

**IN THE MATTER OF THE ESTATE OF MRS. R. H. FRANKEL,
DECEASED. FRED FRANKEL, APPELLEE, VS. CLARA WEBBER AND
GERTRUDE WEBBER, APPELLANTS.**

G. R. No. L-38637. December 21, 1932

Ponente: HULL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/71ed9b414e17/>

HULL, J.:

This is a motion to dismiss the appeal of Clara Webber and Gertrude Webber from two orders of the Court of First Instance of the City of Manila. The dispositive part of those orders reads:

"It is, therefore, ordered and decreed that the petitions of Clara Webber and Gertrude Webber, and Frema Fischler, for a reconsideration of the order of this court of July 19, 1932, shall be and they are hereby denied, and the administrator of this estate is hereby authorized and directed to comply with said order and to take immediate steps toward transmitting the said sum of P13,747.96 to the heir Fred Frankel at his address in New York City.

"It is further ordered and decreed that the administrator, the Philippine Trust Company, is hereby authorized and directed to take the necessary action against Mrs. Anna Hartske to recover from her the sum of P7,112.78 due to it under her agreement, for the purpose of satisfying and paying the balance due to the legatees in this case,"

In settling the estate of the deceased, R. H. Frankel, a final plan of partition, with the consent of all parties, was entered by the Court of First Instance of the City of Manila on April 19, 1932. Under that plan Fred Frankel was entitled to one-half of the estate, and the appellants with others were entitled to the other half of the estate, and that plan has become final.

Some time ago there was an agreement among all the participants of the second portion of the estate to which these appellants concurred for a partial distribution of their share to which agreement Fred Frankel was not a party, and was not bound in any way by that agreement. Anna Hartske, and the Webbers, were parties to that agreement and Hartske agreed to pay back to the administrator such funds as might be necessary to make a final and correct distribution of the estate. The court issued the orders above quoted, well knowing that the administrator did not have enough funds to pay both Frankel and the Webbers.

It is not clear from the papers whether this appeal is directed against both orders or only one. It is perfectly obvious on its face that the order directing the administrator to take the necessary action against Hartske, is purely interlocutory and therefore can not be the basis of an appeal.

Looking at the orders in regard to the payment of Fred Frankel, it is at once seen that his share of the estate is fixed and certain and that the decision of the Court of First Instance as to the amount of his share of the estate entered with the knowledge and consent of all parties, and made without exception of any one, has become final. As above stated he had no participation in the partial distribution of the estate, nor had he any interest in the relationship that may exist between the Webbers and Hartske.

The orders of the trial court directing his payment are comparable to the issue of a writ of execution upon a final judgment. They not being in excess of the amount justly due are not questionable and give no right of appeal to the Webbers. The motion to dismiss the appeal is sustained with costs against the appellants. So ordered.

Avanceña, C. J., Street, Villamor, Villa-Real, Abad Santos, Vickers, and Imperial, 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.