

TESTATE ESTATE OF THE LATE ADRIANO MALOTO: ALDINA MALOTO CASIANO, CONSTANCIO MALOTO, PURIFICACION MIRAFLOR, ROMAN CATHOLIC CHURCH OF MOLO, AND ASILO DE MOLO, PETITIONERS-APPELLA...

G.R. No. L-32328. September 30, 1977

Ponente: FERNANDEZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/400cd6a1d1ee/>

FERNANDEZ, J.:

This is a petition to review the order dated April 13, 1970 of the Court of First Instance of Iloilo, Branch III, in Special Proceeding No. 2176 dismissing the petition for the probate of a will.[1]

One Adriana Maloto died on October 20, 1963 in Iloilo City, her place of residence.

Aldina Maloto Casiano, Constancio Maloto, Panfilo Maloto, and Felino Maloto, niece and nephews, respectively, of Adriana Maloto, in the belief that decedent died intestate, commenced on November 4, 1963 in the Court of First Instance of Iloilo an intestate proceeding docketed as Special Proceeding No. 1736. In the course of said intestate proceeding, Aldina Maloto Casiano, Constancio Maloto, Panfilo Maloto and Felino Maloto executed an extrajudicial partition of the estate of Adriana Maloto on February 1, 1964 whereby they adjudicated said estate unto themselves in the proportion of one-fourth (1/4) share for each.[2] The Court of First Instance of Iloilo, then presided by Judge Emigdio V. Nietes, approved the extrajudicial partition on March 21, 1964.[3]

On April 1, 1967, a document dated January 3, 1940 purporting to be the last will and testament of Adriana Maloto was delivered to the Clerk of Court of the Court of First Instance of Iloilo.[4] It appears that Aldina Maloto Casiano, Constancio Maloto, Panfilo Maloto, and Felino Maloto are named as heirs but Aldina Maloto Casiano and Constancio Maloto allegedly have shares in said will which are bigger, different and more valuable than what they obtained in the extrajudicial partition. The said will also allegedly made dispositions to certain devisees and/or legatees, among whom being the Asilo de Molo, the Roman Catholic Church of Molo, and Purificacion Miraflor.

On May 24, 1967, Aldina Maloto Casiano and Constancio Maloto filed in Special Proceeding No. 1736 a motion (1) for reconsideration; (2) annulment of the proceedings; and (3) for the allowance of the last will and testament of Adriana Maloto.[5] The Asilo de Molo, the Roman Catholic Church of Molo, and Purificacion Miraflor also filed in Special Proceeding No. 1736 petitions for the allowance of the will of Adriana Maloto.[6]

Panfilo Maloto and Felino Maloto opposed the motion of Aldina Maloto Casiano and Constancio Maloto.

The Court of First Instance of Iloilo, through Judge Emigdio V. Nietes, issued an order dated November 16, 1968 denying the motion to reopen the proceedings on the ground that the said motion had been filed out of time. A motion for reconsideration of said order was denied. Petitioners appealed from the order of denial. On motion of Panfilo Maloto and Felino Maloto, the lower court dismissed the appeal on the ground that it was filed late. A motion for reconsideration of the order of dismissal was denied. A supplemental order dated April 1, 1969 stating

as additional ground that the appeal is improper was issued.

The petitioners filed a petition for certiorari and mandamus with the Supreme Court docketed as G.R. No. L-30479. This Court dismissed the petition in a resolution dated May 14, 1969 which reads:

"L-30479 (Constancio Maloto, et al, vs. Hon. Emigdio V. Nietes, etc., et al.) — THE COURT RESOLVED to dismiss the petition for certiorari and mandamus, without passing on the issue of whether or not the petitioners' appeal from the order of November 16, 1968 of respondent Judge was made on time, it appearing that the more appropriate remedy of petitioners in the premises stated in the petition is for petitioners to initiate a separate proceeding for the probate of the alleged will in question." [7]

Acting on the petitioners' motion for reconsideration and clarification, this Court issued a resolution dated July 15, 1969 which reads:

"Acting on the motion for reconsideration and/or clarification filed by petitioner in G. R. No. L-30479, Constancio Maloto, et al, vs. Hon. Emigdio V. Nietes, etc. et al., dated June 11, 1969, the Court resolved to DENY the motion for reconsideration, with the clarification that the matter of whether or not the pertinent findings of facts of respondent Judge in his herein subject order of November 16, 1968 constitute res adjudicata may be raised in the proceedings for probate of the alleged will in question indicated in the resolution of this Court of May 14, 1969, wherein such matter will be more appropriately determined." [8]

Thereupon, the herein petitioners commenced Special Proceeding No. 2176 in the Court of First Instance of Iloilo for the probate of the alleged last will and testament of Adriana Maloto. [9]

Panfilo Maloto and Felino Maloto filed an opposition with a motion to dismiss on the following grounds:

"I.

THAT THE ALLEGED WILL SOUGHT TO BE PROBATED HAD BEEN DESTROYED AND REVOKED BY THE TESTATRIX.

II.

THAT THE INSTANT PETITION FOR PROBATE IS NOW BARRED BY PRIOR JUDGMENT OR ORDER (OR RES JUDICATA).

III.

THAT THE ESTATE OF THE LATE ADRIANA MALOTO HAD ALREADY PASSED OUT OF EXISTENCE AND TITLE THERETO HAD ALREADY VESTED IN THE DISTRIBUTEES OF THEIR ASSIGNS.

IV.

THAT PETITIONERS ALDINA MALOTO CASIANO AND CONSTANCIO MALOTO ARE NOW ESTOPPED FROM SEEKING THE REMEDY UNDER THIS PROCEEDING, THEY HAVING CEASED TO BE INTERESTED PARTIES." [10]

In an order dated April 13, 1970, the probate court dismissed the petition for the probate of the will on the basis of the finding of said court in Special Proceeding No. 1736 that the alleged will sought to be probated had been destroyed and revoked by the testatrix. The probate court sustained the oppositors' contention that the petition for probate is now barred by the order of November 16, 1968 in the intestate estate proceeding, Special Proceeding No. 1736. [11]

The herein petitioners allege that the probate court committed the following errors:

"I

THE LOWER COURT ERRED IN HOLDING THAT THE ADMITTEDLY GENUINE LAST WILL AND TESTAMENT OF THE LATE ADRIANA MALOTO (THE SUBJECT OF PETITION FOR PROBATE - SPECIAL PROCEEDING NO. 2176, CFILOILO) HAD PREVIOUSLY BEEN REVOKED BY HER (ADRIANA MALOTO).

II

THE LOWER COURT ERRED IN HOLDING THAT SAID PETITION (FOR PROBATE OF THE AFORESAID LAST WILL AND TESTAMENT OF THE LATE ADRIANA MALOTO) IS NOW BARRED BY PRIOR JUDGMENT. I.E., THAT THE MATTER CONCERNED IS NOW RES ADJUDICATA.

III

THE LOWERCOURT, THEREFORE, ERRED IN DISMISSING THE AFORESAID PETITION FOR PROBATE OF THE LAST WILL AND TESTAMENT OF THE LATE ADRIANA MALOTO AND IN NOT, INSTEAD, GIVING IT (THE PETITION ABOVE-CITED DUE COURSE."[12]

The instant petition for review is meritorious.

The probate court had no jurisdiction to entertain the petition for the probate of the alleged will of Adriana Maloto in Special Proceeding No. 1736. Indeed, the motion to reopen the proceedings was denied because the same was filed out of time. Moreover, it is not proper to make a finding in an intestate estate proceeding that the discovered will has been revoked. As a matter of fact, the probate court in Special Proceeding No. 1736 stated in the order of November 16, 1968 that "Movants should have filed a separate action for the probate of the will." [13] And this court stated in its resolution of May 14, 1969 that "The more appropriate remedy of the petitioners in the premises stated in the petition is for petitioners to initiate a separate proceeding for the probate of the alleged will in question."

In view of the foregoing, the order of November 16, 1968 in Special Proceeding No. 1736 is not a bar to the present petition for the probate of the alleged will of Adriana Maloto.

WHEREFORE, the order dated April 13, 1970 dismissing the petition for the probate of the alleged will of Adriana Maloto is hereby set aside and the lower court is directed to proceed with the hearing of the petition in Special Proceeding No. 2176 on the merits, with costs against the respondents.

SO ORDERED.

Teehankee (Chairman), Makasiar, Muñoz Palma, Martin, and Guerrero, J.J., concur.

[1] Rollo, p. 18.

[2] Annex "A", Rollo, pp. 20-25.

[3] Petition, p. 3, Rollo, p. 12.

[4] Annex "B". Rollo, pp. 26-38.

[5] Annex "C" Rollo, pp. 39-43.

[6] Annex D", Rollo, pp. 44-49.

[7] Annex "L", Rollo. p. 103.

[8] Rollo, p. 215.

[9] Rollo, pp. 104-119.

[10] Rollo, p. 120.

[11] Annex "Q", Rollo, pp. 194-203.

[12] Brief for the Petitioners-Appellants, pp. 1-2. Rollo. p. 233.

[13] Rollo, p. 88.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.