

LUISA ALVAREZ, PLAINTIFF AND APPELLANT, VS. THE SHERIFF OF THE PROVINCE OF ILOILO AND THE LIQUIDATORS OF STREIFF & CO., DEFENDANTS AND APPELLEES.

G. R. No. 3192. August 29, 1907

Ponente: JOHNSON, J.

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JOHNSON, J.:

From the record it appears that during the time of the Spanish Government, Streiff & Co. obtained a judgment against Arturo Barcelo for the sum of 13,000 pesos. Later the business of Streiff & Co. was put in the hands of liquidators. These liquidators attempted to recover the amount of said judgment. In the year 1902 an execution was issued out of the Court of "First Instance of the Province of Iloilo against the said Arturo Barcelo, which execution was returned unsatisfied. From the record it appears that Arturo Barcelo was in possession of certain real property in the city of Iloilo, as well as a number of horses and vehicles and a carriage factory. In the said year 1902 the mother of Barcelo, however, claimed that all the said property belonged to her. In the year 1902 or 1903 the mother of Barcelo died; notwithstanding this fact, however, the said Barcelo continued the business above mentioned the same as before. On the 18th of September, 1903, Barcelo sold all of the said property above mentioned to the plaintiff herein, Dofia Luisa Alvarez, for the sum of 3,000 pesos. The said Barcelo, notwithstanding the sale of all of said property to the said Alvarez, continued in possession of the same up to and including the day of the trial in the month of August, 1905.

On the 29th of July, 1905, the liquidators of Streiff & Co. secured a writ of attachment from the Court of First Instance of the Province of Iloilo and attached all of the said property mentioned in paragraph one of the complaint filed in the said cause.

On the 31st day of July, 1905, the said Doña Luisa Alvarez commenced an action in the Court of First Instance of the Province Iloilo for the purpose of obtaining possession of all of the property.

After hearing the evidence adduced during the trial of the cause, the lower court found as a fact, from such evidence, that the sale of the said property by the said Barcelo to the said Alvarez was fraudulent and was made for the purpose of defeating the creditors of Barcelo, and therefore dismissed the action of the plaintiff, with costs. An examination of the evidence adduced during the trial of the said cause, and which was brought to this court, clearly justifies the conclusion of the lower court. The decision of the lower court is therefore affirmed with costs, and it is so ordered.

Arellano, C. J., Torres, Willard, and Tracey, JJ., concur.

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