

**IN RE ESTATE OF APOLONIA REMIGIO. GORGONIA REMIGIO,
PETITIONER AND APPELLANT, VS. SANTIAGO ORTIGA, EDUARDO
ORTIGA, AND ALFONSO ORTIGA, RESPONDENTS AND APPELLEES.**

G.R. No. 9105. November 22, 1915

Ponente: ARAULLO, J.

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ARAULLO, J.:

Apolonia Remigio y Capati, widow of Pablo Ortega Chan Chioc, died, in Manila, and the will executed by her on August 12, 1911, was duly probated in the Court of First Instance of the said city. On January 7, 1913. Gorgonia Remigio y Pefia came into said court and filed a petition in which she stated that she was the person that in the fifteenth paragraph of said will was instituted as the universal heir of all the property, rights and actions of the testatrix that had not been specially devised; she asked the court to order that said remainder of all the property belonging to the estate, after all the debts and obligations, donations, legacies, expenses of administration, and other charges were paid in accordance with the will, be delivered to her by the administrator, as required by law.

Santiago Ortega, Eduardo Ortega, and Alfonso Ortega also entered their appearances and prayed that such part of Apolonia Remigio's estate as pertained to them, as the sole children and forced heirs of said decedent, be distributed among them.

Evidence was introduced by both parties, the case was heard, and on March 24, 1913, said Court of First Instance of Manila issued an order in which (on the grounds that the petitioners Santiago Ortega, Eduardo Ortega, and Alfonso Ortega were the legitimate, acknowledged children of Apolonia Remigio, born of her, and as such entitled to share in her estate as forced heirs, no reason being given in the will why they should be disinherited) he directed that the said decedent's estate should be partitioned and distributed in the following manner: To Santiago Ortega, two-ninths; to Eduardo Ortega, two-ninths; to Alfonso Ortega also two-ninths; and the third part which remained, pro rata among the legatees named in the last will and testament of the said Apolonia Remigio, deceased.

Said legatees, on being notified of the aforementioned order, appealed therefrom to the Supreme Court; the appeal was admitted upon the filing of a bond for P500, and, after forwarding the proper transcript of the evidence, the parties herein filed their respective briefs, in one of which petitioner Gorgonia Remigio has assigned various errors. She claims the lower court erred in admitting certain evidence adduced by respondents; in making the findings and the conclusions drawn by said court upon said evidence; and in declaring and finding that respondents are the forced heirs of the deceased Apolonia Remigio and entitled to a two-thirds share in her estate.

In the will executed, as aforesaid, by Apolonia Remigio on August 12, 1911, the following clauses appear:

"First. I declared that I was married in first and only wedlock to D. Pablo Ortega Chan Chioc, a native of China, a resident of Manila and a Christian, with whom I contracted a canonical marriage.

"Second. I declare that from my marriage with said Pablo Ortega I have had two children, a boy and a girl, who

were baptized in the parish church of Binondo, Manila, with the names of Candido and Dorotea; that they died a short while after birth—all of which facts are shown in the respective baptismal and burial entries recorded in the archives of the parish of Binondo, Manila. I further declare that at the present time I have neither ascendants nor descendants of any kind, and although in the will executed by my husband on April 7, 1902, and subsequently probated, he recorded that the parties named Santiago, Eduardo and Alfonso were issue of his marriage with me, the testatrix, the truth is that that statement is not true, as may be proved by the means which I leave in the hands of the person whom I hereby institute as my heir.

"Third. I declare to be my property all that which is specified in the instrument and agreements made by me with my husband's alleged legitimate children named Santiago Mora Ortega, Alfonso Ortega, and Eduardo Ortega, relative to the partition and distribution of property on the occasion of the probate proceedings in the matter of the estate of my deceased husband D. Pablo Ortega, although I have disposed of some property and have acquired other, note of which I shall leave with my heir.

"Fourth. I designate, appoint, and institute as my testamentary executors, administrators of the property found after my death, and executors of this will of mine, in the first place, D. Julian La O, and in the second place, D. Jose de Jesus y Pilapil, either of whom must discharge the duties of his office in the absence of the other, and unless my heir should request of the proper authorities that said gentlemen give bond for the faithful discharge of the duties of their office, I relieve them from all bond and confer upon them all the powers granted by the laws in force; but I beg, recommend, and order them not to bring any action whatever against my husband's children, with reference to the property that was improperly awarded to them by reason of their appearing to be legitimate children of my deceased husband, but if my husband's said children, or any of them should attack this will or any of the clauses or provisions thereof, then and in that case my testamentary executors shall proceed in accordance with law, for then and in that case I hereby retire, withdraw and annul the request, recommendation and order above mentioned.

* * * * *

"Fifteenth. As to the residue of all my property, rights and actions of whatever kind they may be, I institute as my sole and universal heir my niece Doña Gorgonia Remigio y Peña, in order that, as the exclusive owner of my said property, rights and actions, without other limitations than those I have hereinbefore imposed, she may hold, possess and enjoy them and exercise all other ownership rights thereto pertaining.

"But I recommend to my said heir and order her not to impeach the filiation claimed by Santiago Mora Ortega, Alfonso Ortega, and Eduardo Ortega, and not to bring any action whatever against them or their heirs by reason of the property and businesses they improperly received out of the estate of my deceased husband Don Pablo Ortega Chan Chioc for, out of respect for his memory, I have desired, do continually desire, and shall always desire that there be peace; notwithstanding, my heir as well as my testamentary executors shall be free to take any legal proceedings with regard thereto, should those alleged children, or any of them, attempt to disturb or contest this will, or in any other way whatsoever initiate any action or contest by reason of this will or on account of my property."

Notwithstanding the clear and positive statement made by Apolonia Remigio y Capati in the second, fourth and fifteenth clauses of her will above transcribed, to the effect that the respondents Santiago Ortega, Eduardo Ortega, and Alfonso Ortega are not the issue of her marriage with Pablo Ortega Chan Chioc, deceased, these said children have endeavored to prove the contrary for the purpose of participating, as her forced heirs, in the estate left by said testatrix.

The first proof presented by respondents for this purpose consisted of the will (Exhibit A) executed by the deceased Pablo Ortega on April 7, 1902, and probated on March 8, 1906, and the petition for such probate, presented by his widow Apolonia Remigio and his son Santiago Ortega y Remigio, as stated in the respective application (Exhibit B), in which it was also stated that said deceased at his death had left said will in which he

instituted as his sole and universal heirs his children Santiago, Eduardo, and Alfonso.

In said will of the deceased Pablo Ortega, the following clauses appear:

* * * * *

"Third. I declare that after several years' residence in these Islands from the time I first arrived in them, they being then governed by the late Spanish Government, I contracted marriage in facia ecclesie with Doña Apolonia Remigio y Capati, my present wife, who, like myself, brought to our marriage no property worthy of mention, but by force of constancy, labor, fatigue and painful economy we have been able to acquire the property we now possess and which I shall hereinafter specifically mention.

"Fourth. I declare that up to the present time there have been born to me of my marriage (three) children named Santiago, Eduardo, and Alfonso, the first being of legal age and the last (two) minors.

* * * * *

"Sixth. Earnestly desiring to outline a scheme or to commence the partition of my property, thus facilitating this labor, I wish and it is my will that, as a part of the community property pertaining to my wife Doña Apolonia Remigio y Capati, and to this she consents, there be awarded to her all the property specified in Nos. 1 to 6, inclusive, of paragraph 2 of this my will, and which we have obtained by her own desire, for, although the total value of this property, to wit, eighty-eight thousand pesos, is not one-half of the amount of the total property we possess (amounting to three hundred and seventy-one thousand pesos), yet she will in no wise suffer any detriment from the natural risks of commercial affairs; on the other hand, the landed property is more stable and secure, aside from the fact that no one except her children or descendants are lawfully entitled to succeed her in her property rights * * *."

Further evidence presented by respondents was the instrument of partition of the property of said decedent, Pablo Ortega, together with the agreement setting forth the bases for this partition (Exhibit D) filed with the court in case No. 4312, proceedings relative to said decedent's estate. This document was dated July 27, 1907, and was signed by Apolonia Remigio herself and by Eduardo Ortega, Santiago Ortega, and the guardian of Alfonso Ortega.

The following paragraphs are contained in the document just mentioned:

"I. SUCCESSION OF THE DECEASED.

"Don Pablo Ortega Chan Chioc, a native of the town of Chuan Chiu, province of Chincang, Chinese Empire, sixty-one years of age, the son of parents now deceased, engaged in business in these Philippine Islands, married to Doña Apolonia Remigio and domiciled in this capital of Manila and the district of Binondo thereof, Calle Dasmariñas, No. 11, died, leaving a will, executed on April 7, 1902, and a widow and three children named Santiago, Eduardo, and Alfonso, the first two children of legal age and the last one, a minor, the only persons up to the present time interested in the partition of the estate of said decedent.

"As the widowed spouse, according to the sixth clause of the will, Doña Apolonia Remigio y Capati, widow, of age and a property owner.

"As instituted heirs, according to the seventh clause, the aforementioned Santiago, Eduardo, and Alfonso, of age the first two and a minor the last one, the first of them being 33 years old, the second 23, and the last, 19.

* * * * *

"VI. AGREEMENT AS TO THE BASES FOR THE PARTITION.

"The persons interested in this partition, on the one hand, Doña Apolonia Remigio y Capati, for her one-half of the community property, and on the hand, Don Santiago, Don Eduardo, and Don Alfonso, all surnamed Ortega, the first (of the three persons just mentioned) in his own behalf and in representation as testamentary guardian of the last-mentioned, who is a minor, agree that these three last named children, in view of the great sacrifices which the first-named, their most beloved mother Doña Apolonia Remigio y Capati, has made for them, of her

watchfulness and care for their literary and religious education, and of her generous unselfishness in behalf of the three brothers, in sacrificing the greater part of her community property to enlarge the part of the estate awarded to each of them by their father (may he be in heaven) and in contenting herself with only P88,000 of the P185,000 which belongs to her, voluntarily and freely bind themselves, jointly and severally: 1. To recognize and consider as being of the sole exclusive ownership of their said mother Doña Apolonia Remigio, and that there be awarded to her as a part of her one-half of the community property, the three estates which she acquired by her sole and private initiative, management and industry, etc."

The respondents also presented the document Exhibit E, which reads as follows:

"I, Don Jose Bustamante, Presbyter of the Holy Cathedral Church, and in charge of the Binondo Parish, (hereby) certify:

"That in the baptismal registry No. 42 of this parish on page 294 thereof, is an entry which reads as follows:

" 'On October 13, 1883, I, the undersigned ecclesiastical administrator and parish priest of Binondo, Province of Manila, set forth that the Very Reverend Father, Candido Garcia Valles, with my permission, solemnly baptized and anointed with the holy oils and chrism in this church under my charge, a boy born five days before who was given the name of Eduardo Ortiga Chan Chioc, the legitimate issue of the lawful marriage of Don Pablo Ortiga Chan Chioc, a Christian Chinaman, with Doña Apolonia Remigio, a Chinese mestiza, residents of Calle del Teatro Viejo; his godfather was D. Silvino Aquino Zacarias, married, of this district, who was apprised of his spiritual relationship and of the duties he contracted. In witness whereof I affix my signature.—Fray Meliton Moreno.'

"This copy agrees with its original; which I certify.—Parochial house of Binondo, January 14, 1913.

(Sgd.) "JOSE BUSTAMANTE,

"Presbyter."

The respondents, Santiago Ortiga, Eduardo Ortiga, and Alfonso Ortiga, presented four witnesses to prove that they were legitimate children of the married couple Pablo Ortiga and Apolonia Remigio, and that they enjoyed consideration as such.

One of them, Nemesio Corpus, 63 years of age, the senior sacristan of the Binondo Church from January, 1879 to 1898, and charged with making out the birth certificates in said church, testified that he knew Pablo Ortiga and Apolonia Remigio during that period and that he was in their house on a certain occasion for the purpose of preparing the papers for the baptism of a boy; that Apolonia herself, while in bed, spoke to him and, on his asking her on what date she wished the child to be baptized, told him October 13, 1813, (sic); that the child was baptized on that date and his name was Eduardo Ortiga Chan Chioc; and that he subsequently knew the latter. On the question being put to this witness: "Did Apolonia tell you anything about whose child that was?" he replied: "She did not; I went there only as a friend and visitor, and I asked her when the child was to be baptized and she told me."

Another witness was Aniceta Novenario. She testified that she knew Pablo Ortiga and Apolonia Remigio when she went to live with them in the year 1880. On being asked: "Did they have any persons in the house whom they treated as their children?" she replied: "None." Asked whether she has understood the foregoing question, she answered: "Yes, sir," and, continuing her testimony, made the following replies:

"Q. Were there any persons whom they treated as and called such?—A. Their children were there.

"Q. Who were those children?—A. Santiago and Eduardo.

"Q. When was Eduardo born?—A. On October 9, 1883.

"Q. Were you there when Eduardo was born?—A. Yes, sir.

"Q. How long did you remain afterwards?—A. A long while; my husband went to China and left me there with them.

"Q. Do you know Eduardo now?—A. Yes, sir.

"Q. Have you known him since a short time after his birth?—A. Yes, sir.

"Q. Did Pablo and Apolonia Remigio always call him their son and treat him as such?

"MIRANDA: I object to the question as being irrelevant and immaterial.

"The Court: Objection overruled.

"(Exception).

"A. Yes, sir; they used to call him their son."

Julia Reyes, another of respondents' witnesses, testified that she became acquainted with Pablo Ortiga and Apolonia Remigio while she lived in their house; that she did not remember the year, but she was there as one of the family; that there was then in the family a boy named Santiago; that when she went to live in said house, Capitana Apolonia was pregnant; that witness did not know whether afterwards there was another boy in the family, save the one named Eduardo; and that witness knew the latter from the time of his birth until he became of age because she took care of him. Finally, on this witness being asked: "Did Pablo and Apolonia Remigio always call Eduardo their son and treat him as such?", she replied: "Yes, sir." Appellant's counsel, however, objected to this question as being suggestive, irrelevant and immaterial, and excepted to its admission.

Finally, N. T. Hashim testified that he knew Pablo Ortiga and his wife Apolonia Remigio about 20 years ago; that he constantly visited their house, quite as if it were his own, and that he used to live near them, first on Calle Salazar, and afterwards on Calle Gandara, in front of their house. He further testified as follows:

"Q. Do you know Santiago, Eduardo, and Alfonso Ortiga?—A. I know the whole family.

"Q. Do you know how those three, Santiago, Eduardo, and Alfonso Ortiga were treated in the house of Pablo Ortiga ?

"MIRANDA: Objected to as immaterial, incompetent, and irrelevant.

"The COURT: Objection overruled.

"(Exception).

"A. Yes, sir; the first I knew of them, I and my family and all my children, they always spoke of them as 'my son so and so,' and 'father and mother,' and especially I knew the mother better than the father as he used to go to China. I remember one of the last times I had anything to do with them, one of the children, I do not remember now whether it was Eduardo or Alfonso, was held in the customhouse, and the old woman came to me and asked me to take him out of the customhouse, and asked me: 'How is it the Americans hold them? Tell them they are my children, born here in the Islands.'

"MIRANDA: Which son was that, Eduardo or Alfonso?—A. I do not remember which. I went down to the immigration office and explained to the officer there and he says: 'You must bring the baptismal paper and let the mother come here and make affidavit that he is her son born in the Philippine Islands,' and I went back to the house and told her, and at that time she was sick and she said: 'I won't go down to the customhouse,' and I went back to the customhouse and they said that if she could make out a power of attorney for some one to act for her, or an order, and she was surprised when I told her to make the power of attorney, and then she says:

'Santiago is my son; he can go,' and then she made out the paper before the notary, I do not remember who, and I took it to the customhouse and got the boy out.

"Q. Do you know, Mr. Hashim, the treatment that Pablo Ortiga and Apolonia gave these three, that is, Santiago, Eduardo and Alfonso Ortiga, in the presence of other people, as to whether they were their children or not?

"MIRANDA: Objected to as immaterial, incompetent and irrelevant.

"The COURT: Objection overruled.

"(Exception).

"A. Well, it is always in my presence, and everybody's presence, 'My son, my son.' If she had anything inside of her I do not know.

"That is all.

"Cross-examination by MIRANDA:

"Q. What document is that Doña Apolonia gave to you?—A. If I am not mistaken she declared: 'It is my son, Santiago; I give him full power to represent me in the customhouse.'

"Q. Before whom was that executed?—A. I do not remember, because I just wanted to take the children out of the customhouse.

"Q. Who was that in the customhouse; Santiago?—A. No, sir. Santiago was given the power to go down to the customhouse instead of his mother."

From the testimony introduced by petitioner to rebut that presented by respondents, it appears, in the first place, that a girl named Vicentica Lopez, a native of Bigaa, Province of Bulacan, lived with the married couple Pablo Ortiga Chan Chioc and Apolonia Remigio in their house on Calle Dasmariñas in the district of Binondo. Such was the testimony of the following witnesses: Severina San Jose, who was a servant of said spouses and began to serve them, as she herself testified, when she was still very young; a brother of Apolonia herself, named Arcadio Remigio, and her niece Marcela Remigio who had lived in the home of said married couple ever since she was weaned, as she also testified, it having been Apolonia herself who took care of her until she was 20 years old; Paz Lim, who also knew Vicentica in the house, and Maria de la Cruz, an old servant of the house where she had lived with said spouses Pablo Ortiga and Apolonia Remigio and had taken care of the only two children this couple had, Candido and Dorotea, both of whom had since died. This same witness also testified that Vicentica Lopez was a godchild of Apolonia's by confirmation and 12 years old when she went to live in said house.

This same evidence discloses that Marcela Remigio testified that Vicentica Lopez gave birth to Eduardo Ortiga in the house on Calle Dasmariñas, and that she knew it because she was then listening at the door of the room in which Vicentica was. The other witness, Maria de la Cruz, on being asked whether she knew who was Eduardo's mother replied: "Vicentica," and added on being questioned as to whether she was present when Eduardo was born: "Yes, sir; in fact I saw him * * *. In fact the midwife was in the room and I had to assist the midwife; on this account I saw that child when he was born." This same witness, Marcela Remigio, further testified that Vicentica Lopez also gave birth, after Eduardo, to a child named Fidel, and after this one, to four others named Alfonso, Pablito, Pacita, and Romaning. The witness Severina San Jose testified that she saw Vicentica gave birth to Alfonso in said house on Calle Dasmariñas; that Vicentica herself nursed said child after his birth, which fact witness knew because it was she who took care of the child; that Alfonso called Vicentica "mamma," and the latter considered him as her own child and treated him as such; that sometimes when Vicentica would entrust this

child to witness, she would tell the latter "to take good care of her child;" that Eduardo also considered Vicentica as his mother; that when Alfonso was a little more than three feet tall he was taken to China, witness then accompanying him as far as the customhouse; that after Alfonso's birth, there was in the house another child of Vicentica's whose name was Pablito, who was born in Paco and was a son of the said Vicentica, which latter fact witness knew because she was living in the house; and that said child was born in Paco notwithstanding that Vicentica was living on Calle Dasmariñas, because "Captain Pablo and Apolonia had a disagreement and for this reason Captain Pablo took Vicentica to Paco." This testimony accords with that of the other witness Arcadio Remigio in which the latter testified that Pablo Ortega had a house in Paco, which was in his wife's name, but belonged to this witness; that Vicentica Lopez was pregnant when they took her to said house, at which time Eduardo and Santiago were still very young; that Vicentica bore three children in said house and that Pablito was the name of the first of them.

Finally, said evidence shows, by the testimony of Maria de la Cruz, an old house-servant of the married couple Pablo Ortega and Apolonia Remigio, that this witness went with these latter to China and on their return to these Islands they brought with them a boy three years old, whom said spouses had bought in China; that this child was the one who was afterwards called Santiago Ortega, and was pointed out by the witness during the hearing; that witness had the money in her hand when said child was bought, and that it was taken from her hand when said child was bought, and that it was taken from her to pay the child's father and mother. This testimony is related to that given by Severina San Jose and Arcadio Remigio, both of whom testified that they knew that Santiago was bought in China, the witness Arcadio Remigio stating that he knew this to be a fact because his sister Apolonia and his brother-in-law told him so when they arrived from China, and that said child was then about three years of age.

In connection with the testimony of these same witnesses we have, on the one hand, Exhibit 5, a certificate issued by the Second Assistant Executive Secretary on December 27, 1911, of a copy taken from the Gaceta de Manila of October 21, 1875, in which there appears an official announcement of the 18th of the same month of October, by the Secretaria del Gobierno General de Filipinas, making known, as was required at that time, that Don Pablo Ortega Chan Chioc, ex gobernadorcillo de sangleyes, had applied for a passport to return to his country in company with his wife Doña Apolonia Remigio and his native servant Maria de la Cruz, that is, the witness of this name who testified in this case; and, on the other hand, the certificate Exhibit 3, issued on June 10, 1902, by the acting parish priest of the pueblo of San Cruz, a suburb of Manila, which certificate recites that on page 231 of the baptismal register kept in the archives of his parish, there was an entry which showed that on July 25, 1877, the presbyter D. Manuel Clemente solemnly baptized and anointed with the holy oils in said church of Santa Cruz, a male child born on December 18, 1873, who was given the name of Santiago Mora Ortega and was the son of pagan parents, natives of Chincang of the Chinese Empire.

It likewise appears from the will executed by Pablo Ortega Chan Chioc on May 23, 1883, a copy of which, as Exhibit 4, was presented by petitioner, that the testator Pablo Ortega declared that he was lawfully married to Doña Apolonia Remigio and as issue of his marriage with her, had had two children named Candido and Dorotea, who died in infancy. This particular agrees with the statements made by Apolonia Remigio in her will cited at the beginning of this decision. In the will of Pablo Ortega aforementioned, among the several legacies made therein there appears one in favor of his nephew named Santiago Chan Bung Quing, of the value of P2,750, and another legacy of P1,000 in favor of Vicentica Lopez, before mentioned.

Finally, when the Exhibits 1 and 2 were shown to the witnesses Arcadio Remigio, Marcela Remigio and Paz Lim,—the latter being another of petitioner's witnesses who testified that she had known Vicentica Lopez in Apolonia Remigio's house on Calle Dasmariñas,—they stated that said exhibits were photographs of said Vicentica

Lopez. It also appears from petitioner's Exhibit 6 that on January 4, 1903, Santiago Mora, mentioned in the corresponding church record which constitutes said exhibit, as Santiago Mora Ortiga Chan Quin, a Christian Chinaman and native of Chincang, Chinese Empire, contracted a second marriage; and from the Exhibit No. 7, that on October 2, 1890, in the Binondo Church, a male child was baptized who was given the name of Pablo Dalmacio Ortiga Chan Chioc, a legitimate son begotten in lawful wedlock by D. Pablo Ortiga Chan Chioc with Doña Apolonia Remigio, residents of Calle Dasmariñas of the said district of Binondo.

As may be seen from the foregoing, it is not exactly true, as stated in the order appealed from, that there was introduced in evidence much testimony by persons who had been servants of the family of Pablo Ortiga and Apolonia Remigio and who individually proved that petitioners were always treated by the late Apolonia Remigio as her children by Pablo Ortiga, and were always acknowledged by her as such.

The only witnesses who testified for petitioners or respondents with respect to the aforementioned particulars, were Aniceta Novenario and Julia Reyes, who for some time lived in the house of those spouses, and N. T. Hashim, a friend of the latter's and for some time a neighbor of theirs.

The first of these witnesses, after saying that there was no one in that house whom said spouses treated as their son, and on being again questioned as to whether she had understood the question to which she had made that reply, answered affirmatively and said that "their children were there;" and on being asked who were those children, she replied: "Santiago and Eduardo," with regard to the latter of whom she said that Apolonia Remigio and Pablo called him their son.

The second of the three above mentioned witnesses, Julia Reyes, only said that there was in the family" a boy whose name was Santiago, and that she did not know whether there was another child in it, except Eduardo, whom she had known from the time of his birth until he became of age, because it was she who had taken care of him. To the question put to her with respect to whether Apolonia Remigio and Pablo Ortiga always called Eduardo a child of theirs and always treated him as such, she also answered affirmatively.

The third witness, N. T. Hashim, testified quite confusedly in regard to those details. He virtually said in substance that in his presence and in that of other persons, Pablo Ortiga and Apolonia Remigio employed the words "my son, my son," in referring to Santiago, Eduardo and Alfonso; but this witness added, moreover, that "if she (Apolonia) had anything inside of her I do not know." This same witness, Hashim, testified that, on account of Eduardo or Alfonso being detained in the customhouse, Apolonia Remigio sought witness' assistance in order to get him out; that it was then that this woman said to him: "How is it that the Americans hold him? Tell them they are my children, born here in the Islands;" and that, as Apolonia then did not wish to go to the customhouse and had to execute a power of attorney in behalf of some one to represent her, she said: "Santiago is my son; he can go * * *. It is my son Santiago; I give him full power to represent me in the customhouse."

Neither is the exact truth stated in the following language of the order appealed from:

"Witnesses who testified that they lived in the house as servants said that they were present and saw Apolonia Remigio give birth to the petitioner Eduardo, and while they were still servants in the house, she gave birth to the petitioner Alfonso at the house of Pablo Ortiga in Paco—they having also a home on Calle Dasmariñas—though they, the witnesses, did not witness the birth, but were told by Pablo Ortiga when it occurred."

The only witnesses presented by petitioners or respondents at the hearing of this incident in the distribution of the estate of Apolonia Remigio were, as aforesaid, Nemesio Corpus, Aniceta Novenario, Julia Reyes and N. T. Hashim. None of these witnesses said that he or she was present when Apolonia Remigio gave birth to the petitioner Eduardo, nor said anything about being present at that of the other petitioner Alfonso, nor that Pablo

Ortiga told them a single word with regard to Apolonia's giving birth to Alfonso.

Nemesio Corpus merely testified, as said before, that while he was at those spouses' house on a certain occasion for the purpose of preparing the papers for the baptism of a male child, Apolonia, who was in bed, spoke to him about the matter and in reply to a question told him that she wanted the child baptized on the 13th of October, 1813, (he meant 1883), and that in fact he was baptized on that date and given the name of Eduardo Ortiga Chan Chioc. Hut tinsame witness testified that Apolonia Remigio herself said nothing to him with respect to whose child that was.

Aniceta Novenario also testified, besides what has already been quoted with reference to her testimony, that Eduardo was born on October 9, 1883; that she was in the house of those spouses when Eduardo was born and remained there a long time, for her husband went to China and she remained in the house with said spouses; and that, then, at the time of the trial, she knew Eduardo and had known him ever since a short while after his birth. But she did not say that she saw any woman give birth to Eduardo, that is, she did not say of whom he was born.

The other witness, Julian Reyes, also in addition to what has been quoted hereinbefore with reference to her testimony, limited herself to saying that when, in what year she did not remember, she was living in the house of said spouses, in which she was treated as one of the family, there was a male child therein called Santiago; that when she went to live in that house, Capitana (the captain's wife) Apolonia was pregnant; that she did not know whether there was afterwards another child of the family, except Eduardo; and that she had known the latter from the time of his birth until he became of age because she took care of him. But this witness did not say that Apolonia Remigio, as a result of that pregnancy, gave birth to Eduardo.

Finally, the witness Hashim did not say one word with reference to the birth of any of the respondents.

Neither was there presented in evidence Alfonso's baptismal certificate to which reference is made in the order appealed from and in which, according to the order, it is recited that Alfonso is an adopted son of Pablo Ortiga and Apolonia Remigio; and, finally, in connection with the fact of Apolonia Remigio's having presented an affidavit in the immigration division of the customhouse, to which document reference is also made in the order appealed from, the evidence introduced at the hearing in these proceedings only shows the testimony by N. T. Hashim, as aforesaid, and from that testimony it does not appear that the affidavit was presented on January 5, 1910, as stated in the order.

In connection with the inaccuracies noted, as we have said, in the order appealed from, it must be taken into account that the Honorable A. S. Crossfield, judge of the Court of First Instance of Manila, who issued it, said therein as follows:

"When making the order admitting the will of Apolonia Remigio to probate, I was inclined to believe from the evidence then before me, which is also a part of the evidence before me at this hearing, that probably the petitioners were children of Pablo Ortiga, but not of Apolonia Remigio, the deceased; but after again examining the whole of the former evidence and taking into consideration the evidence recently presented, my belief is somewhat changed, and I must conclude that the petitioners Santiago Ortiga, Eduardo Ortiga, and Alfonso Ortiga are the legally recognized children of the deceased Apolonia Remigio, born of her, and as such entitled to participate in her estate as forced heirs."

After a careful examination of the copy of the transcript of the evidence submitted to us by the appeal raised in these special proceedings, it does not appear that in the hearing on these proceedings, that is, of the incidental issue on the distribution of the estate of the late Apolonia Remigio, as stated by the Honorable Judge Crossfield, the evidence previously taken at the hearing on the probate of the will of said decedent, which was had before this same judge, was made a part thereof, with the exception of the testimony given at said hearing by the witness for

the petitioner or appellant Gorgonia Remigio, named Maria de la Cruz, by virtue of an agreement and stipulation made by the parties, shown on page 11 of said printed copy of the transcript of the evidence. Furthermore, at the request of respondents' counsel and by agreement of petitioner's, as shown on page 5 of said transcript, there was included in this latter the oral and the documentary evidence of the respondents, the first of which consists, as may be seen on pages 18 to 77 of the transcript, of the testimony given by the witnesses previously mentioned, Nemesio Corpus, N. T. Hashim, Aniceta Novenario and Julia Reyes, and the second, of the Exhibits A, B, C, D, and E, which we have also mentioned in referring to the evidence by respondents.

It is clear, therefore, as alleged by petitioner's counsel, that the lower court erred in the order appealed from, by holding, as we have seen, that all the evidence given at the hearing of the probate proceedings on the will of Apolonia Remigio was introduced at the hearing of the proceedings for partition of the estate of said decedent, and likewise by drawing conclusions based on evidence which respondents did not present at the hearing of this incidental issue, whereby the trial court was led to make the inaccuracies hereinbefore mentioned.

Pursuant to the rules laid down by the supreme court of Spain, in several of its decisions, among them, those of June 28, 1895, November 7, 1896, and July 5, 1906, with respect to paternity,—which decisions are by analogy likewise applicable to a question of maternity,—the constant possession of the status of child of a given person is proven by the continuation of acts which hold out a person as enjoying the uninterrupted relation of child of another given person; by acts which show clearly the will of the father or of his family, as the case may be, to have as his child the person who claims that obligatory acknowledgment; and by acts which may be of such a nature that, while at the same time they reveal the conviction of paternity, they show the ostensible will, in the social and other relations of life, to have and treat the child as such, and this, not accidentally, but continually, because, on such an hypothesis, according to the last of the decisions above cited, these acts have the same value as an explicit acknowledgment.

In the case at bar, Aniceta Novenario and Julia Reyes, witnesses presented by respondents to testify in regard to the condition or status respondents enjoyed in the home of the spouses Pablo Ortega and Apolonia Remigio, as children of this latter, as already seen in our reference to their respective testimony, did not testify to any act whatever performed by Apolonia Remigio which showed the relation between her and respondents to be that of mother and child, or that necessarily revealed the will of Apolonia Remigio to have them as children. These witnesses restricted themselves to answering affirmatively the suggestive questions which were put to them by respondents' counsel and which were objected to by petitioner's, as to whether Apolonia Remigio and Pablo Ortega always treated Eduardo as their child and called him such.

The other witness, N. T. Hashim, besides vaguely answering another question similar to that put to the witnesses just above mentioned, by saying: "It is always in my presence, and everybody's presence, 'my son, my son,' if she (Apolonia) had anything inside of her, I do not know," referred to a single instance in which, casually, that is, on an occasion when Apolonia Remigio was obliged to obtain the release of either Eduardo or Alfonso then detained in the customhouse, she told Hashim, so he testified, to tell the Americans that they were her children, and that Santiago, who could go in her stead, was also her child. However, as deduced from Hashim's own testimony, all this was for the purpose of obtaining the release of the detained person and in order that he might be permitted to enter the Islands; it was a single, fortuitous act which has not sufficient force and value to constitute proof of the possession by those persons of the status of children of Apolonia Remigio.

In the will executed by Pablo Ortega Chan Chioc on April 7, 1902 (Exhibit A), no statement whatever was made by Apolonia Remigio to the effect that Santiago, Eduardo and Alfonso Ortega were her children. The declaration in clause 3 of the will, that up to that time the testator had had by his marriage (he undoubtedly referred to that mentioned in the same clause) to Apolonia Remigio three children named Santiago, Eduardo and Alfonso, was

made solely by the testator himself, Pablo Ortega.

In the petition (Exhibit B) presented to the court by Apolonia Remigio as the widow of Ortega, and by Santiago Ortega y Remigio, for the probate of said will, in which petition these two parties state that their deceased husband and father, respectively, died on January 26, 1906, there is not a single phrase that contains an express acknowledgment on the part of Apolonia Remigio that said Santiago, Eduardo, and Alfonso were her children, nor is there any such acknowledgment in the agreement of bases for the partition, nor in the instrument of partition of the estate of the deceased Pablo Ortega Chan Chioc, (Exhibit D), and, although in this agreement we find the words "his beloved mother D.a Apolonia Remigio y Capati," "his said mother D.a Apolonia Remigio," and other references of the same kind, none of them, as may be understood, were recorded in that document as having been uttered by ApoLonia Remigio herself, but by the three respondents, Santiago, Eduardo, and Alfonso, with whom Apolonia Remigio made that agreement of bases and the aforesaid partition.

From these same documents, however, it is deduced, and proved by the other evidence, that the parties named Santiago, Eduardo, and Alfonso lived from infancy in the home of the spouses Pablo Ortega and Apolonia Remigio, although Eduardo and Alfonso were for some time absent in China; that the said Santiago, Eduardo, and Alfonso were considered as members of the family of Pablo Ortega and Apolonia Remigio, and since infancy continued to use Pablo Ortega's surname with the knowledge and consent of Apolonia Remigio; that the latter assented to the declaration made by her husband Pablo Ortega in clause 3 of his said will executed on April 7, 1902, to the effect that up to then he had had, by his marriage with her, three children named Santiago, Eduardo, and Alfonso; that she joined with Santiago Ortega in the petition presented to the court in order that, by means of the proper probate proceedings, the said will be given due force and affect; and finally, that she also joined with the same party, Santiago, and the other two respondents, Eduardo and Alfonso (she, as the widow of the deceased Pablo Ortega, and they as the tatter's children as stated in the aforesaid clause 3 of said will) in the distribution and partition of the estate of said deceased, Pablo Ortega, she receiving the part that pertained to her as community property of the conjugal partnership between herself and the. decedent, and the other three the property to which they were entitled as the heirs instituted by the said Pablo Ortega in his will.

But as against all these acts of Apolonia Remigio, some of them positive and others of tolerance, and in open opposition to them, is the clear, express, and definite declaration made by her some time prior to her death, in the second clause of her will executed on August 12, 1911, transcribed at the beginning of this decision. In that clause shfif declared that out of her marriage to Pablo Ortega she had had two children, a boy and a girl, named Candido and Dorotea, who died soon after birth, and that then, that is, on the date of the execution of the will, she had no ascendent or descendent of any kind, and that, although in the will executed by her husband on April 7, 1902, it was recorded that the parties named Santiago, Eduardo and Alfonso were his children had in his marriage to her, the testatrix, such statement was not true, as could be proven by the means which she left in the hands of the person whom she instituted in her will as her heir.

As said will of Apolonia Remigio was probated by the Court of First Instance of Manila, it is, of course, a proven fact that the testatrix was sane and had the full and complete use of her faculties when she made that declaration which is an express and definite rectification of the acknowledgment that might be implied by those acts and the statements which, in connection with them, Apolonia Remigio had previously made, whereby she gave it to be understood that she acknowledged Santiago, Eduardo, and Alfonso Ortega as her children—a rectification intended, as stated by the testatrix herself, to set forth the truth, not to deprive these three parties of the property which had already been awarded to them as the lawful heirs of the deceased Pablo Ortega, as shown by the fact of her having, in the fourth clause of her will, requested, recommended and ordered that her testamentary executors should not bring any action whatever against her husband's children by reason of the property which was unduly awarded to

the latter by their appearing to be her said deceased husband's legitimate children—a recommendation and order which she also made to her heir and legatees, repeating, in the fifteenth clause of her will, to the first, that she was not to question the alleged filiation of Santiago Mora Ortiga, Alfonso Ortiga. and Eduardo Ortiga, nor bring any action whatever against them or their heirs on account of the property and businesses which they had unduly received out of the estate of Pablo Ortiga Chan Chioc, for, out of respect for the latter's memory, she had always desired, desired then and would always desire that there be peace. But she also stated in the same will that, should these three persons or any of them institute any legal proceedings to attack her will or should they commence any legal action, either on account of the will or of her property, the request, recommendation and command aforementioned were forthwith withdrawn and annulled and her heir and testamentary executors should have liberty of action in that respect.

Two questions, then, have been raised by that rectification and by the appeal interposed in these proceedings by Apolonia Remigio's heir.

The first one is whether, in view of these acts of Apolonia Remigio and granted that they must be considered as an acknowledgment on her part that the respondents Santiago, Eduardo, and Alfonso Ortiga are her children, such rectification should be admitted.

It is true that the supreme court of Spain, in its decision of January 5, 1900 (quoted by respondents' counsel in their brief), in deciding an appeal in cassation interposed by a woman who sought the annulment of an order by which another woman was declared to be the heir of a certain title of nobility that had belonged to appellant's deceased husband, which other woman had been acknowledged by appellant's said husband and by appellant herself to be their natural daughter who was afterwards legitimized by the subsequent marriage of her parents—an acknowledgment which was subsequently denied by the appellant by rectifying the one she had previously made—declared in one of its findings that:

"The acknowledgment of a child as a natural child, by the presumed parents, who prior or subsequent to such acknowledgment contract marriage, vests the child with the character and consideration of a legitimate child for all the legal effects that appertain to legitimate children, and, on the assumption of such an acknowledgment, there is no provision, either in our ancient or our modern laws, which authorizes any arbitrary rectification of such an acknowledgment, to the child's prejudice."

But it is undeniable that there is no provision in any of the laws now in force which prohibits the father or the mother who recognized a person as their natural or their legitimate child, to make, by any of the means prescribed by law, such a rectification, that is, to deny to said person the previously acknowledged status or quality of child. In order that a rectification of this nature may be made, it is not necessary that there be a legal provision to authorize it, for the reason that the law cannot foresee the cases where, by reason of the ineluctable dictates of conscience of the necessity of safeguarding some right, such a rectification may be necessary and just.

This the supreme court of Spain, in the decision just cited, recognized in holding, also in the finding which follows the one hereinabove transcribed, that:

"When such a status exists, the investigation of the paternity of a person who has a child that enjoys such status does not appear to be allowed, unless it is pursued in order clearly to show that the legitimized child does not reunite the relative conditions that the law requires in order that he may be so legitimized, or has not the absolute condition of his not being the child of the person who acknowledged him, or because such person could not have begotten him, or because the child is the child of a third person, for otherwise, In view of the mystery surrounding paternity and the alleged presumption of its certainty, established in law by the ground of the acknowledgment or the possession of the status of acknowledged child, against such presumption no other can lawfully prevail, however strong it may appear."

And this is precisely the point in question in this case. Apolonia Remigio, widow of Pablo Ortega, during the life of her husband consented that the three respondents, Santiago, Eduardo, and Alfonso, should bear her husband's surname and live with her and her husband under the same roof; while there she considered them and treated them as members of the family, and even as her children. When they were instituted the heirs of her husband, Pablo Ortega, in the will executed by the latter on April 7, 1902, and when this testator declared therein that the said Santiago, Eduardo, and Alfonso were his children had in his marriage with the petitioner, the latter made no opposition to that statement and consented that they, as such alleged children of the deceased Pablo Ortega, should share in the latter's estate, in accordance with the mandates of his will, and she joined with them in the partition of the estate left by said deceased, out of which she received for herself, by reason of said partition and the previous agreement she had with said alleged children, the part of the estate that pertained to her as community property. This property would certainly have fallen to her and she could not have been deprived of it, even though the deceased Pablo Ortega had not made in his will the statement aforementioned that the said Santiago, Eduardo, and Alfonso were legitimate children of his had by her, and although they had not been his instituted heirs.

But when Apolonia Remigio saw her end approaching, she did not wish the truth to remain hidden. Consequently, in the second clause of her will of the date of August 12, 1911, she declared that the statement made by her husband in his will of April 7, 1902, to the effect that the parties named Santiago, Eduardo, and Alfonso were the issue of his marriage to her, was not true, and she further declared that this could be proven and that she left the means for this purpose in the hands of the person whom she instituted her heir in her will, and in this same instrument, on charging her testamentary executors and her heir not to bring any action whatever against the three children above named, nor against their heirs, by reason of the property and businesses which they had unduly received out of the estate left by her husband, Pablo Ortega, she explained the reason of the silence she had maintained by saying that out of respect to the memory of her husband she had always desired, did then desire and would always desire that there lpe peace—an explanation which clearly conveys the understanding that while her husband Pablo Ortega was living, she, out of respect and deference to him and in order not to disturb the peace of the family, consented that the aforementioned Santiago, Eduardo, and Alfonso should be considered by her husband as his children and should bear his surname, and she herself considered and treated them as such.

The proofs placed by Apolonia Remigio before her death in the hands of her heir, the petitioner Gorgonia Remigio, as she offered to do in her will, have attained the purpose for which they were intended, to wit, of fully proving not only that Santiago, Eduardo, and Alfonso did not possess the absolute condition of being Apolonia Remigio's children, but still further that they were the children of another certain, determinate woman.

So that the rectification made by Apolonia Remigio in her said will, of the acknowledgment that might be implied from the acts, previously mentioned, some of them positive and others of tolerance, performed by her in respect to the said Santiago, Eduardo, and Alfonso should be allowed, in accordance with said decision of the supreme court of Spain, of January 5, 1900, quoted by respondents' counsel.

Said rectification being allowed, the second and only question left to be decided is whether it was proven in the course of these proceedings that Santiago, Eduardo, and Alfonso Ortega are really children of the testatrix Apolonia Remigio, or, what amounts to the same thing, whether they issued from her womb.

The means established by law to oblige the mother to acknowledge the natural child, that is, the child who claims really to be her own, are the same as those prescribed to oblige the father to make such acknowledgment. (Civ. Code, arts. 135, 136.) But, with respect to the mother, another means is provided in paragraph 2 of the second of the articles cited, and is applicable "when the fact of the birth and the identity of the child are duly proven." The reason why the law provides this last means of proof with respect to the mother is, undoubtedly, because the mother is always known, and, as a French jurist has said, "in regard to the investigation of maternity, it is not a

question of penetrating nature's mysteries; childbirth and the identity of the child are two positive facts which can be proven."

As the respondents Santiago, Eduardo, and Alfonso Ortiga, in their petition of January 8, 1913, made the claim which gave rise to these proceedings, that, out of the estate of Apolonia Remigio, there should be allotted to them the part thereof that pertained to them as the said decedent's sole children and forced heirs, as they so stated in that petition; and as they then knew that the said Apolonia Remigio had denied them that capacity, in her will of August 12, 1911, and that, for this reason, they had not been instituted therein as said decedent's heirs, therefore, they should have fully proven that they were her children, availing themselves with this object in view of all the evidence allowed by law for the purpose, especially that above indicated, the fact of the childbirth by Apolonia Remigio and that of their having been born of her womb in the respective childbirth, which would have been the clearest and best evidence of the filiation claimed by them in their said petition made for the purpose stated.

However, after a careful examination of the evidence adduced by respondents none is found, as we have seen before, that refers specially and categorically to the fact of any of them having been born of the womb of Apolonia Remigio, or, in other words, that she gave birth to any of them. Nemesio Corpus, in relating the fact that, while he was at the house of Apolonia Remigio and her husband, Pablo Ortiga, the former spoke to him of the baptism of "the child," and that the child was baptized on October 12, 1813 (he must have meant 1883), did not say that the child that was baptized on that date, that is, Eduardo Ortiga Chan Chioc, was brought into the world by Apolonia Remigio; on the contrary, this witness stated that Apolonia did not tell him whose child it was. Aniceta Novenario, who, as she stated, was in the house of the married couple Ortiga and Remigio when Eduardo was born, did not say of what woman he was born, nor did she say that Apolonia Remigio gave birth to him. Nor did Julia Reyes, who went so far as to affirm that when she went to live in the house of Capitana Apolonia the latter was pregnant, say, either who it was that Apolonia brought into the world as a result of her pregnancy, nor that the child who was born on that occasion was Eduardo, whom this witness said she had known since his birth. And it is all the more remarkable that these two last mentioned witnesses should have said nothing with respect to the specific fact of Apolonia Remigio's having, on the occasion to which they refer, given birth to Eduardo or to some other of the respondents, especially since, as these same witnesses testified, they were both living in Apolonia Remigio's house and could have seen with their own eyes Apolonia Remigio's childbirth and could have been present thereat, had it actually taken place, and, by means of their testimony they could have identified the person who was born in that alleged childbirth.

As these are the only witnesses presented by respondents in their endeavor to prove that the parties named Santiago, Eduardo, and Alfonso were really children of Apolonia Remigio, that is, were born of her womb; and as they submitted no proof with respect to said details, other than that herebefore mentioned, they have thereby shown themselves unable to prove those facts, so important for a successful issue of their claim.

On the other hand, petitioner has satisfactorily proven, in the first place, that Santiago Ortiga, when he was three years old, was bought in China by the spouses Pablo Ortiga and Apolonia Remigio in the year 1875 when these latter were in that country whither they had gone with their native servant Maria de la Cruz in October of the same year, as shown by the certificate Exhibit 5; and the money to pay the child's father and mother passed through this servant's hands, as she herself testified. This child was then brought to Manila by said spouses and lived in their home. Also those who had dealings with Ortiga and Remigio and lived in the same house knew that this child had been bought in China. It cannot be gainsaid that such was the origin of Santiago Ortiga, inasmuch as, on his being baptized in the Santa Cruz Church of this city, on July 25, 1877, that is, two years after he had been bought in China, he was given the name of Santiago Mora Ortiga, and entry was made in the respective register (Exhibit 3) that he was the son of pagan parents, natives of Chincang, China. Finally, that he was not the son of Pablo Ortiga

and Apolonia Remigio was virtually corroborated by the fact that, on Pablo Ortega's executing the first will on May 23, 1883 (Exhibit 4), when he already had in his house the child who was baptized under the name above mentioned, he declared therein that he was then lawfully married to Dona Apolonia Remigio and had had during their marriage two children, Candido and Dorotea, who died in infancy, but he made no mention of the said Santiago as being one of his children. However, he left a legacy of P2,750 to his nephew named Santiago Chan Bun Quin, that is, to Santiago Ortega, as appears from the certificate Exhibit 6, in which, after setting forth that he contracted a second marriage on January 4, 1903, he appears under the name of Santiago Mora Ortega Chan Quin, a Chinese Christian, native of Chincang, China.

In the second place, it has also been proven by the petitioner that the parties named Eduardo Ortega and Alfonso Ortega were born of a young woman named Vicentica Lopez who lived in the very same house on Calle Dasmariñas of the spouses Pablo Ortega and Apolonia Remigio, as the step-daughter, that she was, of this latter. The testimony of Severina San Jose, a servant of said spouses, whom she began to serve when she was still very young and in whose house she lived, is very clear and conclusive; so is also that of Marcela Remigio, a niece of Apolonia, who also from infancy lived in the same house, in company with her aunt. The same may be said of the testimony of Maria de la Cruz, an old servant of the house. The two last mentioned witnesses testified that they saw Vicentica Lopez give birth to Eduardo in said house, and the first witness also said that she saw Vicentica Lopez give birth to Alfonso in that house. These three witnesses explained in a satisfactory manner how these facts had come to their knowledge, that is, why they knew what they testified to, and there is no reason whatever to doubt their veracity, for they were in a situation to have learned of the intimate family affairs of Pablo Ortega and Apolonia Remigio, as they lived with this couple in the same house where Vicentica Lopez also lived, according to the statements made by these witnesses and by two others named Arcadio Remigio and Paz Lim, the first of whom is a brother of Apolonia.

The witnesses Aniceta Novenario and Julia Reyes, presented by respondents, denied, however, that they had seen and known Vicentica Lopez in the house on Calle Dasmariñas, and the second of them likewise denied that she had known Arcadio and Marcela Remigio previous to the time she testified, and that the latter was living in that house when this witness took care of the child Eduardo. These two witnesses also stated, when shown the photographs Exhibits 1 and 2, that they did not know the woman portrayed therein.

But, to determine the credibility of said witnesses, it must be taken into account that, as Arcadio Remigio and Marcela Remigio were, respectively, a brother and a niece of Apolonia Remigio, it is incredible that they should not have gone to the latter's house, and that, if Julia Reyes lived in the same house, she should not have seen them there, and that these same two witnesses should not have known Vicentica Lopez, whose existence and presence in said house was testified to by all the petitioner's witnesses; and, in the second place, besides the testimony of these latter, we have the statement made by the petitioner's witness, Paz Lim, who lived in the house of Apolonia Remigio on Calle Dasmariñas, to the effect that she there knew Aniceta Novenario and Vicentica Lopez and saw that these latter treated each other on intimate terms; and in the third place, one of respondents own witnesses, N. T. Hashim, testified that the aforementioned Arcadio Remigio, Marcela Remigio and Paz Lim were always in Apolonia Remigio's house, and that they ate and slept there. This statement, having been made by one of respondent's witnesses, is in itself sufficient to show what little credence can be given to the testimony of their other two witnesses, Aniceta Novenario and Julia Reyes.

As, according to rules of law repeatedly affirmed, a baptismal certificate attests the fact which gave rise to its execution, as well as the date of the latter, that is, it is an attestation of the administration of the sacrament on the date mentioned therein, but not of the veracity of the statements therein contained with respect to the relationship of the person baptized, the one exhibited by respondents (Exhibit E), relative to Eduardo Ortega, does not prove

that the latter is a legitimate son of Apolonia Remigio and Pablo Ortiga, as recorded in said document, and so much the less credence should be placed in said certificate, with respect to this particular matter of the relationship of Eduardo with Pablo Ortiga and Apolonia Remigio, since it is also set forth in the baptismal certificate, petitioner's Exhibit 7, that Pablo Dalmacio Ortiga is the legitimate son of these same spouses Pablo Ortiga and Apolonia Remigio, whereas it was proven that the child known under that name, that is, Pablito, was also one of the children born of Vicentica Lopez while she lived in the home of those spouses on calle Dasmarinas, and this child was born, not in that house, but, on account of some trouble Pablo Ortiga then had with his wife, Apolonia Remigio, in another house which Pablo had in Paco.

In conclusion, respondents have not proved that they are the children of Apolonia Remigio, or, in other words, that they were born of her womb; the presumption that they were, based upon her various acts, some of them positive and others of tolerance, on the assumption that such acts constituted an acknowledgment of such filiation, has been completely negated by the evidence adduced by petitioner that one of the respondents, Santiago Ortiga, was bought in China by the spouses Pablo Ortiga and Apolonia Remigio, he being the son of pagan parents, natives of Chincang, China, and that the other two appellee's, Eduardo Ortiga and Alfonso Ortiga, were born of a woman other than said Apolonia Remigio. The presumed acknowledgment, therefore, has no force or value for the object sought by the respondents in these proceedings.

By reason of the foregoing, we revoke the order appealed from and declare that the parties named Santiago Ortiga, Eduardo Ortiga, and Alfonso Ortiga are not entitled to share in the estate of the deceased Apolonia Remigio, as requested by them in their petition of January 8, 1913. No special finding is made with respect to the costs in this instance. So ordered.

Arellano, C. J., Torres, and Johnson, JJ., concur.

Carson and Trent, JJ., dissent.

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