

TESTAMENTARY PROCEEDINGS OF THE DECEASED EPIFANIO PABUSTAN, ATANACIA MALLARI, ADMINATRIX AND, MOISES CARREON, LEGATEE AND APPELLANT, VS. JUAN DE LA CRUZ, ET ALS., PETITIONERS AN...

G.R. No. L-3616. December 27, 1951

Ponente: BAUTISTA ANGELO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a69fde82d9c2/>

BAUTISTA ANGELO, J.:

This is an appeal from an order of the Court of First Instance of Tarlac dated December 27, 1948, denying the petition of appellants seeking relief from the effects of a final order under rule 38 of the Rules of Court.

One Epifanio Pabustan died leaving a will but without forced heirs. In the will, he instituted his widow, Atanacia Mallari, and two relatives, Rosendo Manaloto and Moises Carreon, as legatees. The value of the estate is P8,000. The will was duly admitted to probate.

On May 9, 1941, the legatees and other supposed heirs of the deceased filed a petition with the court stating that they have reached an understanding with regard to the partition of the estate and to that effect they have executed three documents, one an agreement of the parties (Exhibit "X"), another a ratification of an agreement (Exhibit "A"), and a third, a project of partition (Exhibit "B"), and prayed that they be approved and given effect. After due hearing, the court approved the documents and ordered the administratrix Atanacia Mallari to pay the inheritance tax within the period provided for by law, adding that, after its payment, the case will be declared closed. The order was issued on July 15, 1941.

On September 1, 1941, after the aforesaid order had become final, Atanacia Mallari, in her capacity as administratrix, filed a petition for relief under rule 38 of the Rules of Court praying that said order of July 15, 1941, be set aside on the ground that the herein oppositors and appellees succeeded in having it approved through fraud and intimidation, practiced upon Atanacia Mallari who was an old and ignorant woman. The affidavits of Atanacia Mallari, Moises Carreon and Leopoldo Mallari setting forth the circumstances constituting the fraud and intimidation were attached to the petition. This petition was reiterated on July 1, 1948. To this petition, the appellees filed a strong opposition attaching thereto several exhibits in disavowal of the imputations of the administratrix. After hearing the arguments of both parties, through counsel, the court found the petition without merit and denied the same. The case is now before this Court on appeal taken by the administratrix and her co-legatee Moises Carreon upon the plea that the appeal only involves questions of law.

We find, however, that the questions that need to be considered in the determination of the issue involved in this appeal are more of facts than of law. This can be gleaned from a mere perusal of the brief of the appellants. Thus, counsel for appellants claim that the lower court denied their petition for relief because it failed to consider the following facts: (a) that after the death of Epifanio Pabustan, one Juan P. de la Cruz went to see her widow Atanacia Mallari to tell her that she, Rosendo Manaloto and Moises Carreon, the persons instituted in the will, are not the only heirs of the deceased who are entitled to inherit, and that if she would not agree to enter into a new

partition, the other heirs would object to ktk early distribution and would stir up a long litigation to her prejudice, for which reason she agreed to the new partition; (b) that sometime in April 1941, Rosendo Manaloto, nephew of Atanacia Mallari, went to see her to persuade her to come to an amicable settlement with the other heirs because if she would not agree and he is prevented from obtaining his share in the inheritance, he would not be able to pay what he owes to one Benigno Pantig, and would be prosecuted for estafa and confined in Jail, and that out of pity for him, Atanacia Mallari agreed to make a new partition of the estate; and (c) when on one occasion Atanacia Mallari met the relatives of her deceased husband who were not instituted in the will, said relatives approached her to persuade her to agree to the proposed amicable settlement because otherwise something serious and prejudicial to her would happen, and that because of this threat she agreed to settle the case amicably. All these facts appear in the affidavits marked Exhibits 7 and 8 of the petition for relief which were not given credit by the probate court.

On the other hand, we note that the lower court, in acting on said petition, made the following findings: "the court finds from the statement given in open court by Atty. Regidor Y. Aglipay, who was the attorney for the administratrix at the time said convenio, ratificacion de convenio and proyecto de particion were submitted for the approval of the Court, that the administratrix gave in open Court her consent to the approval of the said convenio, ratificacion de convenio and proyecto de particion voluntarily and Insistently even against the advice-of her said Attorney Mr. Regidor Y. Aglipay who had to withdraw his appearance for said administratrix after the latter had acted even against the counsel and advice of said attorney. The Court has examined the records, and the Court finds the statements of Atty. Regidor Y. Aglipay, now acting provincial fiscal, fully sustained."

The important issue, therefore, to be determined in this appeal is: are the facts stated in the affidavits of Atanacia Hallarl and Moises Carreon attached to the petition for relief true or not? This of course depends upon the credibility of the affiants. Apparently the lower court did not consider them worthy of credit as shown by the fact that he gave more credence to the statement made by attorney Regidor Y. Aglipay who was formerly the attorney of appellants. As to whether the probate court erred in its appreciation of these facts is a matter not within the province of this Court, it appearing that the value of the estate is only P8,000. It appearing, therefore, that this case has been improperly brought on appeal to this Court, the same should be certified to the Court of Appeals, following the provisions of section 31 of Republic Act No. 296.

Wherefore, it is hereby ordered that this case be certified and remanded to the Court of Appeals.

Paras, C. J., Feria, Pablo, Bengzon, Padilla, Tuason, Montemayor, Reyes, Jugo, 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.