

LUZ MARQUEZ DE SANDOVAL, PETITIONER, VS. VICENTE SANTIAGO, JUDGE OF THE COURT OF FIRST INSTANCE OF QUEZON PROVINCE, BRANCH III, RESPONDENT.

G.R. No. L-1723. May 30, 1949

Ponente: FERIA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/c58834f4bff7/>

FERIA, J.:

This is a special civil action of certiorari filed by the petitioner against the respondent Judge Hon. Vicente Santiago.

The herein petitioner instituted a special proceeding in the Court of First Instance of Quezon Province for the probate of the will and codicil executed by the deceased Daniel Marquez in which she was designated as executrix. The will and codicil were allowed and the petitioner was appointed on August 16, 1946, executrix in accordance with the will, but before the petitioner qualified as executrix, the three heirs instituted in the will, all of age, made an extrajudicial partition of all the properties of the deceased on October 5, 1946, and entered into the possession of their respective shares without the authority and approval of the court. On August 22, 1947, that is, one year after the probate of the will and appointment of the petitioner as executrix, the respondent judge required the petitioner to qualify as such and file a bond of P5,000. In response thereto the petitioner informed the respondent judge that it was not necessary for her to qualify because the heirs had already made an extrajudicial partition in accordance with the will, as shown by the copy of said partition which she submitted to the court. In view of the answer of the petitioner, the respondent judge ordered the executrix to qualify as such within forty-eight hours, and declared the extrajudicial agreement of partition entered into by the heirs null and void, on the ground that the probate proceedings having been commenced judicially it must also be terminated judicially. A motion for reconsideration was filed by the petitioner and denied by the court; hence, the filing of the present petition for certiorari.

We are of the opinion, and so hold, that the respondent judge or Court of First Instance of Quezon Province, wherein the deceased was residing at the time of his death, has acquired exclusive jurisdiction to settle the testate estate of the deceased Daniel Marquez and over the heirs and other persons interested in the estate of the deceased from the moment the application for the probate of the decedent's will was filed with the said court and the publications required by law were made; and the heirs of the deceased Marquez could not divest the Court of First Instance of its already acquired jurisdiction by the mere fact of dividing and distributing extrajudicially the estate of the deceased among themselves.

If the extrajudicial partition made by the heirs of the deceased was submitted to the court and approved by the respondent judge after verifying that it does not prejudicially affect the rights of third parties, the testate proceedings pending in the court would have been legally thereby terminated. An extrajudicial partition of the estate of a deceased by the heirs becomes a judicial partition after its approval by the court which had previously acquired jurisdiction of the estate by the filing of an application for the probate of the decedent's will; but as the

testate proceeding is terminated in such case without the necessary publication of notices to creditors and other persons interested in the estate required in a regular judicial administration, the effect of such judicial partition would be the same as if it had been effected extrajudicially without the intervention of the court under the provisions of section 1, of Rule 74, that is, subject to the claims against the distributees by persons mentioned in sections 4 and 5, of the same rule. (*McMicking vs. Sy Conbieng*, 21 Phil., 211.)

In view of the foregoing, the petition for certiorari is denied with costs against the petitioner, because the respondent judge did not exceed his jurisdiction in not giving to the deed of extrajudicial settlement or partition of the estate of the deceased the effect of terminating the testate proceeding, over which the court has acquired exclusive jurisdiction, since said partition was not submitted to said court for approval. So ordered.

Ozaeta, Paras, Pablo, Perfecto, Bengzon, Montemayor, and Reyes JJ., concur.

Petition denied.

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.