



Republic of the Philippines
Supreme Court
Baguio City

EN BANC

NOTICE

Sirs/Mesdames:

Please take notice that the Court en banc issued a Resolution dated APRIL 19, 2022, which reads as follows:

“A.M. No. 02-6-02-SC (Re: Rule on Adoption).- On January 6, 2022, Republic Act No. 11642 was signed into law, entitled *“An Act Strengthening Alternative Child Care by Providing for an Administrative Process of Domestic Adoption, Reorganizing for the Purpose the Inter-Country Adoption Board (ICAB) into the National Authority for Child Care (NACC), Amending for the Purpose Republic Act No. 8043, Republic Act No. 11222, and Republic Act No. 10165, Repealing Republic Act No. 8552, and Republic Act No. 9523, and Approving Funds Therefor.”* Republic Act No. 11642 is otherwise known as the *“Domestic Administrative Adoption and Alternative Child Care Act.”*

With the enactment of the law, Chief Justice Alexander G. Gesmundo, in a Letter dated January 17, 2022, requested the Committee on Family Courts and Juvenile Concerns (CFCJC), led by its Chairperson, Senior Associate Justice Estela M. Perlas-Bernabe, to convene its Technical Working Group “to review the implication of R.A. No. 11642 on the Rule on Adoption.”¹

The CFCJC TWG submitted its recommendations,² to which the CFCJC Chairperson added her own reflections.³

Taking into consideration the said recommendations and reflections, the Court Resolved to issue the following guidelines on the implications of R.A. No. 11642 on the Rule on Adoption:

1. Starting January 28, 2022 when R.A. No. 11642 took effect⁴, courts may no longer receive or accept petitions

¹ Approved by the Court in the resolution dated August 22, 2002 in this administrative matter.

² Memorandum dated February 4, 2022.

³ Letter dated March 3, 2022.

⁴ Fifteen (15) days from January 13, 2022, the date the law was uploaded in the website of the Official Gazette, pursuant to Section 63 of Republic Act No. 11642 which provides that the Act “shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.”

for domestic adoption, jurisdiction over the same being now lodged with the National Authority for Child Care (NACC).⁵

2. Pursuant to R.A. No. 11642, adoption proceedings are now administrative.

3. Per Section 56 of R.A. No. 11642, “[a]ll *judicial petitions for domestic adoption pending in court upon the effectivity of the Act may be immediately withdrawn, and the parties to the same shall be given the option to avail of the benefits of the Act.*”

4. The phrase “*judicial proceedings pending in court*” refers to all cases already filed in court upon the effectivity of the law, regardless of the stage of the proceedings, applying the principle “when the law does not distinguish, the courts should not distinguish” (*expressio unius est exclusio alterius*).⁶

5. Although the law uses the term “*parties,*” the petition for adoption may be withdrawn only by the petitioner because the purpose of the withdrawal is to avail of the benefits of the new law.⁷

6. If the petitioner/s do not withdraw their petition, the court shall continue to hear and decide the same pursuant to Sec. 56, R.A. No. 11642.

7. All courts are required, upon the effectivity of the law, to submit to the Office of the Court Administrator a list and status report of all pending adoption cases including archived cases, which are inactive cases included in the docket of the court.

8. The courts shall require the petitioner/s in adoption cases to manifest their intent to withdraw the petition within a given period, failing which, the court shall inform the parties that the court will proceed to hear and decide the case, and the petitioner/s shall be deemed to have waived the option to withdraw the petition under Sec. 56 of R.A. No. 11642. Should the petitioner/s avail of the provisions of R.A. No. 11642 without first withdrawing the petition for

⁵ SEC. 6. *Jurisdiction of the NACC* – The NACC shall have the original and exclusive jurisdiction over all matters pertaining to alternative child care, including declaring a child legally available for adoption; domestic administrative adoption; adult adoption; foster care under Republic Act No. 10165, otherwise known as the “Foster Care Act of 2012”; adoptions under Republic Act No. 11222, otherwise known as the “Simulated Birth Rectification Act”; and inter-country adoption under Republic Act No. 8043, otherwise known as the “Inter-Country Adoption Act of 1995”. The NACC shall also have the authority to impose penalties in case of any violation of this Act.

⁶ TWG Memorandum dated February 4, 2022, p. 4.

⁷ Id.

adoption, petitioner/s and counsel shall be subject to appropriate sanctions under the Rules of Court.⁸

9. The Rule on Adoption which covers the domestic adoption of Filipino children is therefore rendered ineffective, except insofar as petitions for adoption which have not been withdrawn from the courts pursuant to Sec. 56 of R.A. No. 11642 are concerned. In such cases, the existing Rule on Adoption shall be applied.

10. Although Sec. 47⁹ of R.A. No. 11642 speaks of rescission of *administrative* adoption, rescission even of *judicial* adoptions should likewise be construed as being lodged with the NACC, on the following considerations (a) intent of R.A. No. 11642 to provide for administrative adoption and to remove the judicial process which has previously made legal adoption lengthy and costly; (b) spirit behind R.A. No. 11642 to streamline the adoption process which should apply equally to the rescission process; (c) providing for judicial rescission would be to give different grounds for rescission of the adoption for those adopted *prior* to and those adopted *after* the effectivity of R.A. No. 11642¹⁰; and (d) acknowledging the jurisdiction of the NACC to rescind the adopted status of the child that was declared by order of the Family Courts would not be tantamount to permitting an administrative agency to review, or worse, reverse, a judicial decree considering that the adoption process and the rescission of adoption are separate and distinct special proceedings, and the action for rescission is *not* a continuation of the decree of adoption.¹¹

11. All pending inter-country adoption petitions filed in court pursuant to the provisions under part B of the Rule on

⁸ TWG Memorandum dated February 4, 2022, p. 5.

⁹ SEC. 47. *Grounds for Rescission of Administrative Adoption.* – The adoption may be rescinded only upon the petition of the adoptee with the NACC, or with the assistance of the SWDO if the adoptee is a minor, or if the adoptee is eighteen (18) years of age or over but who is incapacitated or by his or her guardian on any of the following grounds committed by the adopter(s):

- (a) Repeated physical or verbal maltreatment by the adopter despite having undergone counseling;
- (b) Attempt on the life of the adoptee;
- (c) Sexual abuse or violence; or
- (d) Abandonment and failure to comply with parental obligations.

Adoption, being in the best interest of the child, shall not be subject to rescission by the adopter. However, the adopter may disinherit the adoptee for causes provided in Article 919 of the Civil Code of the Philippines.

¹⁰ For those adopted *before* the effectivity of R.A. No. 11462, the grounds are as provided under Articles 229 to 232 of the Family Code while for those adopted *after*, the grounds are as provided under Sec. 47 of R.A. No. 11642.

¹¹ Letter dated March 3, 2022 of Senior Associate Justice Estela M. Perlas-Bernabe, pp. 3-6.

Adoption shall be dismissed.” Gaerlan, J., on official leave.
(1)

By authority of the Court:



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