

IRON CURTAIN: The Presumed Antagonism Between Legitimate and Illegitimate Children

As per your standard dictionary entry, “illegitimate” means something unlawful, illegal, or irregular. When a child though is categorized as *illegitimate* through no fault of his own, are we to use the same literal connotations associated with the term?

This is the prejudice often directed at those born out of wedlock, that the circumstances surrounding their births, supposedly, can never be *right*. Reality though is seldom as clear as black and white. And for every instance of feuding between legitimate and illegitimate children, there are occasions where harmony is the norm.

Sad to say, our laws seem to have opted for the least optimistic view.

The Civil Code provides that an illegitimate child has no right to inherit from his half-siblings who are the legitimate children (or relatives) of his parent. Neither could the latter inherit from the former. It has no bearing on an illegitimate child’s inheritance claims from his parents – which are not affected – but is significant as to everyone else’s estate. This demarcation, sometimes denoted as the “iron curtain”, seeks to protect both sides from causing further resentments towards one another. In doing so, the law apparently already presumes *antagonism and incompatibility* between the legitimate and illegitimate children of the decedent. The eminent author Manresa explains that the law merely acknowledges the reality that legitimate children see the illegitimate child as a “product of sin”, while the illegitimate child despises his parents’ legitimate children because they are favored over him. Though there might be some logic and historical basis to this rather orthodox reasoning, nonetheless, this is too complex a situation to simply *presume* away.

There are two kinds of presumptions in legal parlance: “conclusive presumptions” and “disputable presumptions”. The latter can be challenged, while the former cannot. Considering the wording of the law establishing the iron curtain, it should be safe to say that it is of the conclusive variety. However, a fairly recent Supreme Court case appears to imply that it is a disputable presumption (G.R. No. 183053, June 16, 2010).

In said case, evidence was presented showing that the illegitimate child was in fact treated with the utmost affection by his father's legitimate family members. The Supreme Court deemed this enough to *overthrow* the legal presumption of the iron curtain. Prior to this decision, the notion that the iron curtain could even be set aside was unheard of. However, the ruling is not definitive inasmuch as the main issue centered on the estate administrator's qualifications. Nevertheless, this might be a glimpse into the direction the Supreme Court is now willing to take with future cases involving the matter.

Fortunately, there is something that can be done to avoid this situation outside of waiting for the Supreme Court to release a more decisive ruling. For the iron curtain only applies during *intestacy* – or when a decedent dies without a Will.

The current solution then in instances where a legitimate child would like to leave something behind to his parents' illegitimate child or where an illegitimate child wishes to bequeath something to a legitimate half-sibling is to do so in the form of a Will. In this regard, it is the best proof available to show that illegitimate or not, family is still family.