sent the petition for correction to the respondent Judge in Batangas, on September 24, 1948, and the respondent Judge acting on it immediately, issued his order the following day, September 25, 1948. Why the plaintiffs or their counsel did not follow up their petition for correction or even their petition for extension of time, so as to insure prompt action, is not explained.

In conclusion, I hold that a petition for correction of a clerical, harmless, immaterial and non-prejudicial error in a decision or order, which error can neither prejudice nor mislead anybody, cannot and should not be allowed to suspend the period for perfecting the appeal.

III

Sebastian C. Palanca, Petitioner vs. Potenciano Pecson, etc. et al., Respondents, G. R. Nos. L-6334 and 6338, February 25, 1954.

1. SPECIAL PROCEEDINGS; ATTORNEY'S LIEN; CASE AT BAR. — In Special Proceedings No. 12126 of the Court of First Instance of Manila, D was the attorney of P, one of the heirs and an oppositor to the probate of the will of his deceased father. P did away with the services of D who withdrew as P's counsel after the appeal from the decision of the court probating the will had been elevated to the Supreme Court. On July 7, 1952, D filed in the testate proceedings a notice of attorney's lien, alleging that he was counsel for P from Sept. 1950 until March 1952 and stating the reasonable value of his services as well as the unpaid balance; and praying that the statement be entered upon the records to be henceforth a lien on the property or money that may be advanced to P, or that may be ordered paid to him by the court. On July 9, 1952, D filed in the same testate proceedings a petition, praying the court to fix and declare his attorney's fees and to enforce the unpaid balance as a lien upon the property or money that may be advanced in favor of P or upon any sum that may be ordered paid to the latter. *HELD*: Under Sec. 33, Rule 127 of the Rules of Court the attorney may cause a statement of his lien to be registered even before the rendition of any judgment, the purpose being merely to establish his right to the lien.
2. IDEM; IDEM; RECORDING OF ATTORNEY'S LIEN DISTINGUISHED FROM ENFORCEMENT OF ATTORNEY'S LIEN. — The recording is distinct from the enforcement of the lien, which may take place only after judgment is secured in favor of the client.
3. IDEM; IDEM; SECTION 3 RULE 127 CONSTRUED IN THE LIGHT OF SECTION 24 OF RULE 127 AS AMENDED BY REPUBLIC ACT 636. — The provision permits the registration of an attorney's lien, although the lawyer concerned does not finish the case successfully in favor of his client, because an attorney who quits or is dismissed before the conclusion of his assigned task is as much entitled to the protection of the rule. Otherwise, a client may easily frustrate its purpose. Indeed, this construction is impliedly warranted by section 24 of Rule 127, which is amended by Rep. Act No. 636. In the case of Dahlke vs. Viña, 51 Phil. 707, it was already pointed out that the filing of a lien for reasonable value of legal services does not by itself legally ascertain and determine its amount especially when contested; that it devolves upon the attorney to both allege and prove that the amount claimed is unpaid and that it is reasonable and just; the client having the legal right to be heard thereupon; and that the application to fix the attorney's fees is usually made before the court which renders the judgment or may be enforced in an independent and separate action.
4. IDEM; IDEM; PROBATE COURT MAY DETERMINE ATTORNEY'S LIEN FOR SERVICES RENDERED TO OPPOSITOR WHO CONTESTED THE ALLOWANCE OF THE WILL. There is no valid reason why a probate court cannot pass upon a proper petition to determine attorney's fees, if the rule against multiplicity of suits is to be activated and if we are to concede that, as in the case before us, said court is to a certain degree already familiar with the nature and extent of the lawyer's services.

Ceferino de los Santos, Sr. and *Ceferino de los Santos, Jr.* for petitioner.

Respondent Dinglasan in his own behalf.

DECISION

PARAS, *C. J.*:

In Special Proceedings No. 12126 of the Court of First Instance of Manila, Rafael Dinglasan was the attorney of Sebastian Palanca, one of the heirs and an oppositor to the probate of the will of his deceased father Carlos Palanca y Tanguinlay. Due to the differences of opinion, Sebastian Palanca did away with the services of Atty. Dinglasan who in fact withdrew as Palanca's counsel after the appeal from the decision of the Court of First Instance of Manila probating the will had been elevated to the Supreme Court. On July 7, 1952, Atty. Dinglasan filed in the testate proceedings a notice of attorney's lien, alleging that he was counsel for Sebastian Palanca from September 1950 until March 1952; that the reasonable value of his services is at least P20,000.00; that Palanca had paid upon account only the sum of P3,083 leaving an upaid balance of P16,917.00; and praying that the statement be entered upon the records to be henceforth a lien on the property or money that may be adjudged to Sebastian Palanca, or that may be ordered paid to him by the court. On August 16, 1952, Judge Potenciano Pecson ordered that the notice of attorney's lien be attached to the record for all legal intents and purposes. On July 9, 1952, Atty. Dinglasan filed in the same testate proceedings a petition, praying the Court of First Instance of Manila to fix and declare his attorney's fee at not less than P20,000.00 and to enforce the unpaid balance of P16,917.00 as a lien upon the property or money that may be adjudged in favor of Sebastian Palanca or upon any sum that may be ordered paid to the latter. Sebastian Palanca moved to dismiss the foregoing petition, but the motion was denied on August 30, 1952. Palanca's subsequent motion for reconsideration was also denied for lack of merit. The action of Judge Pecson in ordering that Atty. Dinglasan's notice of attorney's lien be attached to the record and in taking cognizance of the petition to determine his fees in Special Proceedings No. 12126, is assailed by Sebastian Palanca in a petition for certiorari filed with this Court against Judge Potenciano Pecson and Rafael Dinglasan (G. R. No. L-6334).

On July 10, 1952, Sebastian Palanca filed in the testate proceedings a petition for an advance inheritance in the sum of P2,000.00. On October 21, 1952, Judge Pecson issued an order suspending action on Palanca's petition until Atty. Dinglasan's petition to determine the amount of his attorney's lien shall have been finally disposed of. His motion for reconsideration having been denied on November 7, 1952, Sebastian Palanca instituted in this Court a petition for mandamus against Judge Pecson and Atty. Dinglasan (G. R. No. L-6346), to compel the respondent Judge to act upon Palanca's petition for advance inheritance.

We are not here concerned with the nature and extent of the contract between Palanca and Atty. Dinglasan as to the latter's professional fees, and the principal issues arising from the pleadings are (1) whether the notice of attorney's lien may be allowed at the stage when it was filed, namely, before final judgment in favor of Palanca was secured by respondent attorney, and (2) whether the respondent Judge acted properly in entertaining the petition to determine Atty. Dinglasan's fees and in holding in abeyance Palanca's petition for advance inheritance.

It is contended for petitioner Palanca that Atty. Dinglasan not having yet secured any decision or judgment in favor of the former, the notice of attorney's lien could not be allowed under section 33, Rule 127, of the Rules of Court which does not authorize a lien upon a cause of action.

Section 33 provides that an attorney "shall also have a lien to the same extent upon all judgments for the payment of money, and executions issued in pursuance of such judgments, which he has secured in a litigation of his client, from after the time when he shall have caused a statement of his claim of such lien to be

entered upon the records of the court rendering such judgment, or is suing such execution, and shall have caused written notice thereof to be delivered to his client and to the adverse party; and he shall have the same right and power over such judgments and executions as his client would have to enforce his lien and secure the payment of his just fees and disbursements." Under this provision we are of the opinion that the attorney may cause a statement of his lien to be registered even before the rendition of any judgment, the purpose being merely to establish his right to the lien. The recording is distinct from the enforcement of the lien, which may take place only after judgment is secured in favor of the client. We believe also that the provision permits the registration of an attorney's lien, although the lawyer concerned does not finish the case successfully in favor of his client, because an attorney who quits or is dismissed before the conclusion of his assigned task is as much entitled to the protection of the rule. Otherwise, a client may easily frustrate its purpose. Indeed, this construction is impliedly warranted by section 24 of Rule 127, which as amended by Republic Act No. 636 provides as follows: "A client may at anytime dismiss his attorney or substitute another in his place, but if the contract between client and attorney has been reduced to writing and the dismissal of the attorney was without justifiable cause, he shall be entitled to recover from the client the full compensation stipulated in the contract. For the payment of such compensation the attorney shall have a lien upon all judgments, for the payment of money and executions issued in pursuance of such judgments rendered in the cases wherein his services had been retained by the client." The petitioner, however, argues that this provision cannot be availed of by respondent Dinglasan because there is neither a written contract for attorney's fee nor a showing that his dismissal was unjustified. This argument is without merit, inasmuch as if there was a written contract and the dismissal was unjustified, Atty. Dinglasan would be entitled to the entirety of the stipulated compensation, even if the case was not yet finished when he was dismissed. In situation like that of respondent Dinglasan the lawyer may claim compensation only up to the date of his dismissal. For the payment of such compensation he shall nevertheless have a lien "upon all judgments, for the payment of money and executions issued in pursuance of such *judgments rendered in the cases wherein his services have been retained by the client.*" Section 24 does not state that the judgment must be secured by the attorney claiming the lien.

The petitioner's further contention that respondent Dinglasan's remedy is to file a separate action for damages or for compensation, is untenable. In the case of Dahlke vs. Viña, 51 Phil. 707, it was already pointed out that the filing of a lien for reasonable value of legal services does not by itself legally ascertain and determine its amount especially when contested; that it devolves upon the attorney to both allege and prove that the amount claimed is unpaid and that it is reasonable and just; the client having the legal right to be heard thereupon; and that the application to fix the attorney's fees is usually made before the court which renders the judgment or may be enforced in an independent and separate action. We see no valid reason why a probate court cannot pass upon a proper petition to determine attorney's fees, if the rule against multiplicity of suits is to be activated and if we are to concede that, as in the case before us, said court is to a certain degree already familiar with the nature and extent of the lawyer's services.

In view of what has been said, it is obvious that the respondent Judge neither acted without jurisdiction nor abused his discretion in the matter herein complained of. The petition for certiorari in G. R. No. L-6334 and the petition for mandamus in G. R. No. L-6346 are hereby dismissed with costs against the petitioner. So ordered.

Pablo, Padilla, Reyes, Bautista Angelo, Bengzon; Montemayor; Jugo, and *Labrador.* — J.J. concur.