

**TESTATE ESTATE OF THE DECEASED MARIA JACOBA CRUZ.  
LUTGARDA YATCO, MARIANO YATCO, ISABEL YATCO, JOSE YATCO  
AND FRANCISCO YATCO, MOVANTS AND APPELLEES, VS. DANIEL F.  
CRUZ, CRISANT...**

*R-G.R. No. 46500. December 29, 1962*

Ponente: LABRADOR, J.

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**LABRADOR, J.:**

This is a proceeding instituted in this Court for the reconstitution of the decision of this Court penned by Chief Justice Manuel V. Moran and Justice Ricardo Paras in G. R. No. 46500 and G. R. No. 48114, entitled "Testate Estate of the Deceased Maria Jacoba Cruz. Lutgarda Yatco, et al. vs. Daniel F. Cruz, et al." and "In the Matter of the Estate of the Deceased Maria Jacoba Cruz. Francisco Yatco, etc., et al. vs. Adriano F. Cruz, et al." The petition was published (Exhibits "B" & "B-1") and a commissioner was appointed by this Court to receive the evidence.

At the hearing oppositions were presented by Teodora, Candida, Romana and Josefa Gana, and Eriberto, Huminado, Victor, Mario, Florencio and Monico Valencia represented by Delgado, Flores, Macapagal & Dizon Law Offices, by Remedios, Adriano and Jose Cruz represented by Atty. Jimenez B. Buendia, and by Paz B. Laurel and Maria B. Laurel represented by Atty. M. H. de Joya. The evidence submitted shows that the said testate proceeding reached this Court on two occasions, the first in G.R. No. 46500 and the second, in G. R. No. 48114.

In the first case (G. R. No. 46500), the original of the record on appeal (Bill of exceptions) in the Court of First Instance of Manila was presented by the petitioners as Exhibit "I". A simple copy of the decision of the Court of First Instance appealed from was also submitted in Exhibit "D" by the petitioners. The record on appeal bears the signature of the lawyers who presented the said record on appeal, the amendments thereto, as well as the signature of the Judge of the Court of First Instance of Manila, Branch VII. The case having been forwarded by the Court of Appeals to this Court, it was registered in this Court as G. R. No. 46500 and a decision was promulgated on October 25, 1939. The decision was published in the "Lawyer's Journal", Vol. VIII, July 15, 1940, No. 13, pp. 520, 521, 522 and is penned by Justice Manuel V. Moran, and concurred in by Justices Avanceña, Villareal, Imperial, Diaz, Laurel and Concepcion (see Exhs. "E", "E-1", "E-2", "E-3" and "E-4"). Copy of the decision also appears in the printed Record on Appeal in G. R. No. 48114, Exh. "G", pp. 2-11.

In the above decision (civil case No. 46500) the wills Exhibits "B", "C", and "D" were legalized and will Exhibit "A" invalidated, so the proceedings for the distribution of the estate continued in the Court of First Instance of Manila. The proceedings appear in two printed records on appeal as G. R. No. 48114 in the Supreme Court and as CA-G. R. 8126 in the Court of Appeals (Exhibits "G" & "G-1"). In the Supreme Court, to which the case was forwarded by the Court of Appeals, the decision was rendered in said G. R. No. 48114 on October 5, 1942. The petitioners for reconstitution submitted at the hearing a typewritten copy of the alleged decision as Exhibit "H".

According to the testimony of a witness for the reconstitution, this copy was furnished him by Atty. Ramon Diokno who appears as counsel for the administratrix. The decision purports to have been written by Justice Paras with the concurrence of Justices Jose Yulo, Manuel V. Moran, Roman Ozaeta and Jorge Bocobo. This same copy, Exh. "H", has been certified to as a true, faithful and correct copy of the decision of the court by the writer of the opinion, then Justice Ricardo Paras. The certification is as follows:

"This is to certify that the attached document consisting of three pages and marked as Exhibit 'H' as far as I remember is a true, faithful and correct copy of the Decision of the Supreme Court which was penned by the undersigned on October 5, 1942, in G. R. No. 48114 entitled 'In the Matter of the Estate of the Deceased Mario Jacoba Cruz, Francisco C. Yatco, et al., Movants-Appellees, versus Adriano F. Cruz, et al., Oppositors-Appellants.

"Manila, Philippines, February 16, 1961.

(Sgd.) Ricardo Paras  
t/ RICARDO PARAS"

That the decision was in fact rendered is corroborated by a copy of the notice of the order of decision issued by the clerk of the Court of First Instance of Manila, dated December 22, 1942, which was presented at the hearing as Exhibit "J-I".

There has been no question as to the authenticity of all the documents presented or of copies of the proceedings except as to the decision in the said case No. G.R. 48114 (Exh. "H"). Objection to the decision is based on the ground that the period within which the reconstitution of the records of cases destroyed during the last war, had already expired at the time of the presentation of the petition for reconstitution on August 23, 1960. Republic Act No. 441 approved June 7, 1950 is cited in support of this objection, thus:

"SECTION 1. Notwithstanding the provisions of Act Numbered Three thousand one hundred and ten, the party or parties interested in any case pending in the court the records of which have been destroyed by reason of the last Pacific war may file a petition for the reconstitution of such records, \* \* \*"

In answer to the above objection the petitioners for reconstitution argue that the provisions of Republic Act No. 441 are not being availed of in the proceedings at bar as said Act (R.A. No. 441), as its title indicates, refers to pending cases, whereas the records sought to be reconstituted are records of cases that had already been decided.

Neither are the provisions of Act No. 3110 applicable in this proceedings because this act also governs the reconstitution of pending judicial proceedings, etc., as witness the title of the act which is as follows:

"AN ACT TO PROVIDE AN ADEQUATE PROCEDURE FOR THE RECONSTITUTION OF THE RECORDS OF PENDING JUDICIAL PROCEEDINGS AND BOOKS, DOCUMENTS, AND FILES OF THE OFFICE OF THE REGISTER OF DEEDS, DESTROYED BY FIRE OR OTHER PUBLIC CALAMITIES, AND FOR OTHER PURPOSES."

Objection is also raised against the petition for reconstitution on the ground that the right on the part of the petitioners to ask for said reconstitution has lapsed by prescription, and the decisions with which reconstitution is made are not authentic, as required by Republic Act No. 411 and Act No. 3110. It is argued in support of the objection that anyway the right to enforce the decisions cannot be made by execution because more than 10 years had elapsed from the time said decisions were promulgated.

But the petitioners invoke in support of the petition for reconstitution the inherent power of courts of justice to restore their records, as defined in section 5 (h) of Rule 124 of the Rules of Court. The rule is as follows:

"SEC. 5. Inherent powers of courts.—Every court shall have power:

\* \* \* \* \*

"(h) To authorize a copy of a lost or destroyed pleading or other paper to be filed and used instead of the original, and to restore, and supply deficiencies in its records and proceedings."

The decision of this Court in G.R. No. 46500, penned by the late Mr. Justice Moran, appears in an issue of the Philippine Lawyers' Journal, a legal publication dedicated to publishing copies of decisions directly secured from this Court. No valid objection has been raised against the correctness of this copy.

The objection raised against Exhibit 'H' because of its supposed lack of authenticity should not be sustained. We do not think it essential or necessary that an authentic copy be produced to reconstitute a decision of this Court under Rule 124, Sec. 5(h) of the Rules. Evidence which is sufficient to prove the contents of a lost or destroyed document in accordance with the rules of evidence (Rule 123, Section 51) should be sufficient. Besides, the records on appeal in both cases appear to be authentic, because in one case a certified copy of the original record existing in the Court of First Instance was submitted as well as a printed copy thereof, and in the other (case) a printed record on appeal was also submitted. Against these records on appeal no objection can be presented.

As to the objected decision in G. R. No. 48114 we are fully satisfied with the correctness of the simple copy which was submitted in view of the certification of its correctness and truthfulness by former Chief Justice Ricardo Paras, whose memory the present members of this Court can attest to. Furthermore, this decision and that penned by Justice Moran coordinate with the nature of the issues presented in the proceedings leading up to their rendition, such as the pleadings in the court of origin, and the decision of that court of origin appealed from. A study of the decisions in question, in relation to the judgments appealed from and the pleadings on which said decisions are based, gives us no reason to doubt that the questioned copy is correct and, if not authentic, is sufficiently exact to satisfy beyond doubt the reasonable scruples of any unprejudiced mind.

Furthermore, our ruling is justified by the precedent set by this Court in the case of Allingag vs. Del Valle-Cruz (R-G. R. No. 47766, April 13, 1959) in which, upon a report of the commissioner which reads as follows:

"Acting upon the petition filed by Zoila Dayahan del Rosario, praying that the time to reconstitute judicial records be extended, the Court resolved that said petition is not necessary because courts have inherent power to reconstitute at any time the records of their finished cases under Rule 124, Section 5(h)."

this Court adopted and approved a resolution couched in the following terms:

"Considering the report of the reconstitution commissioner in RG.R. No. 47766 (Ciriaco Allingag vs. Lucia F. de Valle-Cruz), THE COURT RESOLVED to approve said report and to declare duly reconstituted the decision whose copy is in this record."

One final objection need be considered by us. This refers to the claim that there is no use for reconstituting the judgments because the same may no longer be enforced, more than 10 years having elapsed from the rendition of the judgments sought to be reconstituted. We refrain from passing upon this question, leaving the same to the appropriate time when, after the reconstitution of the decisions and the records, the said decisions will be sought to be enforced.

Wherefore, the oppositions to the petition for reconstitution are hereby overruled and the petition is granted, but reconstitution is ordered not only as to the decisions but as to all the other judicial records having relation thereto presented at the hearing, such as the original pleadings filed in the court of origin, the decisions of the courts therein, the records on appeal therefrom, and the decision of this court in such case.

The decisions are hereby reconstituted, with all the pleadings and papers above indicated. Without costs. So ordered.

Bengzon, C. J., Padilla, Bautista Angelo, Concepcion, Reyes, J. B. L., Barrera, Dizon, Regala, and Makalintal, JJ., concur.

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