

GERONIMO DE GUZMAN, PETITIONER AND APPELLEE, VS. JOAQUINA ORTIZ, RESPONDENT AND APPELLANT.

G.R. No. 4589. February 03, 1909

Ponente: ARELLANO, C.J.

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ARELLANO, C.J.:

On the 31st of October, 1906, Geronimo de Guzman applied to the Court of Land Registration for the registration of a parcel of land situated in Calle Soledad, district of Tondo, Manila, 180.16 square meters in extent, and bounded as stated in the said application.

The case was proceeded with and the application granted by the judgment of the 8th of March, 1907.

On the 10th of November, 1907, however, Joaquina Ortiz petitioned for a review of the case, alleging that fraud had been committed by the applicant.

The court below, after hearing the objection, denied the revision of the case in its decision of the 25th of November, 1907, from which she appealed and presented a bill of exceptions, alleging that the lower court had committed two errors; one by denying the requested revision, and another by denying the hearing asked for.

Section 38 of Act No. 496, The Land Registration Act, permits any one who may have been deprived of his property, or of a real right, by virtue of a decree of registration obtained by 'fraudulent means, to file with the Court of Land Registration, within a year following the date of said decree, a petition for review. It is true that Joaquina Ortiz presented her petition for a review of the case within the year, but she has not proven, nor attempted to prove the ownership or real right of which she states that she has been deprived. Among the documents which the petitioner offered to prove a right of ownership was a public deed of purchase and sale executed before a notary public on February 21, 1880, wherein the coowners of the land in question sold it to their other coowner, Miguel de Guzman, from whom the applicant, Geronimo de Guzman, inherited it, being the only son. Among the said coowners and vendors appears Joaquina Ortiz, the person who now impugns the decree of registration, so that she has no right of ownership whatever, nor any other real right to the land which is the subject-matter of the decree of registration.

As a fraudulent act the appellant alleges that she was not cited to appear in the case; but there was no reason for such citation, inasmuch as the owner of one of the small houses erected on the lot, Brigido Salgado, had been summoned as set forth at folio 23 of the record.

The court below after hearing the opponent in open session entered the following decision:

"In answer to the questions put by the court, the opponent, Joaquina Ortiz, says that the Brigido Salgado, mentioned in the application, is the son of the said opponent and lives in the same house with her on the land in question. From this fact, and from the fact that the petitioner, as a witness at the trial, mentioned the opponent as one of the persons who were living on the land, and from the fact that the opponent is one of the vendors who executed the document Exhibit F, and from the fact that the land is so small that all persons living thereon

must have seen the notice posted thereon by the sheriff, the court is convinced that the petitioner filed his original application in good faith. Thus the pretension of the opponent that the petitioner committed fraud has not been sustained. The motion for a review of the case is denied."

This decree or final judgment in the matter being in accordance with the law, it is affirmed, with the costs of this instance against the appellant.

Torres, Mapa, Carson, and Willard, JJ., concur.

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