

IN RE: PETITION TO COMPEL PRODUCTION OF T. C. T. NOS. 5536, 1986, 1987 AND 1988. FRUCTUOSO MOLDES AND DIEGO MOLDES, PETITIONERS AND APPELLEES VS. MARIA SALUD MULLET, OPPOSITOR A...

G. R. No. L-11469. October 27, 1958

Ponente: LABRADOR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/c53ec4633959/>

LABRADOR, J.:

Appeal from a decision of the Court of First Instance of Rizal, sitting as a cadastral court, dated December 13, 1955, approving the petition of Fructuoso Moldes and Diego Moldes and requiring Maria Salud Mullet to surrender to the Register of Deeds of the province of Rizal Transfer Certificates of Title Nos. 5536 and 1988 within 10 days, so that a certain deed of partition of properties, submitted to the court, as Annex "A", or more specifically, the rights of the petitioners stated in said document be annotated on said certificates.

The record discloses that petitioners Fructuoso Moldes and Diego Moldes, brothers, and oppositor Maria Salud Mullet, are cousins, the first being the children of Antonio Moldes and the latter, the daughter of Faustina Moldes. Four parcels of land belonging to their parents (of Antonio Moldes and Faustina Moldes) were registered in the name of the latter under Certificates of Title Nos. 5536, 1987, 1986 and 1988. Registration in the name of Faustina Moldes was due to the fact that the other child, Antonio, was then a minor. But the properties are joint properties because the same had been inherited from their parents.

Exhibit "A" or Annex "A" is dated March 25, 1923 and is executed by Honorio Medina, husband of deceased Faustina Moldes. In the document, Medina states that by direction of the deceased Faustina Moldes, one-half of each of the properties covered by said certificates of title, on the southern part, should be assigned to Maria Salud Mullet and the other half of each and everyone, on the northern part, to Fructuoso and Diego Moldes. The document bears the conformity thereto by her signature of Maria Salud Mullet, even if she appears to be a minor at the time of the execution of the document. It also bears the conformity of Severa Malaca and Juan Mullet, who are uncles of petitioners, and who are stated in the document to be the guardians of the said petitioners.

The record further discloses that two civil cases had been litigated between the parties to this petition regarding the said properties, namely, Civil Case No. 1418-P, entitled Maria Salud Mullet vs. Fructuoso Moldes and Diego Moldes, to secure the annulment of the extrajudicial partition deed Exhibit or Annex "A" and to request the restoration of the possession of the lands divided in said extra judicial partition in the possession of the defendants Moldes to plaintiff. This was instituted on July 2, 1951. The other case is Civil Case No. 1703, entitled Fructuoso Moldes and Diego Moldes vs. Maria Salud Mullet, instituted by the plaintiffs to require the defendant to comply with the provisions of the extra-judicial partition in question, Exhibit "A" or Annex "A", and deliver for purposes of said compliance the four certificates covering the said four parcels of land. This was filed on February 18, 1952. This second case, however, was dismissed by the court on May 9, 1952 on the ground that there is already another case pending between the same parties and for the same cause of action, No. 1481-P.

But while the second case, No. 1703, was dismissed because of the pendency of Civil Case No. 1481-P, this case (1481-P) was in turn dismissed for failure of the plaintiff to appear on the date set for hearing on the merits. This dismissal was ordered on June 21, 1954, and a petition to reconsider it was made on July 3, 1954.

Going back to the original petition for the presentation of the four certificates of title for the purpose of annotation thereon of the extra judicial partition, the same was opposed in part by the register of deeds, who alleges that the case should be dismissed as to the two certificates of title Nos. 1986 and 1987 because said duplicate certificates have already been cancelled on August 10, 1929 by the registration of the same extrajudicial partition. The appealed decision, therefore, orders the presentation of Transfer Certificates of Title Nos. 5536 and 1988 only. Against the decision, an appeal has been prosecuted to this Court by oppositor Maria Salud Mullet.

It is first contended on behalf of the appellant that the court a quo had no jurisdiction over the partition because the document sought to be annotated on the certificates of title is controverted, there being a claim on the part of the oppositor-appellant that her signature to said deed was obtained by fraud. We find no merit in this contention. The validity of the deed Exhibit "A" or Annex "A" had already been passed upon finally and conclusively in Civil Case No. 1481-P, Maria Salud Mullet vs. Fructuoso Moldes and Diego Moldes, adversely against appellant herein, in accordance with Section 1 of Rule 30, there being no statement therein as to the nature of the dismissal. The authenticity and due execution of said deed Exhibit "A" or Annex "A" was, therefore, concluded by the dismissal of the action (Civil Case No. 1481-P), and the oppositor-appellant herein is now prohibited from contesting either the validity of its execution or of its provisions.

It is also contended that petitioners' present petition is barred by dismissal of the civil action which they had filed, namely, Civil Case No. 1703, against oppositor appellant. The dismissal of this action instituted by the petitioners, however, was a dismissal because of the pendency of another case (Civil Case No. 1481-P). The dismissal does not in any manner bar the petitioners from asking for the annotation of the deed of extrajudicial partition, because a dismissal on the ground of the pendency of another suit between the same parties for the same cause of action is not a judgment on the merits within the meaning of Section 44 of Rule 39 of the Rules of Court. Such a dismissal lacks one essential requisite to make it conclusive on the parties, i.e., that judgment or said order must be a judgment on the merits (*San Diego vs. Cardona*, 70 Phil. 281, 283).

Finding no ground or reason for modifying or reversing the judgment appealed from, the same is hereby affirmed, with costs against oppositor-appellant.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Concepcion, Reyes, J. B. L., and Endencia, 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.