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That the application of private respondent Iglesia ni Kristo, is for a private parcel of land acquired by prescription or in any other manner recognized by law, and not a parcel of land of the public domain, is emphasized by the fact that his application is based on both the Land Registration Act, otherwise known as Act 496, which relates to private lands only and never to lands of the public domain. The predecessors-in-interest of the Iglesia ni Kristo had possession of the same openly, continuously, exclusively and adversely against the whole world even before 1931. The parcel of land in question therefore, being a private land, is not governed by Section 11 of Article XIV of the 1973 Constitution.

EN BANC

[G.R. No. 57257. March 5, 1984]

ILUMINADA PONCE BERCILES, ILONA BERCILES ALVAREZ, ELLERY P. BERCILES, ENGLAND P. BERCILES and IONE P. BERCILES, *petitioners, vs.* GOVERNMENT SERVICE INSURANCE SYSTEM, PASCUAL VOLTAIRE BERCILES, MARIA LUISA BERCILES VILLAREAL, MERCY BERCILES PATACSIL and RHODA BERCILES, *respondents.*

[Adm. Mat. No. 1337-Ret. March 5, 1984]

RE: CLAIM OF THE HEIRS OF THE LATE PASCUAL G. BERCILES, Former District Judge of the Court of First Instance of Cebu, Cebu City, FOR THE UNPAID SALARY, MONEY VALUE OF TERMINAL LEAVE and REPRESENTATION AND TRANSPORTATION ALLOWANCES OF THE DECEASED JUDGE.

[Adm. Mat. No. 10468-CFI. March 5, 1984]

RE: TERMINAL LEAVE PAY, UNPAID SALARY AND ALLOWANCE OF THE LATE CFI JUDGE PASCUAL G. BERCILES: FLOR FUENTEBELLA AND HER FOUR

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CHILDREN, ALL SURNAMED BERCILES, *petitioners,* *vs.* ILUMINADA PONCE AND HER FOUR CHILDREN, ALL SURNAMED BERCILES, *respondents.*

SYLLABUS

1. **CIVIL LAW; PERSONS; PATERNITY AND FILIATION; PROOF OF FILIATION; BIRTH CERTIFICATE, MUST BE SIGNED BY THE FATHER.**— The evidence considered by the Committee on Claims Settlement as basis of its finding that Pascual Voltaire Berciles is an acknowledged natural child of the late Judge Pascual Berciles is the birth certificate of said Pascual Voltaire marked Exh. "6". We have examined carefully this birth certificate and We find that the same is not signed by either the father or the mother; We find no participation or intervention whatsoever therein by the alleged father, Judge Pascual Berciles. Under our jurisprudence, if the alleged father did not intervene in the birth certificate, the putting of his name by the mother or doctor or registrar is null and void. Such registration would not be evidence of paternity (Joaquin P. Roces, et al. *vs.* Local Civil Registrar of Manila, 102 Phil. 1050). The mere certificate by the registrar without the signature of the father is not proof of voluntary acknowledgment on his part (Dayrit *vs.* Piccio, 92 Phil. 729). A birth certificate does not constitute recognition in a public instrument (Pareja *vs.* Pareja, et al., 95 Phil. 167). A birth certificate to evidence acknowledgment, must, under Section 5 of Act 3753, bear the signature under oath of the acknowledging parent or parents. (Vidaurrazaga *vs.* Court of Appeals and Francisco Ruiz, 91 Phil. 492)

2. **ID.; ID.; ID.; ID.; BAPTISMAL CERTIFICATE, NOT PROOF OF PATERNITY.**— As to the baptismal certificate, Exh. "7-A", the rule is that although the baptismal record of a natural child describes her as a child of the decedent, yet, if in the preparation of the record the decedent had no intervention, the baptismal record cannot be held to be a voluntary recognition of parentage (Canales *vs.* Arrogante, et al., 91 Phil. 6). The reason for this rule that canonical records do not constitute the authentic document prescribed by Arts. 115 and 117 of the Civil Code to prove the legitimate filiation of a child is that such canonical record is simply proof of the only act to which the priest may certify by reason of his personal knowledge, an act done by himself or in his presence, like the

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administration of the sacrament upon a day stated; it is no proof of the declarations in the record with respect to the parentage of the child baptized, or of prior and distinct facts which require separate and concrete evidence (Adriano *vs.* De Jesus, 23 Phil. 350).

3. ID.; ID.; ID.; ID.; TYPEWRITTEN LETTER OF THE DECEDENT FATHER DISCLAIMING THE EXISTENCE OF HIS OTHER FAMILY, NOT AN AUTHENTIC WRITING.— We also agree with the finding of the Committee that "the letters written by Judge Berciles to her daughters with Flor Fuentebella especially the one sent to daughter Mercy Berciles wherein he vigorously affirmed that it's only her mother, Flor Fuentebella, and no other woman who was recognized as his wife and loved by her parents deserve scant consideration. Pascual Berciles could not be expected to admit the existence of his other family. This would be disastrous to his efforts at preventing one family from knowing the other." Not only do they deserve scant consideration but also, there is jurisprudence that a typewritten letter is not an authentic writing (Decision of the Supreme Court of Spain of February 27, 1923 and December 7, 1927 cited in 3 Castan, 6th ed., 25; see Caguioa, Comments and Cases on Civil Law, Vol. I, p. 379).

4. ID.; ID.; ID.; ILLEGITIMATE CHILD; RIGHT TO SUPPORT REQUIRES RECOGNITION.— Under the law, Article 287, New Civil Code, illegitimate children other than natural in accordance with Article 269 are entitled to support and such successional rights as are granted in the Code, but for this Article to be applicable, there must be admission or recognition of the paternity of the illegitimate child (Paterno, et al. *vs.* Paterno, 20 SCRA 585, citing Noble *vs.* Noble, G.R. No. L-17742, December 17, 1966; Paulino *vs.* Paulino, G.R. No. L-15091, December 28, 1961, 113 Phil. 697). Article 887, N.C.C., defining who are compulsory heirs, is clear and specific that "in all cases of illegitimate children, their filiation must be duly proved."

5. CIVIL LAW; SUCCESSION; INTESTATE SUCCESSION; SHARE OF THE SURVIVING SPOUSE IS EQUAL TO THE SHARE OF EACH OF THE CHILDREN.— According to Article 996 of the New Civil Code which provides that "If a widow or widower and legitimate children or descendants are left, the surviving spouse has in the succession the same share as that of each of the children," and Article 980 which provides that "The children of the deceased shall always inherit from him in their own right, dividing the inheritance in equal shares," the retirement

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benefits shall be distributed equally to the five (5) heirs: Iluminada Ponce Berciles, Ilona Berciles Alvarez, Ellery P. Berciles, England P. Berciles and Ione P. Berciles.

6. ID.; PERSONS AND FAMILY RELATIONS; PROPERTY RELATIONS BETWEEN HUSBAND AND WIFE; CONJUGAL PARTNERSHIP OF GAINS; RETIREMENT PREMIUMS PRESUMED CONJUGAL.— As to the retirement premiums totalling P9,700.00, the same is presumed conjugal property, there being no proof that the premiums were paid from the exclusive funds of the deceased Judge (Article 160, New Civil Code). Such being the case, one-half of the amount belongs to the wife as her property in the conjugal partnership and the other half shall go to the estate of the deceased Judge which shall in turn be distributed to his legal heirs.

7. REMEDIAL LAW; CIVIL ACTIONS; APPEAL FROM A DECISION OF THE GSIS; P.D. 1146 (REVISED GOVERNMENT SERVICE INSURANCE ACT OF 1977) APPLICABLE TO DISPUTES ARISING UNDER THE JUDICIARY RETIREMENT ACT; CASE AT BAR.— Section 25 of P.D. 1146 specifically laying down the procedure whereby the party aggrieved by the decision of the GSIS may appeal the same to the Court of Appeals, now the Intermediate Appellate Court, on questions of law and facts following the procedures for appeals from the Court of First Instance (now Regional Trial Court) to the I.A.C. and if the appeal is only on questions of law, the same shall be brought directly to the Supreme Court on Certiorari, which abbreviated procedure was designed to facilitate, and not to prolong, the payment of benefits, may be invoked by the petitioners. That P.D. 1146, Sec. 35 is applicable to disputes arising under the Judiciary Retirement Act and all other acts administered by the GSIS may also be construed from Sec. 23 of the Decree which provides that the "System shall prescribe such rules and regulations to facilitate payment of benefits, proceeds and claims under the Act and any other laws administered by the System."

APPEARANCES OF COUNSEL

Ramon M. Durano & Assoc. for petitioners in G.R. No. 57257.
Luzel D. Demasu-ay and *Nicolas Sonalan* for Pascual Voltaire.

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DECISION

GUERRERO, *J.*:

The disposition made by respondent GSIS of the retirement benefits under Republic Act 910, as amended, due the heirs of the late Judge of Court of First Instance Pascual G. Berciles whereby the GSIS considered said retirement benefits in the total amount of P311,460.00 as partly conjugal and partly exclusive in nature and thus divided the same in the following proportion:

77/134	for the surviving spouse, Iluminada Ponce Berciles;
10/134	each for the legitimate children, Ilona Berciles Alvarez, Ellery P. Berciles, England P. Berciles and Ione P. Berciles;
5/134	for the acknowledged natural child Pascual Voltaire Berciles;
4/134	each for the illegitimate children namely, Maria Luisa Berciles, Mercy Berciles and Rhoda Berciles

is erroneous in view of the rule We laid down in Re: Claims for Benefits of the Heirs of the Late Mario V. Chanliongco, et al., 79 SCRA 364; Vda. de Consuegra, et al., *vs.* GSIS, 37 SCRA 315 that retirement benefits shall accrue to his estate and will be distributed among his legal heirs in accordance with the law on intestate succession, as in the case of a life insurance if no beneficiary is named in the insurance policy, and that the money value of the unused vacation and sick leave, and unpaid salary form part of the conjugal estate of the married employee.

Moreover, We find grave abuse of discretion on the part of respondent GSIS, acting through its Board of Trustees, in resolving under its Resolution No. 431 to approve the recommendation of the Committee on Claims Settlement that private respondent Pascual Voltaire Berciles is an acknowledged natural child and that the other private respondents Maria Luisa Berciles Villareal, Mercy Berciles Patacsil and Rhoda Berciles are illegitimate children of the late Judge Pascual G. Berciles in the absence of substantial evidence through competent and admissible proof of acknowledgment by and filiation with said deceased parent as required under the law.

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Judge Pascual G. Berciles of the Court of First Instance of Cebu died in office on August 21, 1979 at the age of sixty-six years, death caused by "cardiac arrest due to cerebral vascular accident." Having served the government for more than thirty-four (34) years, twenty-six (26) years in the judiciary, the late Judge Berciles was eligible for retirement under Republic Act No. 910, as amended by Republic Act No. 5095 so that his heirs were entitled to survivors benefits amounting to P311,460.00 under Section 2 of said Act. Other benefits accruing to the heirs of the deceased consist of the unpaid salary, the money value of his terminal leave and representation and transportation allowances, computed at P60,817.52, all of which are to be paid by this Court as the deceased's last employer, and the return of retirement premiums paid by the retiree in the amount of P9,700.00 to be paid by the GSIS. Such benefits are now being claimed by two families, both of whom claim to be the deceased's lawful heirs.

Iluminada Ponce of Tagudin, Ilocos Sur, and her four children, Ilona, Ellery, England and Ione, filed with Us an application for survivors benefits under Republic Act 910, as amended by R.A. No. 5095 effective August 21, 1979 as the legal spouse and legitimate children of the late Judge Pascual G. Berciles, duly supported by the required documents.

The other set of claimants are Flor Fuentebella, and her four children, namely Pascual Voltaire, Maria Luisa, Mercy and Rhoda, all surnamed Berciles, the latter filing her family's claim by means of a letter dated November 10, 1979 and supporting documents were also submitted with their claim. The matter of these two (2) conflicting claims was first docketed before this Court as Administrative Matter No. 1337-Ret. and in a Resolution of the Court En Banc dated April 10, 1980, We resolved to APPROVE the application of Ms. Iluminada P. Berciles for survivor's benefits under the above-cited law, effective August 21, 1979, subject to (a) the proper determination of the rightful beneficiaries and their corresponding shares in accordance with law, it appearing that there are two claimant families thereto, and (b) the usual clearance requirements.

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In pursuance to the foregoing resolution, the Office of the Court Administrator recommended in a memorandum report dated November 11, 1980 that (a) the transmittal to the GSIS of the retirement papers of the late Judge Pascual Berciles be held in abeyance until the payment to the rightful heirs of the unpaid salary, money value of terminal leave and representation and transportation allowances of the deceased Judge, and (b) that an investigator be designated to determine the respective claims of the supposed heirs of the late Judge. The aforesaid recommendation was approved by the Chief Justice on November 27, 1980 and Atty. Reinato G. Quilala of the Office of the Court Administrator was designated on December 15, 1980 as Court Investigator to help determine the rightful beneficiaries of the subject benefits.

Thereupon, Atty. Quilala sent on December 22, 1980 to all the alleged heirs a notice of hearing set for January 26, 1981 and the following days thereafter for the reception of evidence in support of their respective claims. None of the parties, however, appeared. Records from the Retirement Section, Administrative Services Office of this Court show that the claim of Iluminada Ponce and her children was already approved by the GSIS as of October 9, 1980 and that in fact, the five years lump sum equivalent to P301,760.00 (gratuity less the retirement premiums paid under R.A. 910, as amended, which was to be returned to the retiree by the GSIS) under Check No. 04824308 as retirement gratuity of the deceased had been remitted by the Budget and Finance Office of this Court to the GSIS for payment to the heir-beneficiaries on October 15, 1980.

On February 4, 1981, Atty. Cecilia T. Berciles, daughter-in-law of the deceased Judge, and Mrs. Iluminada Ponce Berciles submitted to the Court Investigator additional documents in support of the claim of Mrs. Iluminada P. Berciles and her children, consisting of (A) Evaluation Report, as approved by the GSIS, under P.D. No. 626 with the following recommendations, to wit:

"1. It is recommended that the death benefits under P.D. 626 due to the death of the deceased of a compensable contingency, be awarded to Iluminada Ponce having established her marriage to the deceased and had been living with the deceased up to the time of the latter's death.

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"2. In the same light, the claim of Flor Fuentebella be denied for two reasons: (a) She has not clearly established her legitimate relationship with the deceased and, (b) She was not living with the deceased at the time of his death as required by the rules and regulation of P.D. 626, as amended. (Rule XIV, Section 1(b), No. 1 the legitimate spouse living with the employee at the time of employee's death x x x)."

and (B) Certified Xerox copies of the late Judge Berciles' Income Tax Returns for 1975, 1976 and 1979 where he listed Mrs. Iluminada P. Berciles as his wife or spouse; also submitted in addition to the foregoing documents, is a certified xerox copy of the application for optional insurance filed with the GSIS by the late Judge Berciles, dated November 19, 1956, wherein the deceased listed as his beneficiaries therein the following persons:

ILONA BERCILES - 11 years old - daughter;

ELLERY BERCILES - 10 years old - son;

ENGLAND BERCILES - 8 years old - son;

IONE BERCILES - 1 year old - daughter; and

ILUMINADA P. BERCILES - 33 years old - wife.

The above documents were noted in the Memorandum to the Chief Justice dated March 11, 1981 by the Deputy Court Administrator. And notwithstanding the telegram sent to them on February 5, 1981 requiring them to submit their evidence of filiation with the deceased Judge Berciles, no such evidence was submitted by the Fuentebellas. Accordingly, it was recommended in said Memorandum that "the alleged marital relationship between the late Judge Berciles and Ms. Flor Fuentebella Berciles has no leg to stand on. It should be stated in this connection that there was no marriage contract submitted by Miss Rhoda F. Berciles in her claim-letter, dated October 29, 1979, nor was there any certification from the Local Civil Registrar certifying to the fact that the deceased Judge was actually married to Miss Flor Fuentebella. It can, therefore, be assumed that Miss Flor Fuentebella was not legally married to the late Judge Pascual Berciles. Necessarily, it follows that the innocent children that came into being out of the alleged marital union of the deceased Judge and Ms. Flor Fuentebella Berciles are spurious and have no established family filiation with the said Judge. We can,

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therefore, rule that the attached papers/documents in the letter of Miss Rhoda F. Berciles, dated October 29, 1979 relative to their claim as the surviving heirs of the late CFI Judge Pascual Berciles are mere scrap of papers unworthy of credence, there being no substantiating evidence to corroborate the same, especially so in the face of the adverse claim of Mrs. Iluminada Ponce Berciles as the rightful surviving spouse and with whom the deceased Judge was living with at the time of his untimely demise."

The same memorandum, therefore, recommended that since "(a)ll the documents presented amply corroborate and fully substantiate what were previously submitted to the office by Mrs. Iluminada Ponce Berciles and her children. We find, therefore, the evidence presented and submitted in favor of Mrs. Iluminada Ponce Berciles as sufficient to establish the fact that she is the lawfully wedded wife of the deceased Judge Berciles. This finding is fully supported by the certification issued by the Local Civil Registrar of Bocaue, Bulacan, dated August 24, 1977, attesting to the marriage between the deceased Judge and Iluminada Ponce which took place on January 20, 1941 before the then Justice of the Peace of the place. This being the case, the four (4) children (ILONA, ELLERY, ENGLAND and IONE) begotten by the said spouses during their marital union are all legitimate, x x x that the unpaid salary, money value of terminal leave and representation and transportation allowances of the late District Judge Pascual G. Berciles be awarded and correspondingly distributed to his lawful heirs, namely, MRS. ILUMINADA PONCE BERCILES (surviving spouse); MRS. ILONA BERCILES ALVAREZ (daughter); ELLERY BERCILES (son), ENGLAND P. BERCILES (son); and IONE P. BERCILES (daughter)."

As recommended in the said memorandum, We approved the following Resolution dated March 17, 1981:

"Re: Claim of the heirs of the late Pascual G. Berciles, former District Judge of the Court of First Instance of Cebu, Cebu City, for the unpaid salary, money value of terminal leave and representation and transportation allowances of the deceased Judge.- Considering the memorandum of Deputy Court Administrator Leo D. Medialdea, recommending that the unpaid salary, money value of terminal leave and representation and transportation allowances of the late District Judge Pascual G. Berciles

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be awarded and correspondingly distributed to his lawful heirs, the Court Resolved to AWARD and CORRESPONDINGLY DISTRIBUTE aforesaid benefits to his lawful heirs, namely: Mrs. Iluminada Ponce Berciles, surviving spouse; Mrs. Ilona Berciles Alvarez, daughter; Ellery Berciles, son; England P. Berciles, son; and Ione P. Berciles, daughter."

Pursuant to the above Resolution, the amount of P60,817.52 was paid to Iluminada Ponce and her four children on April 2, 1981.

On April 23, 1981, Flor Fuentebella and her four children, Pascual Voltaire, Ma. Luisa, Mercy and Rhoda, through counsel, filed a Motion for Reconsideration praying that the resolution of March 17, 1981 be set aside; that they be allowed to present their evidence; and that, after due hearing, the benefits be awarded and distributed to them as lawful heirs. In support of their motion, the movants alleged that they did not receive the Resolution of March 17, 1981 nor the letter or notice of hearing sent by Atty. Quilala on December 22, 1980, the same having been sent to their old address at 6069-B, Palma St., Makati; that all of the movants have left the Philippines to reside in the United States of America and that the aunts and cousins residing at the old address moved to a new address at GSIS Village, Project 8, Quezon City; that before they moved to the new address, these relatives left a forwarding address at the Makati Post Office; and, that they did not receive the aforementioned mail. The fact of non-receipt was confirmed by one Domingo P. Raiz, letter carrier of the Post Office of Makati, who executed an affidavit to that effect, which affidavit We admitted in Our resolution of July 9, 1981. The matter of the Fuentebella Motion for Reconsideration is docketed before Us as Administrative Matter No. 10468-CFI.

Acting on the aforesaid motion for reconsideration, We adopted the following resolution dated July 2, 1981, to wit:

"Administrative Matter No. 10468-CFI - Re Terminal Leave Pay, Unpaid Salary and Allowance of the late CFI Judge Pascual G. Berciles: Flor Fuentebella and her four children, all surnamed Berciles *vs.* Iluminada Ponce and her four children, all surnamed Berciles.- Judge Pascual G. Berciles of the Court of First Instance of Cebu died in office on August 21, 1979 at the age of sixty-six years. He was a native of Lapuz Norte, La Paz, Iloilo city.

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Iluminada Ponce of Tagudin, Ilocos Sur, who claimed to be the decedent's widow, and her four children, Ilona, Ellery, England and Ione, filed a claim dated May 2, 1980 for survivors' benefits. Iluminada executed an affidavit of heirship dated September 19, 1979.

On the other hand, Rhoda F. Berciles, 6069-B Palma Street, Makati, Rizal in a verified statement dated November 19, 1979, claimed that the deceased judge was survived by Flor Fuentebella, as widow, and their four children named Voltaire, Luisa, Mercy and Rhoda, Judge Berciles allegedly married Flor Fuentebella on March 28, 1937 in Iloilo City before City Judge Vicente Mapa.

Rhoda, in a letter to the Judicial Administrator dated October 29, 1979, requested the Judicial Administrator to hold the processing of the claim filed by Iluminada Ponce and her four children pending the filing of Rhoda's formal complaint.

Iluminada Ponce claimed that she was married to Judge Berciles at Bocaue, Bulacan on January 20, 1941.

This Court in its resolution of April 10, 1980 approved the grant of survivors' benefits subject to the proper determination of the rightful beneficiaries and their corresponding shares in accordance with law, it appearing that there are two claimant families. (Adm. Matter No. 1337-Ret. re Gratuity of Judge Berciles).

Pursuant to that resolution, the five-year lump sum gratuity amounting to P301,760 due to the heirs of Judge Berciles was remitted to the GSIS on October 15, 1980. The said amount up to this time has not yet been distributed in view of the controversy between the families of Flor Fuentebella and Iluminada Ponce as to who are the legal heirs of Judge Berciles.

In a letter dated October 9, 1980, Ellery P. Berciles requested the Chief Justice for the payment to Iluminada Ponce of the terminal leave pay of Judge Berciles, which, together with his unpaid salary and allowance, amounted to P74,884.52, or to P60,817.52 after deducting the withholding tax of P14,067.

Upon the recommendation of Court Administrator Lorenzo Relova and Deputy Court Administrator Leo D. Medialdea, the said amount of P60,817.52 was paid to Iluminada Ponce and her four children on April 2, 1981 pursuant to this Court's resolution of March 17, 1981. Payment was made to them on the assumption that they are the only legal heirs of Judge Berciles.

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Atty. Luzel D. Demasu-ay, counsel for Flor Fuentebella and her four children, in his motion for reconsideration dated April 21, 1981, alleged that his clients were not heard before that payment was made. He said that the payment was being capitalized upon by Iluminada Ponce and her children in the GSIS as the basis for the payment to them of the retirement gratuity of Judge Berciles.

Considering that the issue as to who are the legal heirs of Judge Berciles is still being litigated in the Social Security Services of the GSIS (according to Atty. Felicisimo Fernandez of that unit), and the survivors' benefits have not yet been paid to Iluminada Ponce and her children, and considering that the children of Flor Fuentebella, even as illegitimate children of Judge Berciles, would be entitled to a share in his terminal leave pay, allowance and unpaid salary (In re Chanliongco, Adm. Matter No. 190-Ret., October 18, 1977, 79 SCRA 364), the Court Resolved (1) to require Iluminada Ponce and her children, c/o Ione P. Berciles, 9 Jersey Street, Toro Hills, Project 8, Quezon City, to COMMENT on the said motion for reconsideration within ten (10) days from notice and (2) to direct Atty. Juan P. Enriquez, Jr., Deputy Clerk of Court and Chief of the Administrative Division, to advise the GSIS that, should Flor Fuentebella and her children be ultimately adjudged as legal heirs of Judge Berciles, their share in the sum of P60,817.50 (terminal leave pay, etc.) would be taken from the survivors' benefits amounting to P301,760, already remitted to the GSIS and, consequently, the shares of Iluminada Ponce and her children in the said gratuity would answer for the portions due to Flor Fuentebella, et al. in the terminal leave pay, etc., if adjudged entitled thereto.

A copy of this resolution should be furnished the GSIS."

In a subsequent Resolution dated July 21, 1981, We noted the Comment filed by Iluminada Ponce and in the same resolution, clarified Our resolution of April 10, 1980 in Administrative Matter No. 1337-Ret., to wit:

"As may be seen from this Court's resolution of April 10, 1980 in Administrative Matter No. 1337-Ret. regarding the gratuity of Judge Berciles, this Court has not finally and conclusively decided that the children of Flor Fuentebella are not the heirs of the late Judge Berciles.

The question of whether the four children of Flor Fuentebella should share in the gratuity amounting to P301,760.00 is still being litigated in the GSIS. Should it be finally decided by the GSIS that the children of Flor Fuentebella are entitled to share in that gratuity or survivors'

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benefits, then they are also entitled to share in the terminal leave pay, unpaid salary and allowances and their share should be deducted from the shares in the said gratuity of Iluminada Ponce and her four children.

This incident should, therefore, await the outcome of a final decision of competent authority on who are the heirs of Judge Berciles, as contemplated in this Court's resolution of April 10, 1980 in Administrative Matter No. 1337-Ret."

In the meantime, pursuant to Our Resolution of April 10, 1980, the papers were transmitted to the GSIS under the advisement that the approval of the application of Iluminada Ponce was subject to the proper determination of the rightful beneficiaries.

The records of this Court, as adverted to earlier, disclose that on October 9, 1980, the GSIS approved the claim of Iluminada Ponce and so, the five (5) years lump sum retirement gratuity of the deceased Judge, in the net amount of P301,760.00, was remitted by our Budget and Finance Office to the GSIS on October 15, 1980 under Check No. 04824308 for payment to Iluminada and her four children. The GSIS, however, in its Memorandum dated June 25, 1982 in G.R. No. 57257 denied having approved the claim of Iluminada Ponce Berciles and her children saying that no such approval was made. The records in G.R. No. 57257 disclose Annex "A" attached to the petition on pp. 14-15 of the Rollo the following evaluation report evaluated by Carmelo C. Garcia, Legal Evaluator; reviewed by Lorenzo Sanchez, Legal Evaluator; approved by Felicisimo A. Fernandez, Manager, Supervivorship Benefits Dept.; and confirmed by Juanito S. Santamaria, Vice President, SSS-II, to wit:

"PASCUAL G. BERCILES *ANNEX "A"*
Judge, CFI, Branch XV, Cebu City
Died - August 21,1979, Cause: CVA

Evaluation on compensability under PD 626, as amended.

I - Medical Evaluation -

Medically compensable for payment of death benefits as per Medical evaluation dated December 24, 1979.

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II - Legal Evaluation -

A. Documents Submitted:

It appears that there are two claimants - both surviving spouse namely FLOR FUENTEBELLA and ILUMINADA PONCE, who alleged to have been married to the deceased.

(1.) Documents submitted by Flor Fuentebella:

(a) Cert. from Census and Statistics of no record of marriage of Flor Fuentebella and Pascual Berciles alleged to have been solemnized on March 28, 1937.

(b) Affidavit of Pascual Berciles dated May 22, 1972 that he and Flor were married by the late Judge J. Vicente Mapa.

(c) Affidavit of Coronacion Berciles, sister-in-law of Pascual Berciles as to the marriage of Flor and Pascual.

(d) Affidavit of Judge Rafael Lavente as to his being invited in the wedding of Flor and Pascual.

(e) Birth certificate of Pascual Voltaire Berciles - Aug. 30, 1938; Maria Luisa, June 27, 1943; Mercy, July 23, 1947; Rhoda, Feb. 7, 1949

(f) Xerox copy of Income Tax Return for 1972 of Pascual showing Flor as the wife.

(2.) Documents submitted by Iluminada Ponce -

(a) Marriage certificate from Bocaue, Bulacan, showing marriage of Iluminada and Paquito Berciles on January 20, 1941.

(b) Birth certificate of Ilona - May 15, 1945; Ellery - Sept. 21, 1946; England - Nov. 14, 1948; Ione Ainee - Aug. 25, 1955.

(c) GSIS IMI on C-20297 dated Dec. 1, 1956 of Pascual Berciles.

(d) IMI on 0-26030 dated Jan. 1, 1957.

(e) Affidavit of Pascual Berciles dated April 21, 1978 mentioning Ione and Iluminada as his daughter and wife respectively.

(f) Affidavit of four (4) relatives of Pascual as to their personal knowledge of the marriage of Iluminada and Pascual.

(g) Affidavit of Santiago Medina (former Fiscal), denying of having notarized an affidavit of Pascual the latter's marriage to Flor.

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(3.) Clarifying documents -

(a) Affidavit dated Feb. 14, 1980, of City Judge Rafael Lavente rectifying his previous affidavit that he was not present in the wedding of Flor and Pascual.

(b) Certification dated Feb. 4, 1980, from Ministry of Justice that there is no record of one J. Mapa as Municipal Judge of Iloilo from 1935 to 1945.

B. Findings -

After a careful study and appraisal of the documents above enumerated We cannot find merit on the claim of Flor Fuentebella because;

1. Flor has been living abroad since 1972.
2. Iluminada and the deceased were living together at the time of the latter's death (August 21, 1979).

Recommendation -

1. It is recommended that the death benefits under PD 626 due to the death of the deceased of a compensable contingency, be awarded to Iluminada Ponce for having established her marriage to the deceased and had been living with the deceased up to the time of the latter's death.
2. In the same light, the claim of Flor Fuentebella be denied for two reasons:

(a) She has not clearly established her legitimate relationship with the deceased and,

(b) She was not living with the deceased at the time of his death as required by the rules and regulation of PD 626, as amended. (Rule XIV, Section 1(b), No. 1 the legitimate spouse living with the employee at the time of employee's death x x x).

EVALUATED BY: REVIEWED BY:

S/T CARMELO C. GARCIA
Legal Evaluator

S/T LORENZO SANCHEZ
Legal Evaluator

APPROVED:

S/T FELICISIMO A. FERNANDEZ
Manager, Survivorship Benefits Dept.

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CONFIRMED:

S/T JUANITO A. SANTAMARIA
Vice President, SSS - II"

In denying the above approval, the GSIS in its Memorandum claims that the matter was elevated sometime in October 1980 to the Committee on Claims Settlement for the proper determination of the legal heirs of the late Judge Berciles. The two sets of claimants having failed to reach an amicable settlement, the GSIS advised the parties to submit the necessary documents to prove their relationship or filiation to the deceased.

Thereafter, based on their respective documents and proofs of filiation, the Board of Trustees approved the findings and recommendations of the Committee on Claims Settlement under its Resolution No. 431 adopted on June 3, 1981, the dispositive portion of which states:

"After due deliberation, considering the foregoing, the Board RESOLVED TO APPROVE the recommendation of the Committee on Claims Settlement that the retirement benefits under R.A. 910, as amended, due the late Judge Pascual G. Berciles in the total amount of P311,460.00 which is partly conjugal and partly exclusive in nature, be divided in the following proportion:

77/134	for the surviving spouse, Iluminada Ponce Berciles;
10/134	each for the legitimate children, Ilona Berciles Alvarez, Ellery P. Berciles, England P. Berciles and Ione P. Berciles;
5/134	for the acknowledged natural child Pascual Voltaire Berciles;
4/134	each for the illegitimate children, namely, Maria Luisa Berciles, Mercy Berciles, and Rhoda Berciles. (Arts. 148 (2), 153 (2), 895, 983, 999, New Civil Code)

x x x

x x x

x x x."

Only the above dispositive portion of the aforementioned Resolution was communicated to Iluminada Ponce Berciles by the GSIS in the letter signed by Felicisimo A. Fernandez, Manager,

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Survivorship Benefits Department, in his letter dated June 18, 1981 (Annex "D", Petition in G.R. No. 57257, *Rollo*, p. 22). Not satisfied with the disposition of their claim, Iluminada Ponce Berciles and her four children now come to this Court on appeal by certiorari, citing Section 25 of Presidential Decree No. 1146, otherwise known as the "Revised Government Service Insurance Act of 1977" which took effect on May 31, 1977, which appeal is docketed as G.R. No. 57257.

As prayed for in the petition, We issued a temporary restraining order on July 13, 1981 enjoining the respondents from enforcing or executing the GSIS Board of Trustee Resolution No. 431 dated June 3, 1981 and also required the respondents to file their respective Comments to the Petition. Only the private respondents filed their Comment. Thereupon, acting on the merits of the pleadings filed, We resolved to give due course to the petition in Our Resolution of April 14, 1982. Considering Our Resolution of July 21, 1981, the disposition of Administrative Matter No. 1337-Ret. and Administrative Matter No. 10468-CFI rests on Our decision in the present petition.

The primary issue raised in the herein petition for certiorari is the validity of the GSIS decision contained in its Resolution No. 431 finding private respondent Pascual Voltaire Berciles as an acknowledged natural child of the late Judge Pascual G. Berciles and the other private respondents namely Maria Luisa Berciles Villareal, Mercy Berciles Patacsil and Rhoda Berciles as illegitimate children of the deceased, and thus, upon this finding, disposed the retirement benefits in the manner and proportion set forth in said resolution after considering said benefits as partly conjugal and partly exclusive. Petitioners contend that on the basis of the documents and testimony submitted by private respondents, the conclusion of respondent GSIS is erroneous and unfounded and that respondent GSIS erred grossly in its resolution. The correctness of the legal conclusion drawn by the respondent GSIS or its appreciation of the undisputed state of facts obtaining in the present controversy is thus squarely raised by petitioners.

We note that private respondents in their Comment dated July 27, 1981 to the petition herein, while pointing out that the Supreme Court is not the proper forum for the original determination of the

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legal heirs of a deceased judge who is covered by R.A. 910 as amended and that the determination of the question of heirship can be appropriately considered only in our regular courts of justice where private respondents actually did file a Special Civil Action No. 13966 for "Mandamus with Prayer for a Restraining Order" in the Court of First Instance of Iloilo, Branch III, a copy of which is attached to the Comment as Annex "A", raised the same issue of illegality as may be seen clearly in par. 8 of the petition as follows:

"8. That clearly from the foregoing adjudication rendered by the respondent Board of Trustees, petitioner Flor Fuentebella Berciles and her children were unlawfully excluded from their lawful right to the death benefit of the late Judge Pascual G. Berciles as his only lawful heirs;"

And like the petitioners herein, private respondents contend that the GSIS patently and gravely abused its discretion in denying the latter's claim to the death benefits of the late Judge Pascual Berciles as the legal and lawful heirs as may also be clearly seen in par. 10 of the Mandamus Petition in the aforementioned Civil Case No. 13966, which reads thus:

"10. That in denying petitioners claim on the death benefit of the late Judge Pascual Berciles of whom petitioners are the legal and lawful heirs and in neglecting and refusing to issue forthwith a resolution adjudicating the death benefit amounting to P311,460.00 in favor of the petitioners a legal heirs, the respondent Board of Trustees of the GSIS patently and gravely abused its discretion and unlawfully neglected the performance of an act which is specifically enjoined upon it by Sec. 5 of R.A. 910, as amended by R.A. 1057, R.A. 1797, R.A. 2614, R.A. 4627 and R.A. 5095;"

In other words, both families, raising grave abuse of discretion, question the legality of the GSIS Resolution based on the same undisputed facts, the petitioners herein claiming they are the legal heirs, whereas, according to private respondents, they are the ones legally entitled to the retirement benefits. The issue here then is one of law which the contending parties concede in their respective pleadings and thus correctible by certiorari.

But to set the records straight, We quote hereunder the findings of the Committee on Claims Settlement which the GSIS Board of Trustees adopted and approved under its Resolution No. 431:

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"A brief summary of the evidence submitted by the contending parties appears necessary for the proper disposition of this case. As proof of her marriage to Judge Pascual Berciles, claimant Iluminada Ponce Berciles submitted a certificate of marriage (Exh. "A") indicating that she was married to one Paquito Berciles in Bocaue, Bulacan on January 20, 1941 before Judge Bonifacio Enriquez, Justice of the Peace of the said municipality. The Committee noted that the husband's name appearing in the certificate is 'Paquito Berciles' and not 'Pascual Berciles.'

"The discrepancy was explained in the sworn statement of Atty. Fortunato A. Padilla (Exh. "R") and in his deposition dated February 27, 1981 taken by Atty. Hilarion Palma, Branch Attorney of our GSIS Iloilo City Branch Office. In both documents, Atty. Padilla, a high school classmate and college companion of the late Judge Berciles, stated that Pascual Gayta Berciles, Paquito Berciles or Paking Berciles all refer to one and the same person who was the deceased Judge Pascual G. Berciles. In the deposition of Concepcion M. Gonzales (Exh. "31-A") who was a witness for Flor Fuentebella, she also declared that Pascual Berciles was called Paking or Paquito and that a brother Francisco was called Pako.

"Submitted also to the Committee by Iluminada Ponce are the birth certificates of her children: Ilona Berciles (Exh. "E"); Ellery Berciles (Exh. "C"); England Joseph Berciles (Exh. "D-1"); Aiene Berciles (Exh. "B"). The other documents submitted such as the Information for Membership Insurance (Exh. "F" and Exh. "G"), Income Tax Returns for the years 1975 (Exh. "U") and 1976 (Exh. "V"), individual sworn statements of persons who knew or were related to the deceased corroborate the filial affinity of Iluminada Ponce and her children to the late Judge Berciles.

"Based on these documents, there is no question that Iluminada Ponce was married to Pascual Berciles, alias Paquito, on January 20, 1941 at Bocaue, Bulacan. From this union, they begot the following children, namely: Ilona, Ellery, England and Ione.

"The evidence for claimant Flor Fuentebella Berciles and her children may also be briefly described as follows: She claims to have been married to the late Judge Pascual Berciles on March 28, 1937 in Iloilo City before Justice of the Peace Jose Vicente Mapa. In other words, she professes to be the first wife of the deceased Judge. Flor Fuentebella was, however, not able to present her marriage contract or certificate of marriage. Instead she submitted a certification of the Local Civil Registrar of Iloilo City (Exh. "I") attesting to the loss or destruction of the records of

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marriage for the year 1944 and previous years and another certification issued by the Office of Civil Registrar General of the National Census and Statistics Office (Exh. "2") stating the non-availability of the record of marriage between Pascual Berciles and Flor Fuentebella.

"In concrete support of her claim of marriage to the late Judge Berciles, Flor Fuentebella presented to the Committee sworn statements of several persons. Of the several sworn statements, at least two or three deserve serious consideration. The first is the one executed by Concepcion M. Gonzales (Exh. "31") of 46 South Mapa, Philam Homes, Quezon City, who stated that she knew for a fact that Flor Fuentebella was married to Pascual Berciles in 1937 at Iloilo City. It was represented to the Committee that she was present as a guest in the marriage ceremony. Due to importance of her testimony, the Committee requested her actual presence in the hearing. However, due to her advanced age of 89 years and her other physical infirmity, her attendance at the hearing was dispensed with. Instead, the Committee directed the Manager, Survivorship Department to secure her deposition on questions prepared in advance by the Committee. In his report to the Committee, the Manager stated that the old lady is already blind, quite hard of hearing and her memory already weak. In the Answers (Exh. "31-A") to the questions written by the Manager, Survivorship Department, Concepcion Gonzales declared that she was present during the marriage ceremony of Pascual Berciles and Flor Fuentebella which was held in the Municipal Hall of Iloilo City. She described the wedding as attended by only the members of the family and that after the ceremony they went to the house of Pascual's parents where a small party was held.

"The committee finds the testimony of Concepcion Gonzales quite deficient in important detail. Flor Fuentebella had not been presented in person for the proper identification of the witness. Was the Flor Fuentebella who allegedly married Pascual Berciles on March 28, 1937 the same Flor Fuentebella who is cited by Concepcion Gonzales? At any rate, assuming that a confrontation did occur, Concepcion Gonzales would not be able to properly identify Flor Fuentebella, by reason of her blindness.

"The other sworn statements which merit particular discussion are those executed by Coronacion Berciles (Exhs. "10 and 31") a sister-in-law of the late Judge Berciles. Coronacion was presented before the Committee as a witness for Flor Fuentebella. In her testimony, she stated facts and circumstances about the marital relations between Pascual Berciles and Flor Fuentebella. She declared that her husband was the younger brother of the late Judge Berciles; that even before Pascual Berciles became a lawyer in 1938, he and Flor Fuentebella were

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introduced to her by her husband; that after she was married to her husband, they lived together with the family of Pascual Berciles and his wife Flor Fuentebella; that their two families had lived closely enough during the Japanese Occupation and even after. She further stated that the immediate members of the family with whom the spouses Pascual Berciles and Flor Fuentebella had lived before and during the war were his mother Evarista, his two aunts Luisa Berciles and Eusebia Gayta and a sister Susana Berciles. These testimonial and other declarations were later transcribed into a sworn statement which Coronacion executed on December 5, 1980 and submitted to the Committee. (Exh. "32")

"At its best, Coronacion Berciles testified on the cohabitation as husband and wife of Pascual Berciles and Flor Fuentebella. But cohabitation is not solid proof that a marriage had in fact taken place, especially in this case when such marriage is contested. Coronacion could not state positively since she was not present in the alleged marriage ceremony.

"The third sworn statement which deserves the Committee's attention is the one executed by Judge Rafael Lavente, Presiding Judge of Branch III, City Court of Iloilo, on February 14, 1980 (Exh. "N" for Iluminada Ponce, Exh. "35" for Flor Fuentebella). In this document, Judge Lavente denied having been present in the wedding of Pascual Berciles and Flor Fuentebella; although he declared that the 'late Judge Berciles was married here in Iloilo City and that after his marriage he left Iloilo City x x x' (Exh. "35-A"), he did not state with whom Pascual Berciles was married.

"Of course the affidavit of Flor F. Berciles herself (Exh. "5") was submitted wherein she stated that she was the legal wife of the late Pascual G. Berciles and that she was married to him in Iloilo City on March 28, 1937. The affidavit is nothing more than a self-serving statement. Flor Fuentebella was not presented to the Committee as a material witness. On the other hand, the sworn statement of Pascual Berciles (Exh. "4") commands no evidentiary value at all. Mr. Santiago Medina, former Provincial Fiscal of Cebu, who appears to have administered the oath, in a subsequent sworn statement (Exh. "M") denied his signature on the document (Exh. "4").

"The letters written by Judge Berciles to her daughters with Flor Fuentebella especially the one sent to daughter Mercy Berciles (Exh. "22") wherein he vigorously affirmed that it's only her mother, Flor Fuentebella, and no other woman who was recognized as his wife and loved by her parents deserve scant consideration. Pascual Berciles could not be expected to admit the existence of his other family. This would be disastrous to his efforts at preventing one family from knowing the other.

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"Flor Fuentebella likewise submitted to the Committee the birth or baptismal certificates of her children begotten with the late Judge Berciles; the birth certificates of Pascual Voltaire Berciles (Exh. "6"); baptismal certificate of Maria Luisa Berciles (Exh. "7-A"); birth certificate of Mercy Berciles (Exh. "8"); birth certificates of Rhoda Berciles (Exh. "9"). The other evidence consist of family pictures (Exhs. "30 to 30-M") which have been identified by witness Coronacion Berciles both in her oral testimony before the Committee and in her affidavit. (Exh. "32", par. 15). The pictures, however, do not indicate that the marriage took place. If at all, the said pictures show the presence of a family with or without the sanction of marriage.

"After a careful evaluation of these documents, the Committee believes that there is no sufficient evidence that Pascual Berciles and Flor Fuentebella were married to each other on March 28, 1937 in Iloilo City; however, certain relationship did exist and from such relationship were begotten the following children, namely: Pascual Voltaire Berciles, Maria Luisa Berciles, Mercy Berciles and Rhoda Berciles.

"Furthermore, the Committee entertains doubt on the authority of the officer who solemnized the marriage between Pascual Berciles and Flor Fuentebella. It is true that the Official Roster of Officers and Employees in the Civil Service (Exhs. "3" and "3-A") include the name Jose Vicente Mapa, Justice of the Peace for Iloilo. The listings however, do not indicate the exact date of employment of any particular employee. The year 1935 indicated in the cover of the Roster may not be interpreted to mean that all those listed were already in the service in 1935. It is possible that the Roster included those appointed as early as 1935 and those appointed at much later date. This assumption deserves some degree of validity when considered in relation with the record of service furnished by the Civil Service Commission (Exh. "T") indicating that Jose Vicente Mapa was Acting Municipal Judge of Iloilo City effective July 16, 1937. It further appears in the service record that he was Acting Municipal Judge pursuant to a Designation by letter of the Secretary to President, dated June 30, 1937. If Jose Vicente Mapa was already a Municipal Judge prior to July 16, 1937, he could have been assigned to a different municipality other than Iloilo, in which case he did not have authority to solemnize marriage in Iloilo on March 28, 1937. At any event, a serious uncertainty did exist as to whether Jose Vicente Mapa was already the Justice of the Peace of Iloilo on the date the alleged marriage was contracted.

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"The Committee therefore concludes that Judge Pascual Berciles was legally married to Iluminada Ponce. His alleged marriage to Flor Fuentebella was not sufficiently proved and therefore the children begotten with her are either natural or illegitimate children depending on whether they have been born before or after the marriage of Iluminada Ponce. Consequently, the legal heirs of the late Judge Berciles entitled to share in the distribution of his retirement benefits are the following: Iluminada Ponce, surviving spouse; Ilona Berciles Alvarez, Ellery Berciles, England P. Berciles and Ione P. Berciles, legitimate children; Pascual Voltaire Berciles, natural child; Maria Luisa Berciles, Mercy Berciles, and Rhoda Berciles, illegitimate children."

From the above recital, We can readily summarize the following three (3) conclusions therein made and arrived at by the Committee which were approved and adopted *in toto* by respondent GSIS through Board of Trustees Resolution No. 431, to wit:

1. "(T)hat Iluminada Ponce was married to Pascual Berciles, alias Paquito, on January 20, 1941 at Bocaue, Bulacan. From this union, they begot the following children namely: Ilona, Ellery, England and Ione."

2. "(T)hat there is no sufficient evidence that Pascual Berciles and Flor Fuentebella were married to each other on March 28, 1937 in Iloilo City."

3. "(H)owever, certain relationship did exist and from such relationship were begotten the following children, namely: Pascual Voltaire Berciles, Maria Luisa Berciles, Mercy Berciles and Rhoda Berciles." x x x "The children begotten with her are either natural or illegitimate children depending on whether they have been born before or after the marriage of Iluminada Ponce."

As pointed out earlier, petitioners assail the validity of the third conclusion or finding that Pascual Voltaire Berciles is an acknowledged natural child and that Maria Luisa Berciles, Mercy Berciles and Rhoda Berciles are illegitimate children of the late Judge Pascual Berciles, petitioners being in complete accord and conformity with the first two conclusions summarized above.

Petitioners contend that the evidence submitted by private respondents with respect to the status of respondent Pascual Voltaire Berciles show that he was not acknowledged by the late Judge Pascual Berciles in a birth certificate, in a will, in a statement before

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a court of record, or in any authentic writing, as required under Art. 278, New Civil Code, or much less, in a final judgment as provided in Art. 283, New Civil Code.

The evidence considered by the Committee on Claims Settlement as basis of its finding that Pascual Voltaire Berciles is an acknowledged natural child of the late Judge Pascual Berciles is the birth certificate of said Pascual Voltaire Berciles marked Exh. "6". We have examined carefully this birth certificate and We find that the same is not signed by either the father or the mother; We find no participation or intervention whatsoever therein by the alleged father, Judge Pascual Berciles. Under our jurisprudence, if the alleged father did not intervene in the birth certificate, the putting of his name by the mother or doctor or registrar is null and void. Such registration would not be evidence of paternity. (Joaquin P. Roces, et al., *vs.* Local Civil Registrar of Manila, 102 Phil. 1050). The mere certificate by the registrar without the signature of the father is not proof of voluntary acknowledgment on his part (Dayrit *vs.* Piccio, 92 Phil. 729). A birth certificate does not constitute recognition in a public instrument. (Pareja *vs.* Pareja, et al., 95 Phil. 167). A birth certificate, to evidence acknowledgment, must, under Section 5 of Act. 3753, bear the signature under oath of the acknowledging parent or parents. (Vidaurrazaga *vs.* Court of Appeals and Francisco Ruiz, 91 Phil. 492). In the case of Mendoza, et al. *vs.* Mella, 17 SCRA 788, the Supreme Court speaking through Justice Makalintal who later became Chief Justice, said:

"It should be noted, however, that a Civil Registry Law was passed in 1930 (Act No. 3753) containing provisions for the registration of births, including those of illegitimate parentage; and the record of birth under such law, if sufficient in contents for the purpose, would meet the requisites for voluntary recognition even under Article 131. Since Rodolfo was born in 1935, after the registry law was enacted, the question here really is whether or not his birth certificate (Exhibit 1), which is merely a certified copy of the registry record, may be relied upon as sufficient proof of his having been voluntarily recognized. No such reliance, in our judgment, may be placed upon it. While it contains the names of both parents, there is no showing that they signed the original, let alone swore to its contents as required in Section 5 of Act No. 3753 (Vidaurrazaga *vs.* Court of Appeals, 91 Phil. 493; In re Adoption of Lydia Duran, 92 Phil. 729). For all that might have happened, it was not even

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they or either of them who furnished the data to be entered in the civil register. Petitioners say that in any event the birth certificate is in the nature of a public document wherein voluntary recognition of a natural child may also be made, according to the same Article 131. True enough, but in such a case there must be a clear statement in the document that the parent recognizes the child as his or her own (Madridejo *vs.* De Leon, 55 Phil. 1); and in Exhibit "1", no such statement appears. The claim of voluntary recognition is without basis."

With respect to the Committee's finding that the other private respondents are illegitimate children of the deceased Judge Berciles, We find that the evidentiary basis of such finding are the baptismal certificate of Maria Luisa Berciles, Exh. "7-A"; birth certificate of Mercy Berciles, Exh. "8"; and birth certificate of Rhoda Berciles, Exh. "9". We have also examined the above exhibits and We find that Exh. "7" is a mere certification that all the Civil Registry records of birth filed in the Office of the Local Civil Registrar for the year 1944 and previous years were either burned, destroyed or lost during the last war and hence, the office could not furnish the birth certificate of Maria Luisa Berciles who claim to have been born to the spouses Pascual Berciles and Flor Fuentebella on June 27, 1943 at Iloilo City. The same is true with Exh. "7-B" attesting to the non-availability of the Register of Births for Iloilo, Iloilo in the year 1943 in the files of the National Archives. Exh. "7-A and 7-B" are, therefor, of no value.

As to the baptismal certificate, Exh. "7-A", the rule is that although the baptismal record of a natural child describes her as a child of the decedent, yet, if in the preparation of the record the decedent had no intervention, the baptismal record cannot be held to be a voluntary recognition of parentage. (Canales *vs.* Arrogante, et al., 91 Phil. 6; Adriano *vs.* De Jesus, 23 Phil. 350; Samson *vs.* Corrales Tan, 48 Phil. 401; Madridejo *vs.* De Leon, 55 Phil. 1; Malonda *vs.* Infante Vda. de Malonda, 81 Phil. 149). The reason for this rule that canonical records do not constitute the authentic document prescribed by Arts. 115 and 117 to prove the legitimate filiation of a child is that such canonical record is simply proof of the only act to which the priest may certify by reason of his personal knowledge, an act done by himself or in his presence, like the administration of the sacrament upon a day stated; it is no proof of

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the declarations in the record with respect to the parentage of the child baptized, or of prior and distinct facts which require separate and concrete evidence (Adriano *vs.* De Jesus, 23 Phil. 350).

In the recent case of Republic *vs.* Workmen's Compensation Commission, 13 SCRA 272, the Supreme Court speaking again through Justice Makalintal, held:

"This Court, construing the various pertinent provisions of the Civil Code concerning illegitimate children, has held that an illegitimate (spurious) child, to be entitled to support and successional rights from his parents, must prove his filiation and that this may be done by means of voluntary or compulsory recognition of the relationship. For this purpose, the provisions concerning natural children are held applicable, thus, recognition is voluntary when made in the record of birth, a will, a statement before a court of record, or in any authentic writing (Article 278); and compulsory when made by means of a court action in the cases enumerated in Articles 283 and 284 (Paulino *vs.* Paulino, L-15091, Dec. 28, 1961).

Discrediting the above certificates (birth and baptismal) of the illegitimate spurious children which do not constitute proof of filiation with the deceased Judge Berciles, what remains are the sworn statements of Coronacion Berciles, Exh. 10 and 31, sister-in-law of the late Judge Berciles wherein she stated that after she was married to her husband, they lived together with the family of Pascual Berciles and his wife, Flor Fuentebella; that their two families had lived closely enough during the Japanese Occupation and even after. These statements, however does not prove the filiation of the children to the late Judge Pascual Berciles.

Neither are the family pictures, Exhs. 30 to 30-M, which, according to the Committee, do not indicate that the marriage (between Judge Berciles and Flor Fuentebella) took place and that if at all, the said pictures show the presence of a family with or without the sanction of marriage. We agree and We add that said pictures do not constitute proof of filiation.

We also agree with the finding of the Committee that "(t)he letters written by Judge Berciles to her daughters with Flor Fuentebella especially the one sent to daughter Mercy Berciles (Exh. "22") wherein he vigorously affirmed that it's only her mother, Flor

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Fuentebella, and no other woman who was recognized as his wife and loved by her parents deserve scant consideration. Pascual Berciles could not be expected to admit the existence of his other family. This would be disastrous to his efforts at preventing one family from knowing the other." Not only do they deserve scant consideration but also, there is jurisprudence that a typewritten letter signed by the father is not an authentic writing. (Decision of the Supreme Court of Spain of Feb. 27, 1923 and Dec. 7, 1927 cited in 3 Castan, 6th ed., 25; see Caguioa, Comments and Cases on Civil Law, Vol. I, p. 379).

As to the other exhibits of private respondents, We affirm the Committee's finding that the Flor Fuentebella Affidavit (Exh. "5") is self-serving; that the testimony of Concepcion Gonzales (Exh. "31-A"), being blind, is deficient; and that the affidavit of Judge Rafael Lavente (Exh. "35") has been repudiated. Indeed, the above evidence are, to Our view, very insignificant, insufficient, and unsubstantial to prove the filiation of private respondents to the alleged father, Judge Pascual Berciles.

The records disclose that all the private respondents have left the Philippines and are now residing in the United States. They have not appeared at the hearing before the Committee on Claims Settlement to testify in support of their claim of filiation and acknowledgment. And We find no clear and competent proof, no positive and substantial evidence presented by private respondents that their alleged father had admitted or recognized his paternity of the private respondents Maria Luisa Berciles, Mercy Berciles and Rhoda Berciles.

Under the law, Article 287, New Civil Code, illegitimate children other than natural in accordance with Art. 269 are entitled to support and such successional rights as are granted in the Code, but for this Article to be applicable, there must be admission or recognition of the paternity of the illegitimate child (Paterno, et al. *vs.* Paterno, 20 SCRA 585, citing Noble *vs.* Noble, G.R. No. L-17742, Dec. 17, 1966, 18 SCRA 1104; Paulino *vs.* Paulino, G.R. No. L-15091, Dec. 28, 1961, 113 Phil. 697). Article 887, N.C.C., defining who are compulsory heirs, is clear and specific that "(i)n all cases of illegitimate children, their filiation must be duly proved." And in the *Noble case*, *supra*, the Supreme Court laid down this ruling:

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"*The filiation of illegitimate children, other than natural, must not only be proven, but it must be shown that such filiation was acknowledged by the presumed parent.* If the mere fact of paternity is all that needs to be proven, that interpretation would pave the way to unscrupulous individuals to take advantage of the death of the presumed parent, who would no longer be in a position to deny the allegation, to present even fictitious claims and expose the life of the deceased to inquiries affecting his character." (italics supplied).

In fine, We hold and rule that the respondent GSIS committed grave abuse of discretion in approving Resolution No. 431 which adopted the erroneous recommendation of the Committee on Claims Settlement, a recommendation which has no legal or factual basis to stand on. Accordingly, the disposition made by respondent GSIS of the retirement benefits due the heirs of the late Judge Pascual G. Berciles is consequently erroneous and not in accordance with law. Petitioners are the lawful heirs entitled to the distribution of the benefits which shall accrue to the estate of the deceased Judge Berciles and will be distributed among the petitioners as his legal heirs in accordance with the law on intestate succession. (Re: Mario *vs.* Chanliongco, 79 SCRA 364; Vda. de Consuegra *vs.* GSIS, 37 SCRA 325).

According to Article 996 of the New Civil Code which provides that "If a widow or widower and legitimate children or descendants are left, the surviving spouse has in the succession the same share as that of each of the children," and Article 980 which provides that "The children of the deceased shall always inherit from him in their own right, dividing the inheritance in equal shares," the retirement benefits shall be distributed equally to the five (5) heirs: Iluminada Ponce Berciles, Ilona Berciles Alvarez, Ellery P. Berciles, England P. Berciles and Ione P. Berciles.

As to the retirement premiums totalling P9,700.00, the same is presumed conjugal property, there being no proof that the premiums were paid from the exclusive funds of the deceased Judge (Article 160, New Civil Code). Such being the case, one-half of the amount belongs to the wife as her property in the conjugal partnership and the other half shall go to the estate of the deceased Judge which shall in turn be distributed to his legal heirs.

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With respect to the terminal leave pay, unpaid salary and allowances accruing to the deceased, since petitioners are the only lawful heirs of the deceased Judge, only they are entitled to share thereto. There is no need to disturb Our Resolution of March 17, 1981.

One final point, the issue raised by respondents that Section 25 of P.D. 1146, otherwise known as "The Revised Government Service Insurance Act of 1977," cannot be invoked by petitioners in taking the present appeal for the reason that the dispute between the parties have arisen under the Judiciary Retirement Law, Republic Act No. 910, as amended and not under P.D. 1146, and that the determination of the legal heirs of a deceased judge covered by Republic Act 910 as amended, is vested in the regular courts of justice.

Section 25 of P.D. 1146 provides:

"Sec. 25. Appeals - within fifteen days from receipt of notice of decision or award, the aggrieved party may appeal the same to the Court of Appeals on questions of law and facts following the procedures for appeals from the Court of First Instance to the Court of Appeals as far as practicable and consistent with the purposes of this Act. If the appeal is only on questions of law, the same shall be brought directly to the Supreme Court on certiorari. No appeal bond shall be required. The appeal shall take precedence over all other cases except criminal cases wherein the penalty of life imprisonment or death has been imposed by the trial court. Appeal shall not stay the decision of the Board unless so ordered by the Board, by the Court of Appeals, or by the Supreme Court."

Respondents' position is untenable. We hold that Sec. 25 of P.D. 1146 quoted above may be availed of by petitioners.

Republic Act 910, as amended, is a special statute governing and granting retirement benefits to members of the judiciary. While Section 5 of the Act provides that the GSIS shall take charge of the enforcement and operation of the Act, there is no provision therein setting forth the procedure or remedy for the final determination of the legal heirs of the deceased Judge in case a dispute arises between the opposing claimants. Even under the old GSIS Act, Commonwealth Act No. 186 as amended, there is no express provision on appeal from the award or decisions of the GSIS. In both cases, the decision

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or the award made by the GSIS which affects property rights as well as the legitimate or illegitimate status of the claimants is brought to and assailed in the regular courts of justice under the general power and jurisdiction of the courts to review decisions of administrative bodies and this is where the litigation becomes not only delayed or protracted but also expensive and cumbersome, to the great prejudice and detriment of the parties.

As may be gleaned from the "whereas clauses" of P.D. 1146 which, among others, recognize that "provisions of existing laws x x x have prejudiced, rather than benefitted, the government employee; restricted rather than broadened, his benefits, prolonged, rather than facilitated the payment of benefits, must now yield to his paramount welfare," P.D. 1146 is a remedial legislation, which are "those which afford a remedy, or improve or facilitate remedies already existing for the enforcement of rights and the redress of injuries, and statutes intended for the correction of defects, mistakes and omissions in the civil institutions and the administration of the state." (Sutherland Statutory Construction, Vol. III, p. 31) And being remedial statutes relating to procedure as distinguished from those relating to substantive rights, they are given a liberal interpretation (Sutherland, *supra,* p. 39).

Accordingly, We hold and rule that Section 25 of P.D. 1146 specifically laying down the procedure whereby the party aggrieved by the decision of the GSIS may appeal the same to the Court of Appeals, now the Intermediate Appellate Court, on questions of law and facts following the procedures for appeals from the Court of First Instance (now Regional Trial Court) to the I.A.C. and if the appeal is only on questions of law, the same shall be brought directly to the Supreme Court on certiorari, which abbreviated procedure was designed to facilitate, and not to prolong, the payment of benefits, may be invoked by the petitioners.

That P.D. 1146, Sec. 35 is applicable to disputes arising under the Judiciary Retirement Act and all other acts administered by the GSIS may also be construed from Sec. 23 of the Decree which provides that the "System shall prescribe such rules and regulations to facilitate payment of benefits, proceeds and claims under the Act and any other laws administered by the System."

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WHEREFORE, IN VIEW OF ALL THE FOREGOING, We AFFIRM the finding in Resolution No. 431 that petitioner Iluminada Ponce Berciles is the surviving spouse of the late Judge Pascual G. Berciles and that petitioners Ilona Berciles Alvarez, Ellery P. Berciles, England P. Berciles, and Ione P. Berciles are the legitimate children of the said deceased Judge. We REVERSE and SET ASIDE its finding that Pascual Voltaire Berciles is an acknowledged natural child and that Maria Luisa Berciles, Mercy Berciles, and Rhoda Berciles are illegitimate children of the deceased CFI Judge Pascual G. Berciles. The claims of the petitioners as legal heirs are hereby APPROVED and the GSIS is hereby ordered to pay immediately to each and every petitioner the various sums hereunder indicated opposite their names, as follows:

1.	ILUMINADA PONCE BERCILES	
	A. Her 1/5 share of retirement gratuity	P60,352.00
	B. Her share from the return of the retirement premiums	
	(1) as her conjugal share	4,850.00
	(2) as a legal heir.....	970.00
	Total Amount Due Her	P66,172.00
2.	ILONA BERCILES ALVAREZ	
	A. Her 1/5 share of retirement gratuity	P60,352.00
	B. Her share from the return of the retirement premiums	970.00
	Total Amount Due Her	P61,322.00
3.	ELLERY P. BERCILES	
	A. His 1/5 share of retirement gratuity	P60,352.00
	B. His share from return of retirement premiums	970.00
	Total Amount Due Him	P61,322.00

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4.	ENGLAND P. BERCILES	
	A. His 1/5 share of retirement gratuity	P60,352.00
	B. His share from return of retirement premiums	970.00
	Total Amount Due Him	P61,322.00
5.	IONE P. BERCILES	
	A. Her 1/5 share of retirement gratuity	P60,352.00
	B. Her share from return of retirement premiums	970.00
	Total amount Due Her	P61,322.00

The temporary restraining order issued herein per Our Resolution dated July 13, 1981 is hereby made permanent.

SO ORDERED.

Makasiar (Acting C.J.), Concepcion Jr., De Castro, Melencio-Herrera, Plana, Escolin, Relova and *Gutierrez, Jr., JJ.*, concur.
Fernando C.J. and *Teehankee, J.*, On Leave (Abroad).
Aquino, J., no part.
Abad Santos, J., I reserve my vote.

SECOND DIVISION

[G.R. No. 59840. March 5, 1984]

AMELIA C. CASIBANG, *petitioner*, *vs.* THE PHILIPPINE TOBACCO ADMINISTRATION and the COMMISSION ON AUDIT, *respondents*.

SYLLABUS

1. **REMEDIAL LAW; CIVIL PROCEDURE; APPEAL OF DECISION OF COMMISSION ON AUDITS; REGLEMENTARY PERIOD FOR FILING THEREOF; CASE AT BAR.-** The PTA in its memorandum raised the *preliminary*