

IN RE PETITION FOR PROBATE AND ADMINISTRATION OF THE WILL OF PAULA TIANGCO, DECEASED. MANUEL EUGENIO, PETITIONER AND APPELLANT, VS. JOSE TIANGCO, OPPOSITOR AND APPELLEE.

G.R. No. L-2804. September 20, 1949

Ponente: OZAETA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/5bd903a5a25c/>

OZAETA, J.:

Paula Tiangco died in Malabon, Rizal, on September 27, 1947, leaving properties allegedly worth less than P30,000. She is survived by her husband Dr. Benito Cruz, a sister, and nine nephews and nieces.

In or about October, 1947, Jose Tiangco, one of the surviving nephews, instituted intestate proceeding No. 442 in the Court of First Instance of Rizal and applied for letters of administration of the estate of the deceased. Manuel Eugenio, Purificacion Eugenio, Abelardo Eugenio, and Milagros Eugenio, other nephews and nieces of the deceased, opposed Tiangco's petition for letters of administration, alleging that the deceased in her lifetime had executed a will which, according to their knowledge, information, and belief, was then in the possession of the surviving husband, Dr. Benito Cruz, and prayed that the latter be required to produce the last will and testament of the deceased for probate by the court.

In view of that allegation, Judge Oscar Castelo ordered Dr. Benito Cruz to appear before the court on November 27, 1947, at nine a.m., and to produce the last will and testament of Paula Tiangco. In compliance with that order Dr. Benito Cruz appeared before the court and manifested that he had no knowledge of the existence of the alleged will and that he never had it in his possession. In view of that manifestation the court ordered the oppositor Manuel Eugenio to present evidence of the existence and due execution of the alleged will.

After hearing the evidence adduced by the oppositor, Judge Castelo entered an order on December 20, 1947, declaring that it had not been proven that the deceased Paula Tiangco had left a will and appointing Jose Tiangco administrator of the properties left by her.

Instead of appealing from said order Manuel Eugenio, on January 24, 1948, filed a petition in the same court for the "probate and administration of the will of Paula Tiangco," alleging that the deceased executed a last will and testament sometime in the year 1943 and that said last will and testament "has been and still is in the possession of her surviving husband, Dr. Benito Cruz," and praying that the latter be ordered to produce and present to the court the last will and testament of the deceased Paula Tiangco so that it might be probated, and that letters testamentary be issued to the petitioner. In view of that petition Judge Ambrosio Santos ordered Dr. Benito Cruz to deliver said last will and testament to the clerk of court within five days.

The respondent Dr. Benito Cruz informed the court in writing that he had no knowledge of the existence of the alleged will and that he never had it in his custody; that the nonexistence of said will was *res judicata*, the same question having been submitted to and decided by the court in intestate proceeding No. 442, from which decision or order the petitioner Manuel Eugenio had not appealed. In view thereof, respondent Benito Cruz asked for the dismissal of the petition for probate. To said petition for dismissal the respondent attached the pleadings, the

transcript of the evidence, and the order of Judge Castelo in intestate proceeding No. 442.

After considering the written arguments of both parties on the motion for dismissal, Judge Ambrosio Santos entered an order sustaining said motion and dismissing the petition for probate. The case is now before us on appeal from said order.

Appellant contends that the trial court erred in dismissing his petition for probate, and cites section 1 of Rule 83, which reads as follows:

"SECTION 1. Administration revoked if will discovered. Proceedings thereupon.—If after letters of administration have been granted on the estate of a decedent as if he had died intestate, his will is proved and allowed by the court, the letters of administration shall be revoked and all powers thereunder cease, and the administrator shall forthwith surrender the letters to the court, and render his account within such time as the court directs. Proceedings for the issuance of letters testamentary or of administration under the will shall be as hereinbefore provided."

There can be no question that under the above-quoted provision of the Rules of Court, if the appellant had found the alleged will and had proved its due execution, the letters of administration issued to the herein appellee Jose Tiangco in intestate proceeding No. 442 would have been revoked and said intestate proceeding would have been converted into a testamentary proceeding. But appellant had not done so. He did not even allege that he had found the supposed will. In his petition for probate he merely repeated and sought to litigate anew his contention in intestate proceeding No. 442 that the surviving husband, Benito Cruz, had the alleged will in his possession, and again asked the court to order him to produce it.

Having been raised in issue and finally decided adversely to the herein appellant in intestate proceeding No. 442, that same question of whether or not Benito Cruz had the alleged will in his possession cannot be litigated anew. To countenance the procedure adopted by the appellant would be to permit him to trifle with the court and harass his opponent.

There is no analogy between the present case and that of *Cartajena vs. Lijauco and Zaballa*, 38 Phil., 620, cited and relied upon by the appellant. The question presented in that case, as stated by the Court, was: "May an administrator of an estate of a deceased person continue to administer the estate after a will of such deceased is proved and allowed?" In that case, pending petition by Lijauco and Zaballa for the appointment of an administrator of the estate of the deceased Tomasa Nepomuceno, Cartajena presented a will in the court and asked that it be admitted to probate. Lijauco and Zaballa were appointed administrators, but after the will was admitted to probate the letters of administration theretofore granted to Lijauco and Zaballa were revoked, in conformity with section 657 of the Code of Civil Procedure, now section 1 of Rule 83.

Counsel for the appellant has misunderstood the above-cited rule. Applied to this case, it clearly means that notwithstanding the letters of administration issued in intestate proceeding No. 442, if the appellant or any other interested party could produce a will of the deceased and could prove its due execution, letters testamentary or of administration would be issued and the appointment of appellee Jose Tiangco as administrator would be revoked.

The order appealed from is affirmed, with costs.

Moran, C.J., Paras, Feria, Padilla, Tuason, Montemayor, and Reyes, JJ., concur.

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.