

**YAP ANTON, PLAINTIFF AND APPELLEE, VS. ADELAIDA CABULONG,
ADMINISTRATRIX OF THE ESTATE OF THE DECEASED SANTIAGO
FIAN, DEFENDANT AND APPELLANT.**

G.R. No. 38925. November 07, 1933

Ponente: MALCOLM, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-38925/>

MALCOLM, J.:

On March 10, 1922, Santiago Fian executed an instrument in favor of Yap Anton in which the former acknowledged a debt in the amount of P33,000 due the latter, and accomplished a mortgage on ten parcels of land. The document was recorded in the office of the register of titles. Fian having failed to make payment as provided in the mortgage, after his death Yap Anton began an action of foreclosure against the estate of the deceased, and judgment to this effect was obtained in the Court of First Instance of Leyte.

On appeal, the sole argument advanced on behalf of the defendant and appellant is addressed to the point that the instrument is not a true contract of mortgage, and consequently can have no legal force. There are two very plain reasons why this argument can not be accepted. In the first place, the mortgage was offered in evidence and admitted without the opposing party noting any exception, and it was only on the following day, to which the case was adjourned in order to give counsel for the defendant time to deliberate as to whether or not he desired to present evidence, that an exception was noted. This was not a compliance with section 142 of the Code of Civil Procedure, for the party excepting to the ruling did not "forthwith inform the court that he excepts to the ruling". (Abrenica vs. Gonda and De Gracia [1916], 34 Phil., 739.) In the second place, section 194 of the Administrative Code, as amended by Acts Nos. 2837 and 3344, now governs, and in accordance therewith, whatever be the view as to the validity of the mortgage as to third parties, such an instrument is valid "between the parties thereto", even if not registered in the office of the register of deeds. The mortgage in question may have been defective as to the description of the real estate which it purported to cover, but notwithstanding was registered and the action here involves only the parties to the mortgage. (Estate of Mota vs. Concepcion [1932], 56 Phil 712.)

For the two reasons above indicated, the principal assignment of error will have to be overruled, with the result of affirming the judgment appealed from, the costs of this instance to be paid by the appellant.

Villa-Real, Abad Santos, Hull, 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.