

## **CLEMENCIA FELIX; PETITIONER AND APPELLEE, VS. MATEO A. FELIX, RESPONDENT AND APPELLANT.**

*G.R. No. 3732. November 02, 1907*

Ponente: TRACEY, J.

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### **TRACEY, J.:**

The petitioner, 90 years of age and blind, applied for the registration of a lot on Calle Pavia in Tondo, Manila. A nephew, Mateo Antonio Felix, opposed the registration on the ground that on the 12th day of February, 1892, and before she became blind, his aunt had, by a private document and for P200, conveyed the lot to him. The issue was the authenticity of the document. The two subscribing witnesses were dead, but their signatures were proved by Tomas de la Cruz, a son of one of them, who claimed to have been present when it was made. The force of his testimony was weakened by that of his nephew, Julio Arbello, a grandson of the petitioner, who, among other things, related a recent attempt on the part of the opposing party to obtain an agreement with him in relation to the lot which he was expected to inherit from his grandmother.

This is a family strife for the possession of the property of a virtually dying woman, in which it is difficult to say which side has the greater right. Although the opponent has proved that he had for some time collected the rents of the property and made some improvements to it, we should not, on the other hand, be justified in rejecting the testimony of the petitioner herself to the effect that these things he had been allowed by her to do because she was too feeble to attend to them in person and because was her nephew. She repudiated the alleged deed which purported to be signed in her behalf but not by her in person and testified with clear intelligence. Although the time of her enjoyment of her property may be short, we do not, under the circumstances of the case, feel called upon to deprive her of it.

The judgment of the Court of Land Registration is affirmed with costs of this instance against the appellant. So ordered.

Arellano, C. J., Torres and Johnson, JJ., concur.

Willard and Carson, JJ., dissent.

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