

EN BANC

[G.R. No. L-16749. January 31, 1963.]

**IN THE MATTER OF THE TESTATE ESTATE OF EDWARD E. CHRISTENSEN, DECEASED. ADOLFO C. AZNAR, Executor and LUCY CHRISTENSEN, Heir of the deceased, Executor and Heir-appellees, v. HELEN CHRISTENSEN GARCIA, *Oppositor-Appellant*.**

**M. R. Sotelo for executor and heir-appellees.**

**Leopoldo M. Abellera and Jovito Salonga for *Oppositor-Appellant*.**

**FACTS:**

Testator Edward Christensen, at the time of his death was citizen of the United States and of the State of California and domiciled in the Philippines. He executed in his will devising and bequeathing an amount of P3600 to Helen Christensen Garcia and the rest of the properties to his daughter Lucy Christensen. Helen opposed the approval of the project of partition alleging that it deprives her of her legitime as an acknowledged natural child of the deceased testator.

**SYLLABUS**

1. PRIVATE INTERNATIONAL LAW; DETERMINATION OF CITIZENSHIP; U.S. CITIZENSHIP NOT LOST BY STAY IN PHILIPPINES BEFORE INDEPENDENCE. — The citizenship that the deceased acquired in California when he resided there from 1904 to 1913 was never lost by his stay in the Philippines, for the latter was a territory of the United States until 1946, and the deceased appears to have considered himself as a citizen of California by the fact that when he executed his will in 1951 he declared that he was a citizen of that State; so that he appears never intended to abandon his California citizenship by acquiring another.

2. ID.; VALIDITY OF TESTAMENTARY PROVISIONS; MEANING OF "NATIONAL LAW" IN ARTICLE 16, CIVIL CODE; CONFLICT OF LAW RULES IN CALIFORNIA TO BE APPLIED IN CASE AT BAR. — The "national law" indicated in Article 16 of the Civil Code cannot possibly apply to any general American law, because there is no such law governing the validity of testamentary provisions in the United States, each state of the union having its own private law applicable to its citizen only and in force only within the state. It can therefore refer to no other than the private law of the state of which the decedent was a citizen. In the case at bar, the State of California, prescribes two sets of laws for its citizens, an internal law for its citizens domiciled in other jurisdiction. Hence, reason demands that the California conflict of law rules should be applied in this jurisdiction in the case at bar.

3. ID.; ID.; DOMICILE; FACTORS CONSIDERED IN DETERMINING ALIEN'S DOMICILE IN THE PHILIPPINES. — An American citizen who was born in New York, migrated to California, resided there for nine years, came to the Philippine in 1913, and very rarely returned to California and only for short visits, and who appears to have never owned or acquired a home or properties in that state, shall be considered to have his domicile in the Philippines.

4. ID.; ID.; ID.; RULE OF RESORTING TO THE LAW OF THE DOMICILE IN DETERMINING MATTERS WITH FOREIGN ELEMENT INVOLVED. — The rule laid down of resorting to the law of the domicile in the determination of matters with foreign element involved is in accord with the general principle of American law that the domiciliary law should govern in most matters or rights which follow the person of the owner.

5. ID.; ID.; ID.; ID.; COURT OF DOMICILE BOUND TO APPLY ITS OWN LAW AS DIRECTED IN THE CONFLICT OF LAW RULE OF DECEDENT'S STATE; APPLICATION OF THE RENVOI DOCTRINE. — The conflict of law rule in California, Article 946, Civil Code, refers back the case, when a decedent is not domiciled in California, to the law of his domicile, the Philippines in the case at bar. The court of domicile cannot and should refer the case back to California, as such action would leave the issue incapable of determination, because the case will then be tossed back and forth between the two states. If the question has to be decided, the Philippine court must apply its own law as the Philippines was the domicile of the decedent, as directed in the conflict of law rule of the state of the decedent, California, and especially because the internal law of California provides no legitime for natural children, while the Philippine law (Articles 887 (4) and 894, Civil Code of the Philippines) makes natural children legally acknowledged forced heirs of the parent recognizing them.

6. ID.; ID.; ID.; ID.; ID.; PHILIPPINE LAW TO BE APPLIED IN CASE AT BAR. — As the domicile of the deceased, who was a citizen of California, was the Philippines, the validity of the provisions of his will depriving his acknowledge natural child of the latter's legacy, should be governed by the Philippine law, pursuant to Article 946 of the Civil Code of California, not by the law of California.



## DECISION

**LABRADOR, J.:**

This is an appeal from a decision of the Court of First Instance of Davao, Hon. Vicente N. Cusi, Jr., presiding, in Special Proceeding No. 622 of said court, dated September 14, 1949, approving among other things the final accounts of the executor, directing the executor to reimburse Maria Lucy Christensen the amount of P3,600 paid by her to Helen Christensen Garcia as her legacy, and declaring Maria Lucy Christensen entitled to the residue of the property to be enjoyed during her lifetime, and in case of death without issue, one-half of said residue to be payable to Mrs. Carrie Louise C. Borton, etc., in accordance with the provisions of the will of the testator Edward

E. Christensen. The will was executed in Manila on March 5, 1951 and contains the following provisions:

"3. I declare . . . that I have but one (1) child, named Maria Lucy Christensen (now Mrs. Bernard Daney), who was born in the Philippines about twenty-eight years ago, and who is now residing at No. 665 Rodger Young Village, Los Angeles, California, U.S.A.

"4. I further declare that I now have no living ascendants, and no descendants except my above named daughter, Maria Lucy Christensen Daney.

x x x

"7. I give, devise and bequeath unto Maria Helen Christensen, now married to Eduardo Garcia, about eighteen years of age and who, notwithstanding the fact that she was baptized Christensen, is not in any way related to me, nor has she been at any time adopted by me, and who, from all information I have now resides in Eggit, Digos, Davao, Philippines, the sum of Three Thousand Six Hundred Pesos (P3,600.00), Philippine Currency, the same to be deposited in trust for the said Maria Helen Christensen with the Davao Branch of the Philippine National Bank, and paid to her at the rate of One Hundred Pesos (P100.00), Philippine Currency per month until the principal thereof as well as any interest which may have accrued thereon, is exhausted.

x x x

"12. I hereby give devise and bequeath unto my well-beloved daughter, the said Maris Lucy Christensen Daney (Mrs. Bernard Daney), now residing as aforesaid at No. 665 Rodger Young Village, Los Angeles, California, U.S.A., all the income from the rest, remainder, and residue of my property and estate, real, personal and/or mixed, of whatsoever kind or character, and wheresoever situated, of which I may be possessed at my death and which may have come to me from any source whatsoever, during her lifetime: . . ."

It is in accordance with the above-quoted provisions that the executor in his final account and project partition ratified the payment of only P3,600 to Helen Christensen Garcia and proposed that the residue of the estate be transferred to his daughter, Maria Lucy Christensen.

Opposition to the approval of the project of partition was filed by Helen Christensen Garcia, insofar as it deprives her (Helen) of her legitime as an acknowledged natural child, she having been declared by Us in G.R. Nos. L-11483-84 an acknowledged natural child of the deceased Edward E. Christensen. The legal grounds of opposition are (a) that the distribution should be governed by the laws of the Philippines, and (b) that said order of distribution is contrary thereto insofar as it denies to Helen Christensen, one of two acknowledged natural children, one-half of the estate in full ownership. In amplification of the above grounds it was alleged that the law that should govern the estate of the deceased Christensen should not be the internal law of California alone, but the entire law thereof because several foreign elements are involved, that the forum is the Philippines and even if the case were decided in California, Section 946 of the California Civil Code, which requires that the domicile of the decedent apply, should be applicable. It was also alleged that Maria Helen Christensen having been declared an acknowledged natural child of the decedent, she is deemed for all purposes legitimate from the time of her birth.

The court below ruled that as Edward E. Christensen was a citizen of the United States and of the State of California at the time of his death, the successional rights and intrinsic validity of the provisions in his will are to be governed by the law of California, in accordance with which a testator has the right to dispose of his property in the way he desires, because the right of absolute dominion over his property is sacred and inviolable (In re McDaniel's Estate, 77 Cal. Appl. 2d 877, 176 P. 2d 952, and In re Kaufman, 117 Cal. 286, 49 Pac. 192, cited in page 179, Record on Appeal). Oppositor Maria Helen Christensen, through counsel, filed various motions for reconsideration, but these were denied. Hence this appeal.

The most important assignments of error are as follows:

I

THE LOWER COURT ERRED IN IGNORING THE DECISION OF THE HONORABLE SUPREME COURT THAT HELEN IS THE ACKNOWLEDGED NATURAL CHILD OF EDWARD E. CHRISTENSEN AND, CONSEQUENTLY, IN DEPRIVING HER OF HER JUST SHARE IN THE INHERITANCE.

II

THE LOWER COURT ERRED IN ENTIRELY IGNORING AND/OR FAILING TO RECOGNIZE THE EXISTENCE OF SEVERAL FACTORS, ELEMENTS AND CIRCUMSTANCES CALLING FOR THE APPLICATION OF INTERNATIONAL LAW.

III

THE LOWER COURT ERRED IN FAILING TO RECOGNIZE THAT UNDER INTERNATIONAL LAW, PARTICULARLY UNDER THE RENVOI DOCTRINE, THE INTRINSIC VALIDITY OF THE TESTAMENTARY DISPOSITION OR THE DISTRIBUTION OF THE ESTATE OF THE DECEASED EDWARD E. CHRISTENSEN SHOULD BE GOVERNED BY THE LAWS OF THE PHILIPPINES.

IV

THE LOWER COURT ERRED IN NOT DECLARING THAT THE SCHEDULE OF DISTRIBUTION SUBMITTED BY THE EXECUTOR IS CONTRARY TO THE PHILIPPINE LAWS.

V

THE LOWER COURT ERRED IN NOT DECLARING THAT UNDER THE PHILIPPINE LAWS HELEN CHRISTENSEN GARCIA IS ENTITLED TO ONE-HALF (1/2) OF THE

## ESTATE IN FULL OWNERSHIP.

There is no question that Edward E. Christensen was a citizen of the United States and of the State of California at the time of his death. But there is also no question that at the time of his death he was domiciled in the Philippines, as witness the following facts admitted by the executor himself in appellee's brief:

"In the proceedings for admission of the will to probate, the facts of record show that the deceased Edward E. Christensen was born on November 29, 1875, in New York City, N. Y., U.S.A.; his first arrival in the Philippines, as an appointed school teacher, was on July 1, 1901, on board the U.S. Army Transport 'Sheridan' with Port of Embarkation as the City of San Francisco, in the State of California, U.S.A. He stayed in the Philippines until 1904.

"In December, 1904, Mr. Christensen returned to the United States and stayed there for the following nine years until 1913, during which time he resided in, and was teaching school in Sacramento, California.

"Mr. Christensen's next arrival in the Philippines was in July of the year 1913. However, in 1928, he again departed the Philippines for the United States and came back here the following year, 1929. Some nine years later, in 1938, he again returned to his own country, and came back to the Philippines the following year, 1939.

"Being an American citizen, Mr. Christensen was interned by the Japanese Military Forces in the Philippines during World War II. Upon liberation, in April 1945, he left for the United States but returned to the Philippines in December, 1945. Appellees' Collective Exhibits '6', CFI Davao, Sp. Proc. 622. as Exhibits 'AA', 'BB' and 'CC-Daney'; Exhs. 'MM', 'MM-1', 'MM-2-Daney', and p. 473, t.s.n., July 21, 1953.

"In April, 1951, Edward E. Christensen returned once more to California shortly after the making of his last will and testament (now in question herein) which he executed at his lawyers' offices in Manila on March 5, 1951. He died at the St. Luke's Hospital in the City of Manila on April 30, 1953." (Pp. 2-3)

In arriving at the conclusion that the domicile of the deceased is the Philippines, we are persuaded by the fact that he was born in New York, migrated to California and resided there for nine years, and since he came to the Philippines in 1913 he returned to California very rarely and only for short visits (perhaps to relatives), and considering that he appears never to have owned or acquired a home or properties in that state, which would indicate that he would ultimately abandon the Philippines and make home in the State of California.

"Sec. 16. Residence is a term used with many shades of meaning from mere temporary presence to the most permanent abode. Generally, however, it is used to denote something more than mere physical presence." (Goodrich on Conflict of Laws, p. 29)

As to his citizenship, however, we find that the citizenship that he acquired in California when he resided in Sacramento, California from 1904 to 1913, was never lost by his stay in the Philippines, for the latter was a territory of the United States (not a state) until 1946 and the deceased appears to have considered himself as a citizen of California by the fact that when he executed his will in 1951 he declared that he was a citizen of that State; so that he appears never to have intended to abandon his California citizenship by acquiring another. This conclusion is in accordance with the following principle expounded by Goodrich in his Conflict of Laws.

"The terms 'residence' and 'domicile' might well be taken to mean the same thing, a place of permanent abode.

But domicile, as has been shown, has acquired a technical meaning. Thus one may be domiciled in a place where he has never been. And he may reside in a place where he has no domicile. The man with two homes, between which he divides his time, certainly resides in each one, while living in it. But if he went on business which would require his presence for several weeks or months, he might properly be said to have sufficient connection with the place to be called a resident. It is clear, however, that, if he treated his settlement as continuing only for the particular business in hand, not giving up his former "home," he could not be a domiciled New Yorker. Acquisition of a domicile of choice requires the exercise of intention as well as physical presence. Residence simply requires bodily presence as an inhabitant in a given place, while domicile requires bodily presence in that place and also an intention to make it one's domicile.' Residence, however, is a term used with many shades of meaning, from the merest temporary presence to the most permanent abode, and it is not safe to insist that any one use is the only proper one." (Goodrich, p. 29)

The law that governs the validity of his testamentary dispositions is defined in Article 16 of the Civil Code of the Philippines, which is as follows:

"ART. 16. Real property as well as personal property is subject to the law of the country where it is situated.

"However, intestate and testamentary successions, both with respect to the order of succession and to the amount of successional rights and to the intrinsic validity of testamentary provisions, shall be regulated by the national law of the person whose succession is under consideration, whatever may be the nature of the property and regardless of the country wherein said property may be found."

The application of this article in the case at bar requires the determination of the meaning of the term "national law" as used therein.

There is no single American law governing the validity of testamentary provisions in the United States, each state of the Union having its own private law applicable to its citizens only and in force only within the state. The "national law" indicated in Article 16 of the Civil Code above quoted can not, therefore, possibly mean or apply to any general American law. So it can refer to no other than the private law of the state of which the decedent is a citizen, in the case at bar, the private law of the State of California.

The next question is: What is the law in California governing the disposition of personal property? The decision of the court below, sustains the contention of the executor-appellee that under the California Probate Code, a testator may dispose of his property by will in the form and manner he desires, citing the case of Estate of McDaniel, 77 Cal. Appl. 2d 877, 176 P. 2d 952. But appellant invokes the provisions of Article 946 of the Civil Code of California, which is as follows:

"If there is no law to the contrary, in the place where personal property is situated, it is deemed to follow the person of its owner, and is governed by the law of his domicile."

The existence of this provision is alleged in appellant's opposition and is not denied. We have checked it in the California Civil Code and it is there. Appellee, on the other hand, relies on the case cited in the decision and testified to by a witness. (Only the case Kaufman is correctly cited.) It is argued on executor's behalf that as the deceased Christensen was a citizen of the State of California, the internal law thereof, which is that given in the above-cited case, should govern the determination of the validity of the testamentary provisions of Christensen's will,

such law being in force in the State of California of which Christensen was a citizen. Appellant, on the other hand, insists that Article 946 should be applicable, and in accordance therewith and following the doctrine of renvoi, the question of the validity of the testamentary provision in question should be referred back to the law of the decedent's domicile, which is the Philippines.

The theory or doctrine of renvoi has been defined by various authors, thus:

"The problem has been stated in this way: 'When the Conflict of Laws rule of the forum refers a jural matter to a foreign law for decision, is the reference to the corresponding rule of the Conflict of Law of that foreign law, or is the reference to the purely internal rules of law of the foreign system; i.e., to the totality of the foreign law, minus its Conflict of Laws rules?'

"On logic, the solution is not an easy one. The Michigan court chose to accept the renvoi, that is, applied the Conflict of Laws rule of Illinois which referred the matter back to Michigan law. But once having determined that the Conflict of Laws principle is the rule looked to, it is difficult to see why the reference back should not have been to Michigan Conflict of Laws. This would have resulted in the 'endless chain of references' which has so often been criticized by legal writers. The opponents of the renvoi would have looked merely to the internal law of Illinois, thus rejecting the renvoi or the reference back. Yet there seems no compelling logical reason why the original reference should be to the internal law rather than to the Conflict of Laws rule. It is true that such a solution avoids going on a merry-go-round, but those who have accepted the renvoi theory avoid this inextricabilis circulus by getting off at the second reference and at that point applying internal law. Perhaps the opponents of the renvoi are a bit more consistent for they look always to internal law as the rule of reference.

"Strangely enough, both the advocates for and the objectors to the renvoi plead that greater uniformity will result from adoption of their respective views. And still more strange is the fact that the only way to achieve uniformity in this choice-of-law problem is if in the dispute the two states whose laws form the legal basis of the litigation disagree as to whether the renvoi should be accepted. If both reject, or both accept the doctrine, the result of the litigation will vary with the choice of the forum. In the case stated above, had the Michigan court rejected the renvoi, judgment would have been against the woman; if the suit had been brought in the Illinois courts, and they too rejected the renvoi, judgment would be for the woman. The same result would happen, though the courts would switch with respect to which would hold liability, if both courts accepted the renvoi.

"The Restatement accepts the renvoi theory in two instances: where the title to land is in question, and where the validity of a decree of divorce is challenged. In these cases, the Conflict of Laws rule of the situs of the land, or the domicile of the parties in the divorce case, is applied by the forum, but any further reference goes only to the internal law. Thus, a person's title to land, recognized by the situs, will be recognized by every court; and every divorce, valid by the domicile of the parties, will be valid everywhere." (Goodrich, Conflict of Laws, Sec. 7, pp. 13-14.)

"X, a citizen of Massachusetts, dies intestate, domiciled in France, leaving movable property in Massachusetts, England, and France. The question arises as to how this property is to be distributed among X's next of kin.

"Assume (1) that this question arises in a Massachusetts court. There the rule of the conflict of laws as to intestate succession to movables calls for an application of the law of the deceased's last domicile. Since by hypothesis X's last domicile was France, the natural thing for the Massachusetts court to do would be to turn to French statute of distributions, or whatever corresponds thereto in French law, and decree a distribution accordingly. An examination of French law, however, would show that if a French court were called upon to determine how this property should be distributed, it would refer the distribution to the national law of the deceased, thus applying the Massachusetts state of distributions. So on the surface of things the Massachusetts court has open to it alternative course of action: (a) either to apply the French laws as to intestate succession, or (b) to resolve itself into a French court and apply the Massachusetts statute of distributions, on the assumption that this is what a French court would do. If it accepts the so-called renvoi doctrine, it will follow the latter course, thus applying its

own law.

"This is one type of renvoi. A jural matter is presented which the conflict-of-laws rule of the forum refers to a foreign law, the conflict-of-laws rule of which, in turn refers the matter back again to the law of the forum. This is renvoi in the narrower sense. The German term for this judicial process is 'Ruckverweisung.'" (Harvard Law Review, Vol. 31, pp. 523-571.)

"After a decision has been arrived at that a foreign law is to be resorted to as governing a particular case, the further question may arise: Are the rules as to the conflict of laws contained in such foreign law also to be resorted to? This is a question which, while it has been considered by the courts in but a few instances, has been the subject of frequent discussion by textwriters and essayists; and the doctrine involved has been descriptively designated by them as the 'Renvoyer' to send back, or the Ruchversweisung', or the 'Weiterverweisung', since an affirmative answer to the question postulated and the operation of the adoption of the foreign law in toto would in many cases result in returning the main controversy to be decided according to the law of the forum . . . (15 C.J.S. 872.)

"Another theory, known as the 'doctrine of renvoi', has been advanced. The theory of the doctrine of renvoi is that the court of the forum, in determining the question before it, must take into account the whole law of the other jurisdiction, but also its rules as to conflict of laws, and then apply the law to the actual question which the rules of the other jurisdiction prescribe. This may be the law of the forum. The doctrine of the renvoi has generally been repudiated by the American authorities." (2 Am. Jur. 296.)

The scope of the theory of renvoi has also been defined and the reasons for its application in a country explained by Prof. Lorenzen in an article in the Yale Law Journal, Vol. 27, 1917-1918, pp. 509-531. The pertinent parts of the article are quoted herein below:

"The recognition of the renvoi theory implies that the rules of the conflict of laws are to be understood as incorporating not only the ordinary or internal law of the foreign state or country, but its rules of the conflict of laws as well. According to this theory 'the law of a country' means the whole of its law.

x x x

"Von Bar presented his views at the meeting of the institute of International Law, at Neuchatel, in 1900, in the form of the following theses:

"(1) Every court shall observe the law of its country as regards the application of foreign laws.

"(2) Provided that no express provision to the contrary exists, the court shall respect:

"(a) The provisions of a foreign law which disclaims the right to bind its nationals abroad as regards their personal statute, and desires that said personal statute shall be determined by law of the domicile, or even by the law of the place where the act in question occurred.

"(b) The decision of two or more foreign systems of law, provided it be certain that one of them is necessarily competent, which agree in attributing the determination of a question to the same system of law.

x x x

"If, for example, the English Law directs its judge to distribute the personal estate of an Englishman who has died domiciled in Belgium in accordance with the law of his domicile, he must first inquire whether the law of Belgium

would distribute personal property upon death in accordance with the law of domicile, and if he finds that the Belgian law would make the distribution in accordance with the law of nationality — that is the English law, — he must accept this reference back to his own law."

We note that Article 946 of the California Civil Code as its conflict of laws rule, while the rule applied in *In re Kaufman*, supra, its internal law. If the law on succession and the conflict of law rules of California are to be enforced jointly, each in its own intended and appropriate sphere, the principle cited in *In re Kaufman* should apply to citizens living in the State, but Article 946 should apply to such of its citizens as are not domiciled in California but in other jurisdictions. The rule laid down of resorting to the law of the domicile in the determination of matters with foreign element involved is in accord with the general principle of American law that the domiciliary law should govern in most matters or rights which follow the person of the owner.

"When a man dies leaving personal property in one or more estates, and leaves a will directing the manner of distribution of the property, the law of the state where he was domiciled at the time of his death will be looked to in deciding legal questions about the will, almost as completely as the law of the situs is consulted in questions about the devise of land. It is logical that, since the domiciliary rules control devolution of the personal estate in case of intestate succession, the same rules should determine the validity of an attempted testamentary disposition of the property. Here, also, it is not that the domiciliary has effect beyond the borders of the domiciliary state. The rules of the domicile are recognized as controlling by the Conflict of Laws rules at the situs of the property, and the reason for the recognition as in the case of intestate succession, is the general convenience of the doctrine. The New York court has said on the point; 'The general principle that a disposition of personal property valid at the domicile of the owner, is valid everywhere, is one of universal application. It had its origin in that international comity which was one of the first fruits of civilization, and in this age, when business intercourse and the process of accumulating property take but little notice of boundary lines, the practical wisdom and justice of the rule is more apparent than ever.'" (Goodrich, Conflict of Laws, Sec. 164, pp. 442-443.)

Appellees argue that what Article 16 of the Civil Code of the Philippines pointed out as the national law is the internal law of California. But as above explained the laws of California have prescribed two sets of laws for its citizens, one for residents therein and another for those domiciled in other jurisdictions. Reason demands that We should enforce the California internal law prescribed for its citizens residing therein, and enforce the conflict of law rules law for the citizens domiciled abroad. If we must enforce the law of California as in comity we are bound to do, as so declared in Article 16 of our Civil Code, then we must enforce the law of California in accordance with the express mandate thereof and as above explained, i.e., apply the internal law for residents therein, and its conflict of laws rule for those domiciled abroad.

It is argued on appellees behalf that the clause "if there is no law to the contrary in the place where the property is situated" in Sec. 946 of the California Civil Code refers to Article 16 of the Civil Code of the Philippines and that the law to the contrary in the Philippines is the provision in said Article 16 that the national of the deceased should govern. This contention can not be sustained. As explained in the various authorities cited above the national law mentioned in Article 16 of our Civil Code is the law on conflict of laws in the California Civil Code, i.e., Article 946, which authorizes the reference or return of the question to the law of the testator's domicile. The conflict of law rule in California, Article 946, Civil Code, precisely refers back the case, when a decedent is not domiciled in California, to the law of his domicile, the Philippines in the case at bar. The court of the domicile cannot and should not refer the case back to California; such action would leave the issue incapable of determination because the case will

then be like a football, tossed back and forth between the two states, between the country of which the decedent was a citizen and the country of his domicile. The Philippine court must apply its own law as directed in the conflict of law rule of the state of the decedent, if the question has to be decided, especially as the application of the internal law of California provides no legitime for children while the Philippine law, Arts. 887 (4) and 894, Civil Code of the Philippines, makes natural children legally acknowledged forced heirs of the parent recognizing them.

The Philippine cases (In Re Estate of Johnson, 39 Phil., 156; Riera v. Palmaroli, 40 Phil., 105; Miciano v. Brimo, 50 Phil., 867; Babcock Templeton v. Rider Babcock, 52 Phil., 130; and Gibbs v. Government, 59 Phil., 293.) cited by appellees to support the decision can not possibly apply in the case at bar, for two important reasons, i.e., the subject in each case does not appear to be a citizen of a state in the United States but with domicile in the Philippines, and it does not appear in each case that there exists in the state of which the subject is a citizen, a law similar to or identical with Art. 946 of the California Civil Code.

We therefore find that as the domicile of the deceased Christensen, a citizen of California, is the Philippines, the validity of the provisions of his will depriving his acknowledged natural child, the appellant, should be governed by the Philippine law, the domicile, pursuant to Art. 946 of the Civil Code of California, not by the internal law of California.

WHEREFORE, the decision appealed from is hereby reversed and the case returned to the lower court with instructions that the partition be made as the Philippine law on succession provides. Judgment reversed, with costs against appellees.

Padilla, Bautista Angelo, Concepcion, Reyes, J.B.L., Barrera, Paredes, Dizon, Regala and Makalintal, *JJ.*, concur.

Bengzon, *C.J.*, took no part.

*Decision reversed and case returned to lower court with instructions that partition be made as the Philippine law on succession applies.*

**Notes.** – The word “amount of successional rights” used in Article 16 of the Civil Code refer to the extent or amount of property that each heir is legally entitled to inherit from the estate available for distribution. (*Collector vs. Fischer, et. al.*, L-11622 and L-11668, January 30, 1960.)

The doctrine of *renvoi* is usually pertinent where is a decedent is a national of one country and is domiciled in another. It does not apply to a case where the decedent was a citizen of Texas and was domiciled therein at the time of his death. (*Bellis vs. Bellis, et. al.*, L-23678, June 6, 1967, 20 SCRA 358).