

JUAN S. ALVAREZ, AS SPECIAL ADMINISTRATOR OF THE INTESTATE ESTATE OF AMBROSIO TORRES WEE CHI, DECEASED, PLAINTIFF AND APPELLEE, VS. DALMACIO GUEVARA WEE, DEFENDANT AND APPELLANT.

G.R. No. 22655. December 15, 1924

Ponente: ROMUALDEZ, J.

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ROMUALDEZ, J.:

This action is upon certain documents which the plaintiff alleges were illegally and fraudulently executed and obtained, and he prays, for that reason, that they be cancelled and adjudged null and of no effect, while the defendant maintains that they were legally and freely executed, without force, violence, fraud, or malice.

After a hearing, the Court of First Instance of Zamboanga pronounced the documents fraudulent and therefore void, with the costs against the defendant.

The defendant has appealed from said judgment, alleging that the trial court erred: (a) In ordering the reopening of the case about five months after the closing of the evidence; (b) in holding that Exhibit 2 (4), the deed of sale of lot 7, was fraudulent; (c) in holding that Exhibit 1 (3) was fraudulent; and (d) in holding said conveyances fraudulent and rendering judgment against the defendant for costs.

Under the circumstances of the case, it lay within the discretion of the court below to permit the reopening of the case before the rendition of judgment, and it does not appear from the record that in doing so, it abused its discretion. We do not find the first assignment of error to have been shown.

As to the documents adjudged void, the evidence does not sufficiently establish that the deceased Ambrosio Torres was indebted to the defendant in the sum of P8,000, the value of a note which is said to have been returned by the defendant after said documents had been signed a few days before his death, and when the notary before whom they were ratified was no longer present.

Furthermore, as appears from Exhibit 2 or 4, a part of the price or consideration of said sale was the sum of P8,000 which Ambrosio Torres owed to the Bank of the Philippine Islands for the payment of which the defendant was liable. The fact, however, is that Ambrosio Torres owed nothing to said bank, and was only a guarantor of the defendant to said institution for the payment of what may be found due from the defendant up to the amount of P8,000.

After an examination of the record and consideration of all the circumstances of the case, we find no sufficient reason for disturbing the finding made by the court below that the conveyances evidenced by the documents in question are fraudulent.

There being no merit in the assignments of error, and the judgment appealed from being in accordance with the facts proven and the law, the same is hereby affirmed, with costs against the appellant. So ordered.

Johnson, Street, Malcolm, Avancena, Villamor, Ostrand, and Johns, JJ, concur.

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