has the freedom to designate anyone as a substitute, and the method of share computation can be either *per capita* or *per stirpes*, depending on the specific instructions in the will.⁵ The contrasting methods of share computation directly reflect the distinct objectives of each legal mechanism: representation aims to preserve the integrity of family branches in default inheritance, while substitution grants the testator broader, individualized control over distribution.

The following table summarizes these key differences:

Table 1: Comparison of Right of Representation and Right of Substitution

Feature	Right of Representation	Right of Substitution
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Source	Operation of law (Legal fiction) ⁵	Provision in a will (Testamentary disposition) ⁵
Trigger	Pre-decease, incapacity, unworthiness, renunciation of heir ⁵	Any cause of non-succession (unless will specifies otherwise) ⁵
Persons Involved	Limited by Civil Code (Direct descendants <i>ad infinitum</i> ; Collateral: children of brothers/sisters only) ⁴	Anyone the testator designates ⁵
How Share is Computed	<i>Per stirpes</i> (by family branch) ⁵	<i>Per capita</i> or <i>per stirpes</i> (as per testator's will) ⁵

V. Case Analysis: *Aquino v. Aquino*, G.R. No. 208912 (December 7, 2021)

A. Factual Background and Procedural History

The case originated from the intestate death of Miguel T. Aquino in 1999, who left behind his second wife, sons from his first marriage (Abdulah and Rodolfo), and the heirs of a predeceased son (Wilfredo). Another son, Arturo, also predeceased Miguel.⁷ Amadea Angela K. Aquino (Angela) subsequently claimed to be the nonmarital child of Arturo C. Aquino, born after Arturo's death, and sought to be included in the distribution of Miguel's estate.⁷

The Regional Trial Court (RTC) initially granted Angela's motion, declaring her an acknowledged natural child entitled to a share of the estate. However, this decision was reversed by the Court of Appeals (CA). The CA ruled that Angela had failed to prove her filiation and, more significantly, held that nonmarital children were barred from inheriting *ab intestato* (by intestate succession) from marital relatives under Article 992 of the Civil Code.⁷ The Court of Appeals' initial reversal, based on a strict application of Article 992, highlights the deeply entrenched nature of the "Iron Curtain Rule" in Philippine jurisprudence prior to the Supreme Court's reinterpretation. This procedural history demonstrates the prevailing, traditional, and rigid interpretation of Article 992, which for decades had served as an absolute barrier between legitimate and illegitimate family lines in intestate succession. This context is crucial for understanding the significance of the Supreme Court's eventual ruling, which was not a minor clarification but a profound re-evaluation of established legal principles.

B. The Supreme Court's Ruling: Application of Right of Representation

The Supreme Court, upon review, critically examined the constitutionality of Article 992 and acknowledged the inherent tension between it and Article 982 of the Civil Code. Article 982 grants grandchildren and other descendants the right of representation without distinction of legitimacy.⁷ The Court's reinterpretation of Article 992 was a pivotal moment. It held that Article 982, which specifically deals with the right of representation, constitutes a special rule that should prevail over the general prohibition established by Article 992 when inheritance occurs through the right of representation.⁷ This reinterpretation allows nonmarital children to inherit from their direct ascendants (such as grandparents) through their predeceased parent, effectively piercing the "iron curtain" in such specific circumstances.⁷

The rationale behind this reinterpretation was rooted in evolving legal and societal standards. The Court explicitly abandoned the archaic presumption that nonmarital children are products of illicit relationships or are automatically placed in a hostile environment by the marital family. It stated that the judiciary is "not duty bound to uncritically parrot archaic prejudices and cruelties" and emphasized that the "best interest of the child" should prevail.⁹ This judicial act of progressive interpretation recognized that the traditional application of Article 992 was outdated and inconsistent with modern constitutional values of equality and child welfare. By elevating Article 982, the Court created a crucial exception to the "iron curtain," setting a powerful precedent that signals the judiciary's willingness to adapt statutory interpretation to evolving societal standards and human rights principles.

Despite this significant reinterpretation, the Court did not completely dismantle Article 992. It clarified that while nonmarital children may inherit by representation from direct ascendants, Article 992 retains its prohibitive effect when inheritance is sought "in one's own right".⁷ This nuanced judicial balancing act demonstrates judicial restraint and a precise application of the law, avoiding an overly broad invalidation of an existing statute. It implies that future cases will need to carefully distinguish between inheritance by representation and inheritance in one's own right when applying Article 992, adding a layer of complexity to legal analysis in succession matters.

Ultimately, the Supreme Court remanded the case to the Regional Trial Court for the taking of evidence, including DNA testing, to definitively establish Angela's filiation with Arturo.⁷ This highlights that while the legal barrier to inheritance by representation was removed, the factual proof of the relationship remains an indispensable prerequisite for claiming an inheritance.

C. Why Substitution Was Not Applicable

The non-applicability of the right of substitution in *Aquino v. Aquino* is straightforward and rests on a fundamental principle of succession law. Miguel T. Aquino died intestate, meaning he did not leave behind a valid will.⁸ The right of substitution, by its very definition and legal basis, is a testamentary disposition that arises only from a testator's explicit designation within a will.⁵

Since no will existed, there was no instrument through which Miguel Aquino could have designated a substitute heir. Therefore, the mechanism of substitution, by its very nature, could not be invoked in this case. The absence of a will means there was no basis for substitution to apply. This circumstance serves as a clear illustration of the fundamental prerequisite for substitution: the existence of a valid will. It reinforces the practical implications of intestate succession, where the law, not the decedent's explicit wishes, dictates the distribution of the estate. This distinction is critical for understanding why certain legal avenues are open or closed in a given inheritance case, as the type of succession (testate vs. intestate) determines the available legal mechanisms.

VI. Conclusion and Jurisprudential Impact

In *Aquino v. Aquino*, G.R. No. 208912, the Supreme Court correctly applied the right of representation and not the right of substitution. The core reasons for this decision are twofold: first, the case involved intestate succession, where Miguel T. Aquino died without a will, making the default rules of law applicable. Second, the Court's pivotal reinterpretation of Article 992 of the Civil Code allowed Article 982, which governs the right of representation, to prevail in circumstances where a nonmarital grandchild seeks to inherit from a legitimate grandparent through a predeceased parent. The right of substitution, conversely, was entirely inapplicable due to the absence of a will, as it is a testamentary concept requiring an explicit provision from the deceased.

The *Aquino v. Aquino* ruling represents a significant evolution in Philippine family and succession law. It fundamentally alters the interpretation of Article 992, moving away from the rigid "iron curtain rule" that previously barred illegitimate children from inheriting from legitimate relatives by representation.⁹ The decision clarifies that the presumption of animosity, which was the historical basis for Article 992, is now disputable, not conclusive.⁹ This ruling establishes that children, regardless of their parents' marital status, can inherit from their direct ascendants by right of representation, thereby aligning Philippine law more closely with the constitutional principles of equality and the "best interests of the child," as well as with international

conventions.⁹

This landmark decision signals a move towards a more inclusive and child-centric legal framework. However, the nuanced retention of Article 992's prohibitive effect for inheritance "in one's own right" implies that future legal challenges will likely focus on precisely delineating the boundaries of this reinterpretation. This deliberate choice not to completely abolish Article 992 means that its application will now be more complex, requiring careful distinction between inheritance by representation and direct inheritance. This ruling will undoubtedly influence future legislative debates and judicial interpretations concerning family relations and inheritance, requiring legal professionals to navigate this new, nuanced landscape and advise clients on the specific conditions under which nonmarital children can inherit from legitimate relatives. It opens avenues for further legal scholarship and potential litigation to clarify the precise scope and limitations of this reinterpretation.

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